



Essex County Council

AGENDA ITEM 9

Report to Health & Wellbeing Board Report of Cllr Aldridge	Reference number HWB/18/14
Date of meeting 20 May 2014 Date of report 16 April 2014	County Divisions affected by the decision All Divisions
Title of report: Care Bill	
Report by Cllr John Aldridge, Cabinet Member for Adult Social Care	
Enquiries to: Peter Fairley, Head of Policy and Strategy (People)	

1. Purpose of report

- 1.1. To update the Health and Wellbeing Board on the progress of the Care Bill, to note its scope and implications, and to note the timescales for implementation.

2. Recommendations

- 2.1. To note the contents of the report

3. Background and proposal

- 3.1. The Care Bill was introduced to Parliament on 10th May 2013 and represents the biggest legislative change to adult social care since 1948. It is expected to receive Royal Assent in May 2014.
- 3.2. The bulk of the Care Bill's reforms are due to be implemented from 1 April 2015, although some aspects (the cap on care costs and revised financial eligibility thresholds) will be implemented from 1 April 2016.
- 3.3. The Care Bill consolidates social care law into a single statute and would place broad duties on local authorities in relation to care and support, focusing on the promotion of 'individual well-being'. Duties would also be imposed on local authorities to:
 - prevent care and support needs arising, including by providing information and advice (including access to independent financial advice);
 - promote the integration of care and support services with health services (for the purposes of the Bill, Housing is a health-related service);
 - promote diverse and quality care services; and
 - to co-operate with relevant partners, such as local NHS bodies, in providing care and support.
- 3.4. The Care Bill will:
 - Introduce a new national minimum eligibility threshold to access services – this is likely to be set at a level deemed 'substantial' although an early draft of the regulations indicated the threshold may be lower in practice than our current definition of substantial.
 - Introduce new legal rights for carers
 - Provide the basis of a system for charging for care, including a new cap on eligible care costs. It would also introduce a legislative basis for personal budgets for social care, and independent personal budgets for people whose care and support needs are not being met by a local authority. For example, it would:
 - Introduce a cap (£72,000 for over 65's from April 2016) on the costs that people will have to pay for care and set out a universal deferred payment scheme so that people will not have to sell their home in their lifetime to pay for residential care.
 - Provide free life time care for people with eligible needs that arose before their 18th birthday;
 - Increase the asset threshold for financial support from the local authority with residential care costs from the current £23,250 to £118,000;

- Provide a duty to assess people with care needs who are in prison and make arrangements to meet those needs as if the individual was ordinarily resident in the local authority area in which the prison is based

3.5. In addition, the Bill would:

- Allow for the introduction of Ofsted-style ratings for hospitals and care homes so that patients and the public can compare organisations or services and make informed choices about where to go.
- Establish a unified regime for detecting and intervening in failures in care quality and financial performance at NHS hospitals.
- Introduce a statutory “duty of candour” for health service providers and make it a criminal offence for providers to supply or publish false or misleading information.
- Establish the Health Education England (HEE) and the Health Research Authority (HRA) as statutory non-departmental public bodies.

3.6. Integration of Health and Social Care

The Care Bill requires a local authority to exercise its functions with a view to ensuring the integration of care and support provision with health provision and health-related provision where it considers that this would:

- promote the well-being of adults in its area with needs for care and support and the well-being of carers in its area
- contribute to the prevention or delay of the development by adults in its area of needs for care and support or the development by carers in its area of needs for support, or
- improve the quality of care and support for adults, and of support for carers, provided in its area (including the outcomes that are achieved from such provision).

3.7. At a high level the implications of the Care Bill for Essex County Council include:

- Reform of Care and Support – including the introduction of a cap on care costs to which local authorities will have to respond in terms of managing financial impact as well as administrative requirements
- Responding to the Francis Enquiry – including the introduction of a ratings system and failure regime for care providers
- Increase in demand and scope for adult social care services – including assessment, support planning, and review for both individuals and carers
- Increase in information recording / monitoring requirements – Care Accounts, Individual Personal Budget statements for all individuals with an eligible need will be required.
- Greater volume of adult social care related contacts into the Contact Centre
- Developing new services / redesigning existing services to meet our new brokerage / information & advice duties
- The challenges of managing ‘portable’ assessments

4. Policy context

- 4.1. The Care Bill is a radical reform of social care law and is directly relevant to the achievement of the Essex Joint Health and Wellbeing Strategy and a number of the County Council's priority corporate outcomes, especially:
- People in Essex enjoy good health and wellbeing;
 - People have aspirations and achieve their ambitions through education, training and lifelong-learning;
 - People in Essex live in safe communities and are protected from harm;
 - People in Essex can live independently and exercise control over their lives.
- 4.2. The Care Bill also further promotes the integration and health and social care. The Government's ambition is for Health & Social Care integration to be the norm by 2018. Essex County Council and the 5 clinical commissioning groups (CCGs) have recently submitted our Better Care Fund application and to submit our 2 year operational plans and 5 year strategic plans to government. The Care Bill gives legislative basis to the Better Care Fund.
- 4.3. Implementation of the Care Bill is mandatory.
- 4.4. In line with national guidance, the County Council and the Clinical Commissioning Groups (CCGs) in Essex are working on integration through the Better Care Fund (BCF) schemes and finance, including preparation for the implementation of the Care Bill.

5. Financial Implications

- 5.1. Central government has committed to fully funding the financial impact of any changes arising from the Care Bill; however initial analysis undertaken within the council indicates that the total available funding for Essex County Council is likely to be inadequate to meet the expected increase in demand for services.
- 5.2. ECC has approved one off funding from its reserves of £802,000 in 2014/15 to fund staffing resources to analyse the potential impact of the Care Bill. Work is on-going to scope the cost of implementing the Bill, with an expectation that funding for costs incurred in 2014/15 will be allocated from the £4.9m of Better Care Fund (BCF) monies available in 2014/15 as per the BCF guidance of 1st April 2014: "NHS S256 Payments to Local Authorities 2014/15 including BCF Integration Payment". The guidance makes clear that in making payments in accordance with these Directions, the Board is to have regard to the commitment in the White Paper "Caring for our Future; reforming care and support" published July 2012, to the effect that payments under section 256 may be used to cover the revenue costs to local authorities in the relevant financial year of the commitments in that White Paper.

- 5.3. ECC's initial high level estimate of the likely cost of the changes from the Care Bill in 2015/16 is around £30m. Further detailed work is currently in progress to inform the council's budget setting process, with further analysis needed to refine the costs as the draft Care Bill guidance and regulations are published (expected to be from June 2014 onwards). Funding for implementing the changes required in 2015/16 will be via two sources; the BCF and ECC's core revenue settlement from central government although it should be noted that the latter is reducing year on year. Over the three years to 2016/17, central government's core revenue funding to Essex is likely to reduce by £100m.
- 5.4. ECC's ongoing revenue costs could, based on initial estimates, rise to at least £42m in 2016/17. Funding in 2016/17 is yet to be confirmed but will be distributed via the BCF and the revised Relative Needs Formula within the core revenue settlement. Further work is being undertaken to analyse the full financial implications of the Bill over the medium term to long term but costs are likely to increase further post 2016/17.
- 5.5. As such, the introduction of the Care Bill represents a significant financial risk to ECC unless further funding from central government is allocated.

6. Legal Implications

The Care Bill proposes significant changes to the law relating to adult social care which will have ramifications on practice and procedure as well as on the resourcing needs to manage the anticipated increase in demand and new statutory duties. The failure to have the resources and necessary changes in place in readiness for implementation of the new law could leave the Council vulnerable to legal challenge as well as cause damage to its reputation.

7. Staffing and other resource implications

There are no staff implications arising from this decision. However, any implications identified as a result of the published regulations, will form part of the Final Business Case to be developed.

8. Equality and Diversity implications

- 8.1. The Department of Health has produced 11 impact assessments for the Care Bill, which each incorporate an equality impact assessment. These are available via <https://www.gov.uk/government/publications/the-government-published-a-series-of-impact-assessments-alongside-the-care-bill>
- 8.2. The Department of Health will publish detailed guidance and regulations for consultation. This is expected to commence in May/June 2014.

9. Background papers

- 9.1. Presentation to the Health and Wellbeing Board, 20 May 2014