

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Health Scrutiny Panel      **DATE:** 19th November 2014

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**WARD(S):** All

### **PART I** **FOR COMMENT & CONSIDERATION**

#### **THE CARE ACT 2014 – REFORMING CARE AND SUPPORT**

##### 1. **Purpose of Report**

The purpose of this report on the Care Act 2014 (the Act) is to:

- provide the Health Scrutiny Panel with a summary of the Act and the wide ranging provisions contained within it,
- inform the Health Scrutiny Panel of the current status of the Act's regulations and guidance and seek any comments the Panel would like to make in relation to the implementation of the Act,
- outline the potential implications of the Act for Slough.

##### 2. **Recommendation(s)/Proposed Action**

That the Health Scrutiny Panel comments on the implementation of the Act in Slough and receive a progress report early next year.

##### 3. **The Slough Joint Wellbeing Strategy, the JSNA and the Corporate Plan**

###### 3a. **Slough Joint Wellbeing Strategy Priorities**

The implementation of the Care Act will have an impact across all of the priorities set out in Slough's Wellbeing Strategy:

- Health
- Economy and Skills
- Regeneration and Environment
- Housing
- Safer Communities

The number of people aged over 85 in Slough is projected to increase by approximately 27 % over the next five years. This includes a significant ethnic population with diverse needs.

The general health of many local people is poor and many people in Slough experience more years of ill health and disability than average. The population of Slough experiences higher levels of circulatory disease, respiratory disease, tuberculosis and cancer relative to other unitary authorities, overall Berkshire and England averages. The average life expectancy at birth for people in Slough is 82.7 yrs which is lower than the national average of 84.6 yrs

There are high numbers of people with mental health problems and issues with misuse of and addiction to drugs or alcohol. There are high rates of obesity and people who smoke and these are factors which impact on health and disability.

Social care services must therefore be able to meet the needs of the growing number of people with complex needs. Many people who use social care services also have health and housing needs and it is essential that we work in a joined up way within the council and with the National Health Service (NHS).

#### 4. **Other Implications**

##### Financial

#### 4.1 There are significant financial implications in relation to the implementation of the Act.

The additional costs associated with new and additional responsibilities and ways of working are being calculated for Slough but will include:

- Requirement for additional assessment resource and early assessments
- Training and workforce development
- Advocacy costs
- New eligibility thresholds
- Additional carers services and supports
- Additional costs of supporting people who meet the revised financial eligibility criteria or reach the care cap - actual costs and assessment costs
- IT and systems costs related to new ways of working and responsibilities.

#### 4.2 The 2013 Spending Review provided for £470m for implementing the Act in 2015/16. Plans were for this to be distributed broadly as follows:

- £124m revenue in the Better Care Fund (BCF) for new burdens in 2015/16 including those relating to eligibility, carers, advocacy and safeguarding allocated via the Clinical Commissioning Group (CCG) formula. For Slough this roughly equates to an additional £317,000 in the overall BCF pooled budget of £8.762m.
- £11m revenue for care and support in prisons to be allocated as a separate grant. As Slough has no prisons there will be no additional funding.
- £110m revenue for deferred payment agreements to be allocated as a separate grant. For Slough this would equate to approximately £169,000.
- £175m for capacity building and preparing for new duties to be implemented in 2016/17. This provides a budget of £145m for early assessments of self funders, £20m for capacity building and £10m for communications. This funding is to be allocated as a separate grant. For Slough this would equate to approximately £242,000.
- £50m capital in the Better Care Fund. Sloughs allocation of this is £282,782.
- Care Act Implementation grant was announced on the 7<sup>th</sup> May 2014 and allocated £125,000 of un-ring fenced funding to each Council to support the work to implement the Act. This funding is available for 2014/15 and Slough Borough Council (SBC) has agreed to use the funding for temporary additional finance and programme management support.

#### 4.3 Following joint work undertaken by the Department of Health and the Association of Directors of Adult Social Services (ADASS) where local councils estimated the costs for the implementation of various parts of the Act, revisions to the cost estimates of the Act were recently announced and allocations will subsequently be changing as follows:

- Revised costs related to new carers' rights in 2015/16 to £104.6m (an increase of £35.2m) with consequent increases in subsequent years.
- Remove the previously assumed saving arising from legal reforms in 2015/16 increasing overall costs by £13.6m
- Reduce costs related to deferred payment agreements in 2015/16 to £83.5m a decrease of £25m
- Planning assumptions for early assessment will be revised to reduce expected uptake from 100% to 80%. This reduces estimated costs from £145m to £116m.
- A new Carers and Care Act Implementation Grant will be created from the reprioritised funding. The new grant will be in the region of £50m to cover additional costs identified. Detail on the allocation for Slough will be known in December 2014. We anticipate this will result in a marginal increase in funding because allocation based on carers favours Slough more than allocation based on self-funders.
- Regulations setting the national minimum threshold for eligibility have been revised to allow authorities to maintain the same level of access to care and support in 2015/16.

4.4 But it is clear from a recent ADASS budget survey report and work undertaken by ADASS that with reducing budgets (nationally there has been a 26% reduction in spend in adult social care over the last four years - £3.53bn), increasing demand for social care and new responsibilities under the Act the additional funding required will not be sufficient to meet this gap. Demographic pressures are also running at £400m a year nationally. The medium term is also equally challenging where social care faces a gap of £4.3bn or 29% of the budget and senior health figures are also warning of a £30bn funding gap in the NHS by the end of the decade equating to 28% of the NHS total budget.

4.5 Allocations of additional funding for implementation of the Act in 2015-16 will be announced in December. From early indications, Slough can expect to receive in the order of £440,000. However, initial work suggests that total implementation costs in 2015-16 may be between £0.9m and £1.2m depending especially on the rate at which additional carers present for assessment/support. Following consultation and modelling by councils, the Department of Health have increased their estimate of the costs of additional carers assessments/support. But they are relying on take-up experience with Carers Allowance and Free Personal and Nursing Care in Scotland to suggest that additional carers' take-up will be lower initially but 'ramp up' over 3 years to a level close to Slough's initial estimates. This also reflects that Ministers have already fixed the funding envelope for 2015-16.

Beyond 2015-16, the main financial impact (other than the pace of carers' take-up) is from the changes to financial eligibility criteria for adult social care support / care cap. ADASS and the Local Government Association (LGA) have been working closely with councils and the Department of Health to model the cost of these reforms. There will be a national consultation in December and the accompanying impact assessment will give an indication of Department of Health cost estimates/ likely additional funding for the new burdens. Local modelling is suggesting an initial cost in 2016-17 of £1.1m rising to £1.4m by 2019-20.

#### 4.6 Risk Management

| <b>Risk</b>            | <b>Mitigating action</b>   | <b>Opportunities</b>   |
|------------------------|--|--|
| Legal                  | Legal services to be part of the Implementation Programme Board                            | Ensuring legal responsibilities are met  |
| Property               | None   |  |
| Human Rights           | To be considered as part of the Programme Board and impact assessment                      |  |
| Health and Safety      | None   |  |
| Employment Issues      | Workforce strategy to be developed   | Clarity over roles and responsibilities and a fit for purpose workforce for the future     |
| Equalities Issues      | Impact Assessment to be completed and regularly reviewed.                                  | Act makes care and support clearer and fairer  |
| Community Support      | To be considered as part of the wellbeing and prevention elements of the implementation.   | Clarity of the role and contribution community support will make in meeting peoples needs. |
| Communications         | Communications and engagement strategy to be developed and regular communications sent out | Clarity over rights and access to support. People and partners better informed of changes  |
| Community Safety       | Safeguarding is a key part of the Act  | SBC part of national Making Safeguarding Personal programme                                |
| Financial              | As above   |  |
| Timetable for delivery | Programme management approach and discipline   |  |
| Project Capacity       | Additional programme and project management support required.                              | Taking a programme approach will support the implementation.                               |

#### 4.7 Human Rights Act and Other Legal Implications

The Act aims to make care and support clearer and fairer. The delivery of a new statutory and legal framework for April 2015 will be monitored by the Programme Board with legal services representation.

#### 4.8 Equalities Impact

A national impact assessment for the Act has been undertaken by the Department of Health but a local impact assessment under the Equalities Act 2010 will be undertaken over the coming months.

### 5. Supporting Information

#### 5.1 **Summary of the Care Act 2014**

The Care Act 2014 is partially enacted. It received Royal Assent on 14 May 2014 and the majority of the provisions shall come into force in April 2015. Final

regulations and guidance for these regulations were published in October 2014 for the parts of the Act to be implemented from April 2015. Further consultation will be taking place in early January 2015 for those parts of the Act to be implemented in April 2016, mainly the funding reforms.

5.2 The Coalition Government's aim for the Act is to reform the law relating to care and support for adults dating back to the National Assistance Act 1948 and the law relating to support for carers, provision for safeguarding adults from abuse or neglect, provision for care standards, market shaping and provider failure. It also establishes the Wellbeing principle and the promotion of prevention services and support. (Annex 1 – Summary of presentation of the Care Act 2104)

5.3 The main aspects of the Act:

- brings care and support law into one statute;
- re-focuses care and support by promoting wellbeing and preventing and delaying needs to reduce dependency instead of only intervening at crisis point;
- puts carers on the same legal footing as the person they are caring for;
- extends financial support to those who need it most, and protects people from excessive care costs through a cap on the care costs that people will incur;
- aims to ensure that people do not have to sell their homes in their lifetime to pay for residential care, by providing for a new deferred payments scheme;
- provides for a single national threshold for eligibility to care and support;
- supports people with information, advice and advocacy to understand their rights and responsibilities, enabling them to access care when they need it, and plan for their future needs;
- gives new guarantees to ensure continuity of care when people move between areas;
- includes new protections to ensure that no one goes without care if their provider fails, regardless of who pays for their care;
- is built around people and outcomes that matter to them and promoting personal budgets;
- clarifies entitlements to care and support;
- puts safeguarding adults on a statutory footing;
- simplifies the care and support system and processes to provide local authorities and care professionals the freedom and flexibility to integrate with other local services.

#### 5.4 **National Timetable**

|   |                              |
|---|------------------------------|
| Consultation ended on regulations and guidance  | 15 <sup>th</sup> August 2014 |
| Finalise 2015/16 regulations and guidance   | October 2014                 |
| Ongoing work to develop practice guides   | Summer 2014                  |
| Toolkits and implementation support   | Autumn 2014                  |
| Separate consultation later this year on those elements of the Act that come into force in April 2016 (e.g. funding reform) | Late 2014/early 2015         |
| New statute comes into force  | April 2015                   |
| Funding reforms come into effect  | April 2016                   |

## 5.5 **Local Governance Arrangements**

A Care Act implementation programme board has been established with key workstreams and owners to deliver each aspect of the Act. The programme will report into SBC Wellbeing Senior Management Team with progress reports to SBC Corporate Management Team, Health Scrutiny, Cabinet and Wellbeing Board as required.

Updates on progress will also be provided to the Better Care Fund Joint Commissioning Board to ensure that the work of the Better Care Fund and the Act are aligned.

## 5.6 **Impacts of the Act for Slough**

The impacts for Slough have initially been assessed as:

- Financial implications for new ways of working and new responsibilities - especially carers
- Financial implications of funding reform - changes to financial eligibility criteria /care capping
- Charging policy / legal security for service users / third-party debts
- Integration with the NHS/Better Care Fund
- Wellbeing and prevention approach
- Capacity to deliver the changes
- Financial position of the council and partners with current/future efficiency savings and reform
- Relationships with the market - profit/not for profit sector
- New ways of working and systems
- Cultural change and awareness

## 6. **Conclusion and Recommendations**

The Care Act 2014 will have a significant impact for the way that care and support is provided to vulnerable people in Slough. It will also have a significant financial impact for the Council as well as joint working and partnership arrangements. It has a direct correlation to the work of the Better Care Fund and our integration and pooled budget work.

The implementation programme board has started to look at each area of the Act and what actions will be required of the Council and partners and to confirm if any formal consultation will be required. As we analyse the recently issued final guidance and regulations and further assess the impacts and implications for Slough it is recommended that a progress report is presented to the Health Scrutiny Panel early next year.

## 7. **Appendices Attached**

'A' Summary Presentation of the Care Act 2014

## 8. **Background Papers**

1. The Care Act 2014
2. Care and Support Statutory Guidance Issued under the Care Act 2014