

Report to the Cabinet Member for Adult and Community Services
Report submitted by: Executive Director of Adult Services, Health and Wellbeing
Date: 15 January 2015

Part I

Electoral Divisions affected:
All

Implementing the Care Act 2014 - Approval of a new Policy for Undertaking Assessments and Providing Support for Carers in Lancashire
(Appendix 'A' refers)

Contact for further information:
Craig Frost, (01282) 470823, Adult Services, Health and Wellbeing Directorate
craig.frost@lancashire.gov.uk

Executive Summary

The Care Act places new statutory duties on local authorities to support carers of all ages from 1 April 2015.

The Act recognises the vital role that carers play and aims to help them maintain their caring role, if they are willing and able to do so, which will often help the people they care for to postpone or delay the need for more formal services. This is in addition to preventing excessive and/or inappropriate caring roles.

It puts carers on an equal legal footing to those they care for, places an emphasis on prevention, gives carers of all ages the same rights to an assessment on the appearance of needs and, if a carer is deemed to have eligible needs, the right to a support plan and personal budget.

In order to meet its statutory duties, the County Council must implement new arrangements for carers from 1 April 2015, particularly in respect of carers' assessment, the provision of support, which must include the option of a personal budget to those eligible.

This report sets out key elements of a new policy framework that would enable further development of a new offer to carers and ensure the County Council meets its legal obligations. The report also highlights the financial and operational risks associated with the implementation of the changes.

This is deemed to be a Key Decision and the provisions of Standing Order No 25 have been complied with.

Recommendation

The Cabinet Member for Adult and Community Service is recommended to:

- (i) Approve a new Carers' policy framework for Lancashire which is compliant with the Care Act from 1 April 2015 and sets out -
 - a. How assessments of carers will be undertaken;
 - b. The Council's service offer to carers, including the option of Personal Budgets to eligible individuals;
 - c. that the Council's new service offer to carers will no longer include provision of 'Time for Me' grants from 1 April 2015;
 - d. the Council's intention to waive its powers to financially assess and/or impose charges on carers in respect of their Personal budgets;
- (ii) Authorise the Executive Director of Adult Services, Health and Wellbeing, in consultation with the County Treasurer, to approve the final carers' personal budget configuration;
- (iii) Approve the continuation of respite care provision in line with existing arrangements so that it is costed against the Personal Budget of the individual receiving care or support;
- (iv) Note the financial and operational risks associated with the new policy framework;
- (v) Endorse the intention to review the impact of the new policy for carers by the end of 2015/16.

Background and Advice

1) Introduction

The Care Act places new statutory duties on local authorities on supporting carers of all ages under the care and support reforms that take effect from 1 April 2015. It recognises the vital role that carers play and aims to help them maintain their caring role, if they are willing and able to do so, which will often help the people they care for to postpone or delay the need for more formal services. This is in addition to preventing excessive and/or inappropriate caring roles.

In relation to the local authorities obligations specifically relating to young carers the Care Act cannot be read without equal attention being given to the Children and Families Act 2014. Together this legislation clarifies the law in relation to young carers and reinforces the significance of a whole family approach.

The 'NHS Five Year Forward View' commits the NHS to find new ways to support carers, to build on the new rights created by the Care Act and to help the most vulnerable carers. This enhanced NHS agenda for carers fits closely with new Care Act responsibilities and should help provide a good framework for refreshing carers commissioning strategies under Lancashire's Better Care Fund plan.

It is important to highlight at the outset that the new duties in relation to carers are of great importance and priority in the context of Care Act implementation and compliance – the key mandatory requirements are summarised as follows:

- The principles and duties enshrined in the Act put carers on an equal legal footing to those they care for, for example the wellbeing principle, which is at the heart of the care and support reforms, applies equally to adults with care and support needs and their carers.
- The emphasis on prevention will mean that carers of all ages should receive support, including the provision of good information and advice, early on and before reaching a crisis point.
- Carers of all ages will have the same rights to an assessment on the appearance of needs regardless of their level of need, who they care for, what type of care they provide or how often they provide it and their financial resources. The previous requirement to provide 'substantial' and 'regular' care to be defined as a carer will be removed.
- If a carer is deemed to have eligible needs, the local authority should prepare a support plan to help the carer decide how their needs should be met and which, if any, would be met by a personal budget.

There is a high degree of uncertainty nationally about the number of carers that may be identified or may come forward for assessment and support from local authorities, which is reflected in the Department of Health's impact assessment. This is exemplified by the considerable difference between the number of carers identified in the 2011 Census and the number of carers currently receiving an assessment by their local authority.

This position and gap is similarly uncertain in Lancashire, with 133,213 people identifying themselves as a carer during the 2011 Census. This compares to the approximately 6,000 carer assessments undertaken annually by, or on behalf, of the County Council, or indeed the approximately 17,000 carers currently supported by the carers' services which have been commissioned in Lancashire.

The County Council has a good track record of supporting carers of all ages in Lancashire, particularly through the range of supports commissioned from carers' services, such as Peace of Mind 4 Carers service, 'Time for Me' grants, 'Sitting-in' services and information and advice. The Care Act presents an opportunity to build on that to provide appropriate levels of timely support to many more carers, in order to prevent, reduce or delay the need for care and support of the person they care for.

The support service for young carers in Lancashire is a County Council commissioned service provided by Barnardos countywide. The service is part of the County Council's Wellbeing, Prevention and Early Help core offer. In addition, there are a small number of local carer organisations who deliver services funded from charity resources in some areas across Lancashire.

The current young carer commissioned service includes the provision of activities for young carers accessing the service, to widen their social network and enhance their

emotional health and wellbeing, whilst providing a break from caring responsibilities. The commissioned service provided support to 798 young carers in 2013/14, however the 2011 census data in Lancashire states:

- 2,610 young carers aged 0-15years (2% of the 0-15 population)
- 7,201 young carers aged 16 – 4 years (5% of the 16-24 population).

The government will be providing funding to local authorities to support the new requirements relating to carers. However, the funding allocation for the County Council is not yet known. This together with the unpredictability of the additional demand for assessments and personal budgets from carers, particularly at a time when the County Council is under unprecedented budgetary pressure, creates significant financial risk.

Therefore, it is proposed that the County Council puts in place a policy framework for carers from 1 April 2015, to ensure Care Act compliance whilst adopting a reasonable but cautious approach that provides an opportunity to contain costs within the government funding.

It is proposed that a review of the arrangements should be undertaken towards the end of 2015/16, which considers the volume of new demand from carers, the effectiveness of the new arrangements, the views of carers and carers' services, the financial implications including actual costs, predicted future costs and any further government funding. A review would provide the opportunity to evaluate the impact and make any required policy adjustments on a firmer footing.

2) Information and advice

Local authorities will be responsible for ensuring that all adults in their area with a need for information and advice about care and support, including carers, are able to access it. It is intended that an information and advice strategy will be produced prior to April 2015, which will be the subject of a future report to the Cabinet Member for Adult and Community Services.

3) Carers' assessments

The statutory guidance states that 'where an individual provides or intends to provide care for another adult and it appears that the carer may have any level of needs for support, local authorities must carry out a carer's assessment'. It also sets out what the carer's assessment must consider in determining whether they are eligible for support from the local authority under national eligibility criteria.

Currently, the vast majority of carers' assessments are undertaken in combination with the person they care for by County Council staff. It is estimated that 6,000 assessments were undertaken in the last year, including about 500 separate carers' assessments completed by carers' services on behalf of the County Council.

In accordance with the Care Act, those individuals with a current carer's assessment under previous legislation will be transitioned to the new arrangements on a phased basis – the statutory guidance says the 'passporting' of carers into the new legislation should normally take place at the point of review. This means that the

assessment approach to 'meeting needs', as opposed to duties to provide specific services, for those with an existing carer's assessment will be addressed as part of the County Council's usual process for review.

Due to the difficulty in estimating the level of demand for new carers' assessments, it is appropriate to apply the same methodology the Department of Health used in their impact assessment to Lancashire. Applying this approach results in a predicted figure of 8,034 extra assessments in 2015/16, representing a 133% increase in activity.

Local authorities will have the power to delegate assessments to other bodies providing that all relevant duties are fulfilled, but they retain ultimate responsibility for how its functions are carried out. In order to manage the extra demand in an effective way, it is proposed that all separate assessments will be carried out by appropriately trained assessors at the carers' services, and only combined assessments with the person they care for will be undertaken in-house.

Furthermore, it is proposed that carers will be encouraged to choose a separate assessment, although they will, of course, be able to opt for a combined assessment with the person they care for if they wish. The main benefits of this approach are:

- A specialist carers' service will have the necessary skills and knowledge to be able to offer a comprehensive carer's assessment ensuring the carer is aware of and referred into all services and support that may be appropriate to them
- A carer's assessment undertaken by a carers' service will provide a contact point for the carer should a crisis occur or further information be required. This could potentially reduce the demand on the County Council.

The Act also sets out the importance of appropriate and proportionate assessment, including face-to-face assessment, phone assessment, online assessment and supported self-assessment. Therefore, different assessment options will be available according to the needs of the individual, which will also promote efficiency and cost effectiveness.

Young Carers

Young carers will need to have either their own/family assessment or a care assessment of the adult they care for, to identify support needs that prevent inappropriate care by the young carer.

In relation to young carers, the implications of the legislation are that all young carers have the right to an assessment of needs for support which must be aligned to the assessment of an adult or sibling they care for.

The assessment is to identify the support needed to prevent inappropriate care and must consider:

- The impact of the person's needs on the young carer's wellbeing, welfare, education and development.

- Whether any of the caring responsibilities the young carer is undertaking are inappropriate.
- Whether a young carer is a 'child in need' under the Children Act 1989.

The responsibility for assessing the needs of young carers sits across Adult and Children's Services with the responsibility for responding to their needs resting with the service responsible for assessing the person they support. Adult and Children's Services are fully committed to working together to ensure effective arrangements for young carers and a whole family approach under the legislative changes.

4) Carers' personal budgets

The statutory duties on personal budgets apply to people in need of care and support and carers equally meaning that everyone whose needs are met by the local authority must receive a personal budget as part of their support plan.

'Time for me' grant funding for carer breaks are currently available and are administered by Carers' Services on behalf of the County Council. A carer may apply for up to a maximum of £350 once every two years. In 2013/14, 1,170 applications were received and 832 approved at an average cost of £271 per grant.

These grants do share some of the characteristics of carer personal budgets as defined by the Care Act, but simply extending them in their current form would not fulfil the statutory duties.

Therefore, it is crucial that a system is developed for providing eligible adult carers, who care for an adult, with a personal budget from 1 April 2015 that complies with the Care Act, particularly on the following key principles:

- The allocation of a clear upfront indicative allocation at the start of the planning process will help people to develop the plan and make appropriate choices over how their needs are met.
- The process used to establish the personal budget is transparent and the method used robust, so that people have confidence that the personal budget allocation is correct and therefore sufficient to meet their care and support needs.
- The personal budget is the mechanism that, in conjunction with the support plan, enables the person to exercise greater choice and take control over how their care and support needs are met.

A Resource Allocation System (RAS) may be used by councils to decide how much money people get for their support. There are clear rules, so people can see that money is given out fairly. Once their needs have been assessed, they will be allocated an indicative budget, so they know how much money they have to spend on support. The purpose of an indicative budget is to help them plan the support that will help meet their assessed needs – it might not be the final amount that they get, as it may not be enough (or is more than enough) to meet those needs.

It is proposed that a RAS is introduced for eligible adult carers, who care for an adult, with mechanisms in place for:

- **Understanding and weighting the carer's needs and outcomes**.....based on the carer's assessment or combined assessment.
- **Translating the weightings into an indicative allocation**.....based on three allocation bandings.
- **Arriving at a final allocation**.....based on the principle of sufficiency with a process in place for authorising amounts that exceed the indicative allocation.

The statutory guidance points out that complex RAS models may not work for all client groups. A simple approach is considered sensible for carers' personal budgets, hence the intention of having three allocation bandings. If the proposal on carers' personal budgets is approved, more detailed work will be required to fully develop the personal budget configuration in two respects.

- Firstly, the monetary amount of each banding will need to be determined.
- Secondly, there will need to be an equitable and transparent process for establishing which banding a carer would be assigned based on the impact their caring role has on their life.

Therefore, it is proposed the signing-off of the final arrangements is delegated to the Executive Director of Adult Services, Health and Wellbeing in consultation with the County Treasurer.

To inform the development of the RAS model, there may also be an opportunity to undertake some benchmarking with other local authorities as their plans for personal budgets emerge. There is also a proposal for North West councils to work collaboratively to explore the feasibility of developing and implementing a regional framework for measuring impact, eligibility and RAS for carers.

A carer would be able to use their final personal budget allocation on any support they identify in their support plan providing it is safe, legal and meets their needs. Examples of the types of support a carer may choose are a course of relaxation classes, training on stress management, gym or leisure centre membership, adult learning, development of new work skills or refreshing existing skills, pursuit of hobbies, or purchase of laptop so they can stay in touch with family and friends.

The vast majority of carers' personal budgets will be paid annually via a direct payment to maximise the carer's ability to exercise choice and control, and that the personal budget will continue to be paid each year unless the review process (see section 6 on support plan reviews) identifies a change in needs or circumstances.

Again, applying the methodology of the Department of Health's impact assessment to Lancashire estimates that, of the predicted demand for the 8,034 extra carers' assessments, 3,844 (47.85%) carers would be eligible for a personal budget in 2015/16. This amount of extra activity would be in addition to carers already in the

system that will be eligible for a personal budget as they are 'passported' into the new arrangements until their next review post Care Act implementation.

Considering that entitlement to a carer's personal budget will be based on the assessed needs and inability to achieve two or more outcomes of the individual carer, as defined in the Care Act regulations, it proposed that the current arrangements for accessing non-statutory 'Time for Me' grants is ceased from 2015/16.

Any adult carer caring for an adult, who would have previously applied for a 'Time for Me' grant, would instead be offered an assessment to determine if they are eligible for a personal budget. It is expected that this change will prevent any undermining and/or duplication of the new carers' personal budget offer and ensure that funding is provided in a more robust, equitable and systematic way according to individual need.

It is intended that the 'Time for Me' brand is retained and used as the name for the new carers' personal budgets offer.

5) Respite care

The use of respite care (or 'replacement care') usually meets the needs of both the carer and the person they care for, so who should receive the funding for this type of support in their personal budget is debatable.

However, the County Council currently funds respite care in the name of the person with care needs, so it is proposed to maintain the existing arrangements, in order to ensure continuity and avoid confusion during a time of major change. This approach complies with the statutory guidance:

'Local authorities should consider how to align personal budgets where they are meeting the needs of both the carer and the adult needing care concurrently. Where an adult has eligible needs for care and support, and has a personal budget and care and support plan in their own right, and the carer's needs can be met, in part or in full, by the provision of care and support to that person needing care, then this kind of provision should be incorporated into the plan and personal budget of the person with care needs, as well as being detailed in a care and support plan for the carer.' (END)

There may be occasions where the person being cared for does not have eligible needs, so does not have their own personal budget, but the carer is eligible for support in their own right. In these cases, the carer must still receive a support plan, which covers their needs, and details how they will be met, which may include respite/replacement care to the person they care for. The final personal budget allocation for the carer would be for the costs of meeting the carer's needs, providing the person requiring the care is involved in the decision making process and agrees with the course of action.

6) Support Plan Reviews

The Act sets out the importance of keeping carer support plans under regular review in a person-centred and outcome focussed way, so they have the opportunity to reflect on what is working, what is not working and what might need to change, and mitigate the risk of them entering a crisis situation.

It describes the circumstances where it may be appropriate to carry out a 'light touch' review or when a reassessment may be required because the needs of the carer and/or the person they care for have changed.

In terms of timing, it is expected that planned reviews will be conducted no later than every 12 months, although a light touch review should be considered 6-8 weeks after agreement of the support plan and personal budget. Unplanned reviews that occur due to a change in circumstances should be reviewed immediately to determine if the support plan needs revising.

The statutory guidance makes it clear that it would be illegal to use the review process to arbitrarily reduce a support package and that any reduction to a personal budget should be the result of a change in need or circumstance.

7) Charging

The Care Act gives local authorities the power to charge for support to carers, however the statutory guidance warns about the potential consequences of doing so:

'Local authorities are not required to charge a carer for support and indeed in many cases it would be a false economy to do so. When deciding whether to charge, and in determining what an appropriate charge is, a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make. Carers help to maintain the health and wellbeing of the person they care for, support this person's independence and enable them to stay in their own homes for longer. In many cases of course, carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. Local authorities should consider carefully the likely impact of any charges on carers, particularly in terms of their willingness and ability to continue their caring responsibilities.' (END)

It is proposed that support to carers is not subject to financial assessment and charging during 2015/16, and this should be re-examined as part of the wider review referred to above ahead of 2016/17.

Consultations

There has been some initial consultation with the Lancashire Carers Forum on the intended approach to carers' assessments, personal budgets, 'Time for Me' grants and charging. The forum was supportive of the proposed policy framework. Going forward, there should be an opportunity to undertake further consultation on specific aspects as required, e.g. configuration of personal budgets.

Implications:

This item has the following implications, as indicated:

Risk management

If the recommendations are not taken forward, the County Council will not meet its statutory duties under the Care Act and relevant sections of the Children and Families Act from 1 April 2015, which will result in the County Council being highly exposed to legal challenge and reputational damage.

The unpredictability of the new demand from carer's inevitably creates financial risks, as set out in the financial implications section below, and operational risks.

The operational risks will be managed through workforce capacity and learning and development plans that are being developed in preparation for Care Act implementation, and developing carers' services in partnership with the service providers under a new service specification.

Financial

At this time, it is extremely difficult to estimate the potential financial impact to the County Council in relation to the new rights for carers. The reasons for this are twofold.

Firstly, due to the unpredictability of the volume of extra demand, in terms of the number of carers that may request an assessment, the timing of when they may come forward and the proportion that, following an assessment, may be eligible for a personal budget.

Secondly, the amount of funding allocation the County Council will receive from the government to support implementation of the new statutory duties for carers in Lancashire is not yet known.

However, it is intended that a further report will be submitted to the Cabinet Member prior to April 2015 that sets out in detail the financial implications and risks of the key changes under the Care Act, including the statutory duties relating to carers.

The extent to which additional Care Act grant funding may not be sufficient to cover the additional costs will need to be taken into account in the Council's updated Medium Term Financial Strategy. The actual costs will be kept under review especially during the first year of implementation of the new arrangements.

Legal

The Care Act will change the law underpinning adult social care, including major changes in relation to supporting carers from 1 April 2015. In essence, the Act will ensure there is parity of esteem between the carer and the person they care for. This report is compliant with the legal duties set out in the legislation and statutory guidance, which are available at the following links:

<http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf.

Equality and Diversity

An equality analysis is attached at Appendix 'A'.

Procurement

The carers' services referred to in this report are currently being retendered with new contracts due to be awarded from 1 April 2015, as detailed in the report to the Cabinet Member for Adult and Community Services on 'Re-commissioning Carers' Services across Lancashire' listed in the background papers.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Preparing for Implementation of the Care Act in Lancashire: http://council.lancashire.gov.uk/ieDecisionDetails.aspx?ID=5722	16/09/2014	Tony Pounder, Adult Services, Health and Wellbeing, 01772 536287
Re-commissioning Carers Services across Lancashire: http://council.lancashire.gov.uk/ieDecisionDetails.aspx?ID=6068	21/10/2014	Joanne Miller, Adult Services, Health and Wellbeing, 07775 221258

Reason for inclusion in Part II, if appropriate

N/A