



Report for:	Adults and Health Scrutiny Panel: 22nd January 2015	Item Number:	9
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Title:	Care Act 2014 (Safeguarding)
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Report Authorised by:	Beverley Tarka, Interim Director Adult Social Services
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Lead Officer:	Beverley Tarka, Interim Director Adult Social Services
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Ward(s) affected: All	Report for Key/Non Key Decisions: NA
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1. Describe the issue under consideration

- 1.1 This report is provided for information purposes and offers a brief overview of Part 1 of the Care Act 2014 which comes into force on 1st April 2015 and describes the impact of the Act and the approach Haringey is taking to its implementation. Consideration is also given to the role Scrutiny may play with respect to Care Act Implementation with emphasis on the local authority's adult safeguarding responsibilities. These responsibilities are referenced herein and are the subject of the presentation, attached at Appendix 1, which is to be delivered at the meeting for which this report has been prepared.

2. Cabinet Member introduction

- 2.1 Not applicable

3. Recommendations

- 3.1 The Adults Health and Scrutiny Panel is asked to note and comment on the contents of this report.

4. Alternative options considered

- 4.1 None – the implementation of the Care Act is a statutory requirement.

5. Background information



- 5.1 The Care Act is a bold and historic piece of legislation. It is the most wide-ranging reform to adult social care in nearly 70 years that, for the first time, places adult care and support law into a single clear statute.

The Wellbeing Duty and Principle

- 5.2 The Care Act imposes a duty on local authorities to promote individual wellbeing when carrying out any of their care and support functions in respect of a person. This duty is sometimes referred to as the “wellbeing principle” because it is a guiding principle that puts wellbeing at the heart of care and support system.
- 5.3 Furthermore the wellbeing principle provides the acid test of the actions local authorities take when carrying out their care and support functions. The principle means that whenever a local authority makes a decision about an adult it must promote or seek to promote the adult’s wellbeing.
- 5.4 The Act’s definition of wellbeing covers:
- a) personal dignity (including treatment of the individual with respect);
 - b) physical and mental health and emotional well-being;
 - c) protection from abuse and neglect;
 - d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
 - e) participation in work, education, training or recreation;
 - f) social and economic well-being;
 - g) domestic, family and personal relationships;
 - h) suitability of living accommodation;
 - i) the individual’s opportunities to contribute to society.
- 5.5 The expansive nature of the definition of wellbeing means that the Care Act has whole Council implications. It cannot be regarded as being ‘just’ an adult social care Act. The Act also establishes a duty of co-operation that requires an authority to ensure that all its departments work together to meet the wellbeing duty.

Other Key Features of the Care Act

- 5.6 Table 1 lists other key features of the Care Act which, unless stated, come into force on 1st April 2015. The listing provided is not all inclusive but, summarises how the Act will determine the Council’s statutory duties for adult social care and its delivery of these important services.

Table 1. Other Key Features of the Care Act



Prevention : A new duty for requiring local authorities are to ensure the provision of preventative services - that is services which help prevent or delay the development of care and support needs, or reduce care and support needs (including carer's support needs).

Integration: A new local authority duty to carry out their care and support functions with the aim of integrating services with those provided by the NHS or other health-related services (for example, housing and leisure services).

Information and advice: A new general duty to provide information and advice on social care, including independent generic and regulated financial advice, to all people residents regardless of whether, or not, they have eligible care needs.

Diversity and quality of provision (Market Shaping): A new general duty to promote diversity and quality in care and support provider market. Local authorities must act to ensure that there is a range of different providers of services available. These must offer a range of services shaped by the demands of individuals, families and carers, and be of a high quality, in order to meet the needs and preferences of people wanting to access services.

Cooperation: A general duty to cooperate between the local authority and other relevant authorities which have functions relevant to care and support. This includes a duty on the local authority itself to ensure cooperation between its adult care and support, housing, public health and children's services.

Assessments: A duty for a local authority to carry out an assessment, which is referred to as a 'needs assessment,' where it appears that an adult may have needs for care and support

Carers' Assessments: A new duty for local authorities to undertake a 'carer's assessment', on the basis of the appearance of a need for support. This is a lower threshold for assessment than under the current law. It removes the existing requirement that the carer must be providing "a substantial amount of care on a regular basis".

Eligibility: A new duty to introduce separate new national minimum eligibility thresholds in place of the current FACS eligibility criteria, for people who use services and their carers;

Personal budgets: A new duty to offer everyone who is eligible for a service a personal budget with the expectation that the default form of provision will be a direct payment.

Deferred payments: A new duty to introduce universal deferred payments schemes to ensure that people will be protected from having to sell their homes and lose their assets in order to pay for care during their lifetimes.

Independent advocacy: A new duty to arrange independent advocacy for people who need help to be involved in assessment, planning, appeals or safeguarding.



Adult safeguarding: The Act sets out the local authority's responsibility for adult safeguarding for the first time in primary legislation. Local authorities *must* make enquiries if they believe an adult is, or is at risk of, being abused or neglected. They *must* also host and lead multi-agency Safeguarding Adults Boards (SABs) to maintain strategic oversight of safeguarding and carry out Safeguarding Adults Reviews (SARs) when people die as a result of neglect or abuse and there's a concern that the local authority, or its partners, could have done more.

Self-funders: The Act introduces a range of new *duties* for people who self-funders their own care. This includes the provision of assessments, care plans and care accounts, service finding and providing self-funders with alternative provision in the case of provider failure. Local authorities will also become liable for the care costs of self-funders once they hit the 'cap' on care costs.

The Dilnot Reforms

- 5.7 On 1st April 2016 a tranche of funding reforms (known as the Dilnot reforms) will come into force. The reforms, which will be the subjects of a later report, but include:
- a) a cap on care costs set at a whole life value of £72,000 for people aged 65 years and over. This cap applies to people who self-fund their care costs as well as those who are funded by the Council. The council must assume financial responsibility for all self-funders who reach the cap;
 - b) care accounts which will allow people, including self-funders, to track their progress to the care cap;
 - c) independent personal budgets for self-funders, and;
 - d) an appeals systems to allow decisions taken on behalf of the Council with respect to the provision of social care to individuals to be challenged by those individuals or their representatives.

Assessing the Impact of the Care Act

- 5.8 Collectively, the reforms introduced by the Care Act will transform the adult social care landscape, but when assessing their likely impact in Haringey it is useful to consider if the various sections of the Act are:
- a) new in law and practice/policy, or;
 - b) new in law but not new in practice/policy, or;
 - c) simply modernise existing law.
- 5.9 As many sections of the Act are new in law but not in practice/policy it appears that its impact may not be as great as anticipated – see LGA clause analysis at:



- 5.10 However, this conclusion is highly misleading as it applies only in so far as existing practice standards meet those demanded by the Act and in its comprehensive accompanying statutory guidance. The critical question is: To what extent do Haringey's current practice, procedures and policies meet the requirements of Act and its statutory regulations and guidance? Therefore, all local practice, procedures and policies are currently being reviewed to ensure that they comply with statutory requirements.
- 5.11 Consideration must also be given to how the Care Act will impact on the demand for adult social care and any accompanying financial implications. It is accepted that the Act will increase demand and, as a consequence, costs. Increased demand for assessment, for carers services and support for self-funders are likely to be those areas where increases in demand will be the greatest.
- 5.12 However, identifying the precise level of increase has proved extremely difficult at local and national level. It is something the Government and all local authorities are struggling with and work on this matter is being taken forward by the Council, on a pan-London basis and at national level. A grant of £787,000 for 2015/16 has been received in respect of the additional costs of Care Act implementation.

Haringey's approach to implementing the Care Act

- 5.13 Much work has taken place to ensure that Haringey will be compliant with those aspects of the Care Act which come into force on 1st April 2015. This is a large and complex undertaking that is being delivered through a programme management approach consisting of the following workstreams:
- a) Commissioning
 - b) Workforce planning
 - c) Assessment, eligibility and care planning
 - d) Advice and information
 - e) Deferred payments
 - f) Safeguarding
 - g) Financial reform
- 5.14 The workstreams reflect those identified by the LGA as being critical to implementation and each is managed by a senior officer, with a relevant professional background, with the support of a dedicated programme team. The Interim Director of Adult Social Services acts as the sponsor of the implementation programme with governance provided through an Implementation Board and the Departmental Management Team.



- 5.15 In addition, adult social care staff are being provided with a rolling programme of briefings about the Care Act and specialised legal training. As of 9th January 2015, 423 staff, carers, service users and providers had attended meetings to find out more about the Act. Information about the Act has also been placed on the intranet and Haringey's website while briefings for staff from across the Council will take place in January and February 2015.
- 5.16 The Adults Health and Scrutiny Panel is asked to note that whilst the Care Act comes into force on 1st April 2015 a transitional period of will be allowed to help local authorities the new statutory requirements. This, when combined with the robust approach Haringey is taking to implementation, allows confidence to be invested Council's state of readiness.

6. Adults and Health Scrutiny Panel and Care Act Implementation

- 6.1 Members of the Panel may wish to scrutinise and comment on the ongoing implementation of the Care Act. It is a fundamental reform of the care system with whole council and whole system consequences that will impact on important partnership arrangements. In addition, it will have resource implications which may pose difficult challenges at a time of austerity.
- 6.2. The workstream areas listed under paragraph 5.13 identify areas of, potential, interest which all have profound implications for the way in which adult social care will be provided in Haringey in the future. Safeguarding is an area of activity which may be of special interest to Panel members. The Care Act places, for the first time, adult safeguarding on a firm statutory footing and bestows on local authorities legal responsibility for leading this important function that places a premium on the development and maintenance of excellent partnership arrangements. The presentation to be at the Scrutiny Panel – see Appendix 1 - explores this matter further.

7. Comments of the Chief Finance Officer and financial implications

- 7.1 The Care Act is a wide ranging piece of legislation that not only codifies existing obligations but also introduces new duties for Local Authorities. Under the New Burdens Principle the Government is expected to provide additional funding to cover these new responsibilities. The first set of duties comes into force in April 2015 and £285m has been made available nationally. The allocation for Haringey is £280k to pay for additional assessments for Self Funders, £241k for the start up administration of the new Deferred Payment scheme and £266k for the implementation of the Act and additional services to Carers. In addition part of the Better Care Fund is available for use to support some additional costs. In Haringey this is £645k revenue.



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8. Comments of the Assistant Director of Corporate Governance and legal implications

8.1 The legal issues arising from the Act are dealt with in the main body of the Report, as above.

9. Equalities and Community Cohesion Comments

9.1 Not Available

10. Head of Procurement Comments

10.1 Not Applicable

11. Policy Implication

11.1 Not Available

12. Reasons for Decision

12.1 Not applicable

13. Use of Appendices

13.1 Appendix 1. Care Act 2014 and Adult Safeguarding (presentation)

14. Local Government (Access to Information) Act 1985

14.1 Open access



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Appendix 1. Care Act 2014 and Adult Safeguarding



David Cowell



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What does the care act do? The safeguarding duty?

- Replaces the '*No Secrets*' guidance
- Stipulates local authorities' responsibility for adult safeguarding for the **first time** in primary legislation.
- A local authority **must**:
 - lead a multi-agency local adult safeguarding system;
 - make enquiries, or cause others to do so;
 - set-up Safeguarding Adults Boards (SABs);
 - carry out Safeguarding Adults Reviews (SARs)
 - arrange for an independent advocate, where appropriate.
 - cooperate with each of its relevant partners



To Whom Does the Safeguarding Duty Apply



- It does NOT apply to every adult.
- The duty only applies to an adult who:
 - Has needs for care and support, and;
 - Is experiencing, or at risk of, abuse or neglect; and;
 - As a result of those care and support is unable to protect themselves from either the risk of, or the experience of abuse or neglect.



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Independent Advocacy: The Duty To Involve

“Local authorities must involve people in decisions made about them and their care and support or where there is to be a safeguarding enquiry or SAR. “

Statutory Guidance, paragraph 7.6

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The aims of safeguarding

- To **stop** abuse or neglect wherever possible (new in final guidance)
- To **prevent harm and reduce the risk** of abuse and neglect to adults with care and support needs.
- To safeguard adults in a way that supports them in making **choices and having control** about how they want to live.
- To promote an approach that concentrates on **improving the life** for the adult concerned
- To **raise public awareness** so that communities as a whole, alongside professionals, play their part in preventing, identifying and responding to abuse and neglect;

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Abuse Includes

- Physical abuse
- Domestic violence
- Sexual abuse
- Psychological abuse
- Financial or material abuse
- Modern slavery (new in final guidance)
- Neglect or acts of omission
- Discriminatory abuse
- Organisational abuse
- Self-neglect (new in final guidance)



The six key principles underpinning all adult safeguarding activity.

1. **Empowerment** – People being supported and encouraged to make their own decisions and informed consent.
2. **Prevention** – It is better to take action before harm occurs
3. **Proportionality** – The least intrusive response appropriate to the risk presented.
4. **Protection** – support and representation for those in greatest need
5. **Partnership** – local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse.
6. **Accountability** – accountability and transparency in delivering safeguarding



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The application of the six key principles

- The principles apply to all sectors and settings
- The principles should inform the way in which professionals and other staff work with people at risk of abuse or neglect.
- The principles can help SABs and organisations to examine and improve their local arrangements.

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Multiagency Working and Cooperation



- **Duty of Cooperation:** Local authorities **must** cooperate with each of its relevant partners and those partners must cooperate with the local authority partner.
- **Relevant Partners:** These are:
 - Local NHS bodies
 - Local chief officer of police
 - Prisons
 - Probation
 - Other local authorities where appropriate.



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Safeguarding Procedures



“In order to respond appropriately where abuse or neglect may be taking place, anyone in contact with the adult, whether in a volunteer or paid role, must understand their own role and responsibility and have access to practical and legal guidance, advice and support. This will include understanding local inter-agency policies and procedures”.

Statutory Guidance, paragraph 14.40

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Safeguarding Adults Boards (SABs) – Objective

“The main objective of a SAB is to assure itself that local safeguarding arrangements and partners act to help and protect adults in its area who meet the criteria set out at paragraph 14.2.”

Statutory Guidance, paragraph 14.104

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SAB Membership



- The following **must** be represented on the SAB:
 - The local authority
 - The CCG
 - The chief officer of police
- All members **must** have the necessary skills and experience to ensure the SAB is an effective way of improving adult safeguarding in its area.
- Consideration **should** be given to appointing an independent chair.

The three core duties of SABs



- SABs **must**:
 - publish a **strategic plan** for each financial year that sets out its main objectives and how these will be achieved. The plan **must** be developed with local community involvement and the SAB **must** consult with Healthwatch;
 - publish an **annual report** detailing what it has done to achieve its main objectives and to implement its strategic plan, detailing the contributions of member agencies and the findings of SARs;
 - conduct and SARs.



SABs should.....

- identify the role, responsibility, authority and accountability with regard to each action each agency and professional should take to protect adults;
- establish how it will hold partners to account;
- determine arrangements for peer review and self-audit;
- establish mechanisms for developing policies and strategies for protecting adults at risk;
- develop procedures for identifying circumstances giving grounds for concern and directing referrals to central points;
- formulate guidance about managing safeguarding and dealing with complaints, grievances and malpractice;
- develop strategies that deal with the impact of race, ethnicity, religion, gender, sexual orientation, age, disadvantage and disability on abuse and neglect;
- balance the requirements of confidentiality with the need to protect;
- review and monitor the impact of policy, and;
- promote multi-agency training



Adult Safeguarding Reviews (SARs)

- A SAB **must** arrange a SAR when an adult in its area dies as a result of abuse or neglect and there is a concern that partner agencies could have worked more effectively to protect the adult.
- SABs **must** also arrange a SAR in the same circumstances where an adult is still alive but has experienced serious abuse or neglect.
- SARs **should** reflect the 6 key principles.
- The objective of a SAR is to learn lessons **NOT** to hold people and organisations to account.
- The recommendations and actions plans from a SAR **need** to be followed through by the SAB.
- The SAB appoints the lead reviewer/s.
- The SAB **should** aim for the SAR to be completed within 6 months.
- SAR reports **should**:
 - Provide an analysis of what happened, why and what action needs to be taken to prevent a recurrence;
 - Be written in plain English
 - Contain findings of practical value.



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So What!?: Thinking About Impact



- Are the relevant clauses in the Care Act:
 - New in law and practice, or:
 - New in law, but not in practice or policy, or;
 - A consolidation or modernisation of existing law?

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Some challenges of Care Act compliance

- Putting in place the robust organisational arrangements required by the Care Act e.g. SAB's, SARs etc.
- Whole systems ownership and knowledge.
- Resourcing safeguarding.
- Ensuring that local safeguarding practice meets the requirements of the Act.
- Auditing, reviewing and revising local practice guidelines and procedures to underpin the consistent and repeatable delivery of the safeguarding duty to the required standard.
- The provision of required training and information, across the system.
- Governance re the production of the Safeguarding Strategy and Plan.
- Quality assurance, oversight of the strategy and plan

