

Wiltshire Council

Cabinet

22 April 2014

Subject: The Care Bill

Cabinet member: Councillor Keith Humphries – Adult Care and Housing, Public Health and Protection Services

Key Decision: No

Executive Summary

This report outlines the implications of the Care Bill for Wiltshire Council. The Care Bill will:

- mean councils will have to identify people who may benefit from preventative or support services and provide people with **information and advice** about the care and support system. There will also be a duty to **promote the diversity and quality of the local care market**, shaping care and support around what people want;
- encourage innovation and **integration**, to ensure services are based around people's outcomes, rather than structures and systems;
- put **personal budgets** on a legislative footing for the first time. People will be able to receive personal budgets as direct payments if they wish and will be central to planning their own care and support, including deciding how it is provided;
- reform the funding system for care and support by introducing a **cap on the care costs** that people incur in their lifetime. An **appeals** mechanism will also be introduced for decisions on eligibility and support packages;
- provide a nationwide **deferred payments scheme** which will prevent people from having to sell their homes in their lifetime to pay for residential care;
- introduce a **single national threshold for eligibility to care and support**, ensuring transparency and consistency – together with an appeals mechanism;
- make sure young adults are not left without care and support as they **transition between child and adult** care and support systems.
- ensure **continuity of care** when people move between areas;
- provide new protections to ensure **no one goes without care if their provider fails**, regardless of who pays for their care;
- place **adult safeguarding on a statutory footing** for the first time.

Proposals

It is recommended that Cabinet notes in particular:

- The requirements for **market shaping** and **prevention** and the benefits of recognising the needs of the whole population in commissioning strategies;
- The major changes to **assessment**, **eligibility** and **support planning** and the need for thorough preparations for funding reform;
- The obligations for a statutory **Safeguarding Adults Board** (SAB) and the desirability of working with partners to review financial contributions to the SAB.

It is recommended that Cabinet asks officers to develop services to make sure they reflect new measures in the Bill, such as:

- the new duty for local authorities to promote the wellbeing of **everyone** who is sick or disabled (not just those that receive services arranged or paid for by the council) and a list of matters the council must consider when making decisions
- outcome focused assessments for everyone that needs care and support (including self-funders) – we currently carry out outcome focused assessments for older people and younger adults, and have reviewed assessment processes for carers and people with mental health needs.
- requirements to work closely with the NHS to provide integrated services across health and social care – we are already working with acute hospitals and NHS nurses as part of the Help to Live at Home programme but will need to extend this work to other areas.
- deferred payment agreements, charging, personal budgets and direct payments – the council will need to review, develop and update its procedures on these areas in time for the regulations coming in force in 2015/16.

The Department of Health, Adass and the LGA have set up a single office to help councils deliver on the Care Bill. Staff from the joint office will be getting in touch with individual councils to identify their support needs. Cabinet may like to note that officers will be delivering a programme of work to prepare for the changes, including:

- Preparing for change to ICT systems and workforce development.
- Developing plans to identify self-funders in the run up to 2016.
- Drawing up an engagement plan with the voluntary and community sector
- Undertaking further modelling on the likely cost
- Establishing systems to track progress towards their personal care cap

A number of areas of more detailed work for Wiltshire Council are set out at the end of each section and Cabinet is invited to endorse these proposals.

Reason for Proposal

When enacted, the Care Bill will have a wide ranging impact on the way adult social care is delivered in Wiltshire. This paper sets out the key implications and proposes the next steps to prepare for its implementation in Wiltshire.

Maggie Rae
Corporate Director

Wiltshire Council

Cabinet

22 April 2014

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Cabinet member: **Councillor Keith Humphries – Adult Care and Housing,
Public Health and Protection Services**

Key Decision: **No**

Purpose of Report

1. When enacted, the Care Bill will have a wide ranging impact on the way adult social care is delivered in Wiltshire. This paper sets out the key changes from existing legislation.

Background

2. The Care Bill brings together relevant provisions from the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970, the NHS (Community Care) Act 1990 and all the various pieces of legislation developed for carers, into a single law. The aim is to reduce confusion and simplify matters by bringing the current patchwork of legislation together in a single statute.
3. This paper looks in detail at Part 1 of the Bill which covers Care and Support and relates most clearly to the role of local authorities. Among other things, Part 1 of the Bill brings in the provisions necessary to implement the Government's response to the proposals of the Dilnot Commission on funding reform. Most of these provisions will come in force in April 2015, with the cap on care costs starting in April 2016.
4. There are two other important parts to the Bill:
 - Part 2 which relates to Care Standards, in particular implementing the Government's response to the Mid Staffordshire Inquiry (the Francis report); and
 - Part 3 which covers Health, in particular the establishment of Health Education England as a Non Departmental Public Body (responsible for local healthcare workforce training and planning) and placing the Health Research Authority on a firmer legislative footing. Health Education England have also been asked to develop a care certificate and training standards for health and social care support workers. This will be introduced through regulations and further details are awaited.

5. Part 2 includes:
 - a new Duty of Candour - the Government will introduce a regulation requiring registered providers of health and adult social care to be open with patients and service users about serious failings (death or serious injury) in care. This sits alongside a new criminal offence for 'wilful neglect'; a new 'fit and proper persons' test which can bar failed senior managers of care providers from serving elsewhere and a new criminal offence for care providers who supply or publish information required by statute which is false or misleading.
 - making the Care Quality Commission (CQC) completely independent with statutory chief inspectors (including for Adult Social Care) and a star rating system for foundation trusts and care home providers. The CQC has published [proposals](#) and consultation on a ratings system will take place during 2014 with all adult social care services rated by 2016.
 - removing existing provisions for the CQC to undertake periodic reviews of adult social care (as the emphasis is now firmly on sector-led support in the first instance) but retaining its power to perform targeted inspections of local authorities in cases of systematic failure with the consent of relevant ministers. These powers cover all local authority' adult social services functions including commissioning.
5. Alongside the Adult Social Care Outcomes Framework and powers for Healthwatch to enter and view facilities, these measures will be an important part of a new overall performance framework. Wiltshire Council will need to think about the extent to which it monitors and assesses the care it commissions and how it can work with the CQC and Healthwatch Wiltshire to do so. This will avoid any duplication or gaps but will require continued liaison and communication with local representatives of the CQC.
6. There is a clear political consensus around many of the changes the Bill introduces and this paper outlines the key changes which will affect Wiltshire Council, including those cared for and their carers in Wiltshire. Once primary legislation has been passed, further details on implementation will become clearer through secondary legislation (regulations) and statutory guidance. The Care Bill is expected to receive Royal Assent soon with many aspects coming into force in April 2015.

Main Considerations for the Council

7. The Bill delivers on the government's vision of a reformed care and support system (as outlined in the ['Caring for Our Future' White Paper](#)) which:
 - focuses on prevention and promotes people's wellbeing and independence rather than waiting for them to reach a crisis point
 - gives people clear information and advice on what they are entitled to and more choice and control over the care/support they receive
 - always provides high quality care from a workforce that treats people with dignity and respect

- provides more scope for communities to be involved in decisions about health and social care
- recognises the need to support carers as well as those cared for
- has high standards of commissioning based on outcomes rather than hours

These areas are covered in the following sections.

General Duties: Wellbeing, Prevention, Information and Integration

8. The Bill introduces a range of general duties on local authorities which apply to individuals and the population as whole
- Promoting individual well-being
 - Preventing Needs for Care and Support
 - Promoting integration of care and support with health services
 - Providing information and advice
 - Promoting diversity and quality in services
 - Co-operating generally between relevant partner organisations
 - Co-operating between relevant partner organisation in specific cases

The duties to promote individual well-being and to prevent or reduce the care and support needs underpin the care and support ethos of the Care Bill. The Bill defines ‘well-being’ as including any of the following in so far as it relates to that individual:

- 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 contribution to society.

Further in carrying out its functions in relation to individuals, a local authority must have regard to the following matters in particular—

- a) the importance of beginning with the assumption that the individual is best-placed to judge the individual’s well-being;
- b) the individual’s views, wishes, feelings and beliefs;
- c) the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist;
- d) the need to ensure that decisions about the individual are made having regard to all the individual’s circumstances (and are not based only on the individual’s age or appearance or any condition of the individual’s or aspect of the individual’s behaviour which

- might lead others to make unjustified assumptions about the individual's well-being);
- e) the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate;
 - f) the importance of achieving a balance between the individual's wellbeing and that of any friends or relatives who are involved in caring for the individual;
 - g) the need to protect people from abuse and neglect;
 - h) the need to ensure that any restriction on the individual's rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.

These new duties have far reaching implications and means Wiltshire Council will have to:

- consider what services, facilities and resources are already available in the area (for example local voluntary and community groups), and how these might help local people;
 - identify people in the local area who might have care and support needs that are not being met, and carers who might have support needs that are not being met;
 - ensure people get the information they need to make good decisions about care and support.
9. It is **recommended** that Wiltshire Council works with care providers and the Voluntary and Community Sector to identify people and ensure they receive good information about available support ahead of the Care Bill coming into force. There is also a duty to cooperate with relevant partners and to promote the integration of health related services, including housing. This mirrors an existing duty on the Clinical Commissioning Group and the Health and Wellbeing Board; it is supported through an amendment enabling a £3.8bn Better Care Fund. Proposals for this have been developed with the Clinical Commissioning Group and signed off by the Health and Wellbeing Board, which has provisionally set aside £2.5m in 2015/16 for implementing the care bill.

Market Shaping

10. The Care Bill requires local authorities to make sure the local market delivers a wide range of care and support services. Accordingly, Wiltshire Council will have a formal role to influence the development of the kinds of services that are best for the local community through market-shaping. This includes fostering a good local workforce.
11. It is therefore **recommended** that Wiltshire Council:
- develops an adult care strategy which caters for and protects the human rights of everyone in Wiltshire who is sick or disabled rather than just those using formal services funded or arranged by the council

- ensures key strategy documents and commissioning strategies explicitly recognise the new duty to promote wellbeing and cater for the whole population (rather than just the minority that most of the council's adult care budget is spent on)
- finalises market position statements that provide a clear signal to the market by identifying care and support needs across the community and explaining how the council intends to buy services in the future. Such a statement will mean that companies providing care and support know who they are designing services for and can develop the right care for the right people.

Assessing needs and eligibility for the cared for and carers

12. The Bill aims to transform assessment of needs from being a gateway to council-funded social care, to a service in its own right which provides people with advice and information on achieving their desired outcomes, regardless of eligibility.
13. The right to assessment will be extended to people 'who may need care and support', rather than those 'who may be in need of community care services'. The focus of assessments will be on the outcomes the person wants to achieve in their life and the extent to which the person's own capabilities, family and social or community networks can help them achieve these.

Carers also have a strengthened right of assessment and will no longer need to request an assessment or be providing substantial and regular care to receive one; carers who 'may need support' are also entitled. This is a major development with significant implications for local authorities.

14. Alongside this, minimum national eligibility criteria will apply across all local authority areas. The government has published an initial draft of national eligibility criteria for comment, and following formal consultation these will come into effect through regulations in April 2015. The criteria will replace the existing Fair Access to Care Services (FACS) banding system which the government reproduced in its guidance '*Prioritising need in the context of Putting People First*'. The FACS bands were open to interpretation and set at different levels in different local authorities. The intention of the national criteria is to set the band at the equivalent of 'substantial' needs under the old system; although some commentators have suggested the new draft criteria equate more to 'moderate' or 'low'.
15. Following a needs assessment, those ineligible for care and support will need to be given written advice and information on what can be done to meet or reduce their needs and delay the development of further needs.
16. Regulations on how assessments can be conducted will come into force in April 2015. These will enable local authorities to delegate this function to outside organisations but will also specify the cases where specialist assessments are required, for example people with autism or who are deafblind. The regulations may also specify circumstances where no assessment is required (for example when someone has been diagnosed

as terminally ill) and encourage joint assessments to be undertaken with the NHS wherever appropriate.

17. Wiltshire Council's Help to Live at Home Service is already based on an outcomes-focused approach and was a case study quoted in the White Paper. It is **recommended** that the council:
- examines the approach and costs of offering assessments to the whole population of older people and the savings that could be achieved if assessments prevent people spending all of their capital on inappropriate care and support and then coming to the council for funded care/support. Currently the council spends nearly ten percent of its budget for services to older people paying the fees of people who run out of money and require the council to pick up the cost of their care. Assessing people allows the council to suggest better options to people that are considering going into a care home too early, at the wrong price or for the wrong reason.
 - continues to review how we assess and support carers, and utilise the the carers pooled budget with the NHS and updates the Wiltshire Carers strategy
 - makes sure its processes for assessing people with mental health needs are outcome focused – these have changed recently and will need to be evaluated.

Care and Support Planning

18. The Bill gives local authorities a new legal responsibility to provide a care and support plan (or a support plan in the case of a carer) for self-funders where this is requested as well as those receiving council funded support.
19. The care and support planning process will be largely unchanged from the one presently operated by Wiltshire Council and will consider a number of different things, such as:
- the person's needs
 - what they want to achieve
 - what they can do by themselves or with the support they already have
 - what types of care and support might be available to help them.

When the cared for person consents, the idea is that the care and support plan will be developed be using a 'whole family approach' with the person, their carer and the council.

20. As part of the care and support planning process, Wiltshire Council will be required to tell the person about their **personal budget**. This is the amount of money that it would cost the local authority to arrange the necessary care and support for that person. It includes any amount that the local authority is going to pay itself towards those costs (which might range from all to none of them), minus an allowance for daily living costs if it is for residential care. Personal budgets help adults to decide how much control they want to have over arranging their own care and support.
21. Using the information from the personal budget, the person can ask the local authority for a **direct payment** and use this to arrange their own care

and support. The local authority must provide a direct payment if they are paying for some of the support and the person meets a basic set of conditions set out in the Care Bill.

22. Local authorities will also have to offer direct payments for residential care and mental health patients receiving support under s117 of the Mental Health Act. Individuals with continuing health care needs will also have the right to ask the NHS for a personal health budget (from April 2014); this will enable the individual to join this up with their personal budget for social care where appropriate. Provision is also included for independent advocacy in assessments, plans and safeguarding reviews in circumstances where this is deemed necessary.
23. The latest version of the Care Bill includes clarifications on issues to do with 'ordinary residence'; and spells out the steps Wiltshire Council must take when people with eligible needs move into or from another area with a duty to ensure continuity of care (sharing information in advance etc). In a move which may have significant implications for Wiltshire, prisoners will become 'ordinarily resident'. Wiltshire has a relatively large prison population and prisoners can have a higher proportion of needs.
24. Wiltshire Council's current support planning process for older people is broadly in line with the process outlined in the Bill. The Bill also includes measures to enable a smooth transition from Children's services – including children being assessed early using adult criteria where it makes sense to do so, and different assessments of adults and children being undertaken together. The council's current work to create a new 0-25 special educational needs and disability (SEND) service means we are well placed to meet these requirements. Statutory guidance will provide further detail on transition planning and the Children and Families Bill will also cover arrangements for when children act as carers for other children. Further work will be needed to review practice around young carers and parent carers.
25. Alongside this it is **recommended** that Wiltshire Council:
 - adopts a new policy on personalisation and personal budgets which meets the requirements of the Bill and provides a clear process for offering personal budgets based on the value of a costed care/support plan. This policy will need to be agreed by Cabinet following a period of consultation.
 - takes account of the personal health budgets pilots which Wiltshire's Clinical Commissioning Group (CCG) began in April 2013. and the opportunities they present to look at joint or single support plans for customers across health and social care.
 - ensures needs assessments and carers assessments are undertaken quickly when notified that someone intends to move to Wiltshire .
 - uses its position as a Department for Education "pathfinder" authority to continue influencing the implementation of the Children and Families Bill, to ensure a good transition between children's and adult social care.

Financial Assessment and Charging

26. Local authorities will be able to continue charging for the costs of meeting certain care and support needs. However, if there is normally a charge for the type of care and support an adult is going to receive, the government has indicated that the eligible support will be provided for free if either:
- the person cannot afford to pay the full cost of their care and support
 - the adult does not have mental capacity and has no one else to arrange care for them; or
 - the person turns 18 with eligible needs.
27. Any adult (regardless of their finances) will be able to ask the local authority to arrange care and support for them (including at the local authority's standard rate). This is to make sure people who are uncertain about the system or lack confidence to arrange their care do not go without. However, if they have adequate financial resources they will still need to pay for their care and support and Wiltshire Council will be able to charge an administration fee for this service.
28. As now, if a person has eligible needs a financial assessment will be needed to determine how much they need to pay for their care. There are currently different systems for charging depending upon the type of care and support, for example there are different charging arrangements for care in a care home to care that is given to people in their own home. New charging regulations will set out a consistent approach to this so people in different care settings are treated in the same way.

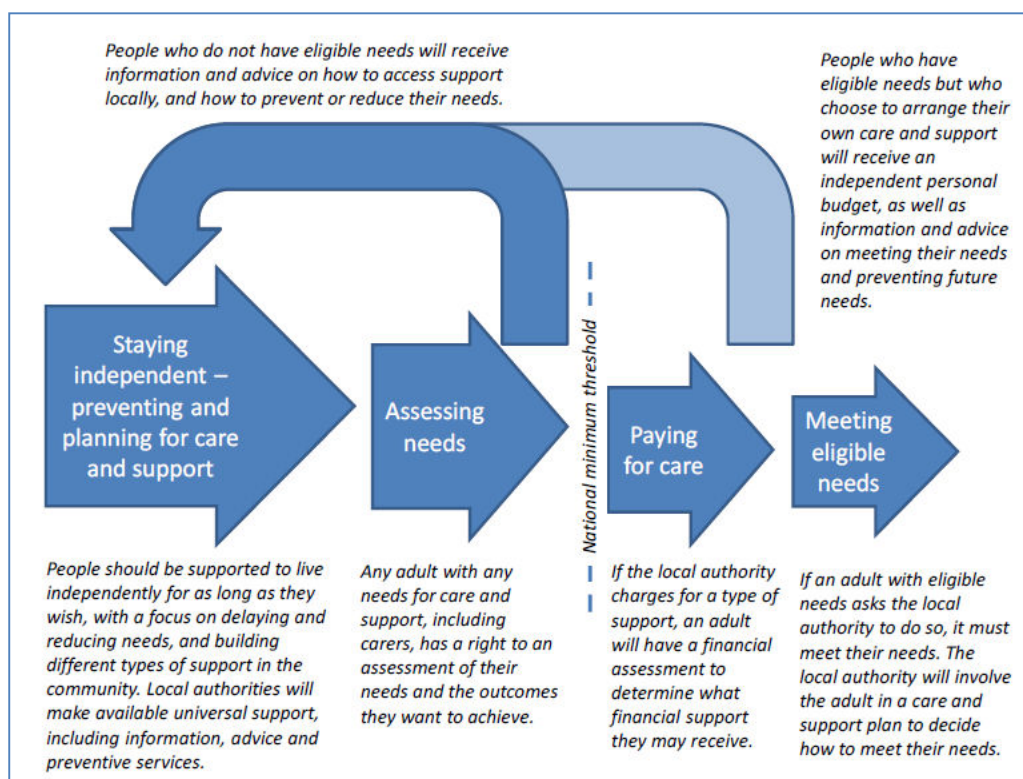


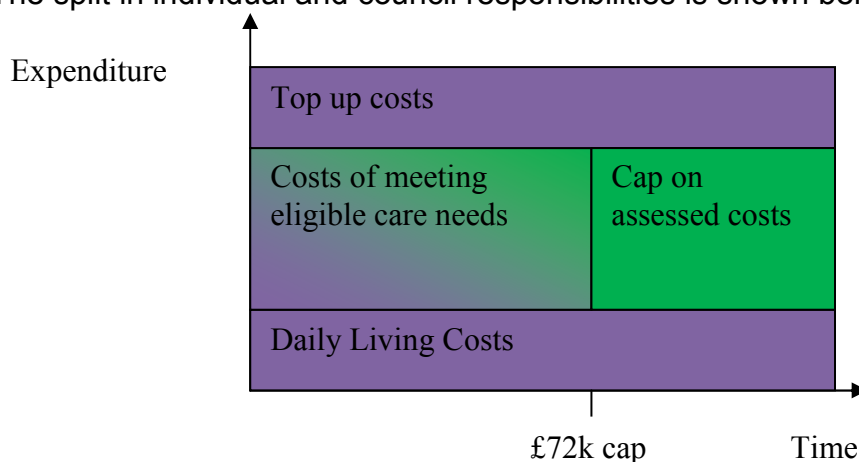
Figure 1: Diagram from the draft national eligibility criteria for adult care and support discussion document

29. It is **recommended** that Wiltshire Council considers the types of support the council will offer people for free (for example, re-ablement or initial

support, telecare, disabled facilities) and the types of support it will charge for, once new charging regulations are issued.

Funding Reform and the Cap on Eligible Care Costs

30. From April 2016, the Care Bill will enable the government to introduce a cap on eligible care costs. It is intended that the cap will be £72,000 when it is introduced in April 2016. The level of the cap will be adjusted annually (for example it is expected to be £75,000 in 2017).
31. If following an assessment they can afford it, individuals will be responsible for their eligible care costs up to the cap. Outside the cap, they will also be responsible for:
 - any 'extra' care costs (for example, a more expensive care option);
 - any support that is not required to meet their eligible needs in the care and support package, i;
 - contributing to general daily living costs if they are in a care home. General living costs reflect the costs that people would have to meet if they were living in their own home (such as food, energy bills and accommodation). People will be expected to pay around £12,000 a year towards their care costs if they can afford it.
32. Wiltshire Council will be responsible for:
 - assessing individual needs and determining an independent personal budget for each adult with eligible care needs. The independent personal budget will be equivalent to what the local authority would pay for that person's care and support and it will show the rate at which people progress towards the cap.
 - maintaining a 'care account' for all adults with eligible needs, producing statements and updating the amount counted towards the cap annually;
 - any further eligible care costs once an individual reaches the £72,000 cap;
 - providing financial help to people with their care and/ or general living costs, if they have low income levels and do not have enough income to cover their care costs.
33. The split in individual and council responsibilities is shown below:



Costs met by individual Costs met by council

NB – means tested support for daily living costs will also be available in some circumstances.

34. It is important to note that under current proposals all eligible care costs (whether funded by the council or not) will count towards the cap. This is to ensure that those who benefit from some means tested support end up paying proportionately less.
35. Alongside the introduction of the cap, the government is considering introducing an extended means test through the charging regulations and undertook a consultation on this recently. Key proposals include from April 2016:
 - introducing a lower cap depending on the age of eligible working age adults
 - raising the upper capital limit from £23,250 to £118,000 for care home costs (i.e. people may receive financial support if they have assets of less than £118k including their home)
 - providing financial support with care costs to people with less than £27k (excluding the value of a home) for those who have a partner or dependent living at home or who are receiving home care. Those with more than £27k will be expected to meet the full cost of meeting their needs
 - increasing the lower capital limit from £14,250 to £17k so if a person has less assets than this they are only required to contribute towards their care costs from their income.
36. Wiltshire Council has the option of starting to assess current self funders in September 2015 so that their eligible care costs can be counted from April 2016. It should be noted that under the Care Bill individuals will also have the right to appeal decisions about their assessed eligibility and care packages, although the details are yet to be made available on how this mechanism will work. It is **recommended** that Wiltshire Council considers developing an action plan for how the Council will assess self funders from September 2015..

Deferred Payment Agreements

37. The government is proposing that other important elements of the current system remain unchanged. This includes the 12 week property disregard which allows people breathing space to make decisions about their future before the value of their property is taken into account when assessing their contribution towards residential care.
38. However, from April 2015 there will be a new legal right for people to defer paying care home costs through deferred payment agreements. In a deferred payment agreement the local authority pays the care home costs during the person's lifetime meaning they do not have to sell their home to pay their care costs. Deferred payment agreements may include services that are not necessary to meet someone's needs, for example preventive or extra services which may be in addition to their 'eligible' care and support.

39. This right can be offered in certain circumstances (to be specified in regulations) where an adult owns their home. Local authorities will be able to charge interest on deferred payment arrangements, so that they can cover the costs of offering them. In a recent consultation the government proposed that deferred payments would be offered to anyone who meets all of the following criteria:
- anyone who would benefit from residential care, based on a local authority assessment of needs which takes reasonable account of the person's preferences
 - who has less than £23,250 (2015, £27k in 2016) in assets *excluding* the value of their home (i.e. in savings and other non-housing assets)
 - whose home is not occupied by a spouse or dependent relative (i.e. whose home will be taken into account in the local authority financial assessment and might need to be sold).
40. Wiltshire Council already offers deferred payments in similar circumstances to those described above – although without charging an arrangement fee or interest which regulations may require or enable the council to do. Given this, it is **recommended** that Wiltshire Council ensures adequate resource requirements remain in place for the council's legal and finance teams to manage contracts, maintain records and create clear guidance on how debts and interest can be managed. The possibility of charging an arrangement fee could also be explored.

Provider failure and market oversight

41. The failure of Southern Cross in 2010 highlighted the lack of an early warning system when care providers get into financial difficulties. As a result, the Care Quality Commission (CQC) will establish and run a new market oversight regime covering large or very specialist care providers whose failure would cause significant problems. Regulations will determine which providers are covered by the scheme (likely to be based on their share of the market). The CQC will be responsible for assessing the financial sustainability of these businesses and requiring providers to develop a plan to mitigate against any perceived risks. The CQC will have powers to request information from providers and a duty to inform the relevant local authorities it thinks a provider is likely to fail.
42. The Bill makes it clear that local authorities will have a temporary duty to ensure that both residential care and care provided in a person's own home continues if a provider fails. This will apply to everyone receiving care - regardless of whether they pay for their own care or are funded by the local authority, or if their needs meet eligibility criteria. It is not yet clear how many cases this could apply to.
43. It is **recommended** that once regulations are published, Wiltshire Council considers which care providers in the area will not be covered by the CQC market oversight regime and continues to support appropriate liaison and risk management arrangements with those providers.

Safeguarding Considerations

44. The Care Bill requires local authorities to set up a Safeguarding Adults Board (SAB) in their area, giving these boards a statutory basis equivalent to Children's Safeguarding Boards, for the first time. The SAB must:
 - include the local authority, CCG and the police, who should meet regularly to discuss and act upon local safeguarding issues (together with any other relevant partners they wish to include);
 - develop shared plans for safeguarding, working with local people to decide how best to protect adults in vulnerable situations (including consulting Local Healthwatch);
 - publish a shared safeguarding plan and report to the public annually on its progress (including to the Health and Wellbeing Board), so that different organisations can make sure they are working together in the best way.
45. The Bill allows SAB members to contribute financially to the cost of running the SAB and for money to be pooled into a single fund. It introduces a requirement for organisations and people to supply SABs with information if this will assist the board in fulfilling its functions and relates to the organisation or person in question. This power will be most relevant to Safeguarding Adults Reviews and will give SABs the same power as local Safeguarding Children's Boards.
46. SABs must arrange for a Safeguarding Adults Review of any case where an adult in the area with care and support needs was or could have experienced neglect and abuse, and the adult dies or there is reasonable cause for concern about the actions of the, SAB, a member of the SAB or anyone else involved in the adult's case. All members of the SAB have a legal duty to co-operate with and contribute to these reviews. The Bill specifies that reviews should focus on learning lessons and applying these to future cases.
47. The Bill also introduces a clear duty for every local authority to investigate suspected abuse or neglect. This includes making (or arranging) any enquiries necessary to work out what action they should take when they have 'reasonable cause' to suspect **any** adult in their area with care and support needs is experiencing, or at risk of, abuse or neglect, and is unable to protect themselves against abuse or neglect (or the risk of it) because of these needs. This duty applies regardless of whether the local authority meets the adult's care and support needs (not just eligible needs) or whether the adult is 'ordinarily resident' in the local area. Existing guidance ([No Secrets](#)) will be abolished and replaced with new statutory guidance.
48. Wiltshire has a well-established Safeguarding Adults Board which is generally well-supported by the relevant partner agencies. Making the SAB a statutory requirement will help to prevent any risk of loss of commitment as staff resources come under pressure across the public sector. Consequently, it is **recommended** that Wiltshire Council:
 - works with partners to review financial contributions to the Safeguarding Adults Board and future Safeguarding Adults Reviews.

This is particularly important as such reviews are likely to become much more common in adults services;

- takes the SAB Annual Report to the Health and Wellbeing Board again this year. This will be an important future relationship with the two bodies needing to hold each other to account for their activities in safeguarding adults at risk. All SAB member agencies are asked to present the Annual Report to their own Board or equivalent body as well;
- invites the SAB to consult Healthwatch Wiltshire on its Business Plan ahead of the implementation of the Care Bill.

Public Health Implications

49. A 'well-being principle' underpins the whole of the care and support system in the Care Bill. This means that people's well-being, and the outcomes which matter to them, will be at the heart of every decision. The emphasis on preventing and delaying needs for care and support, rather than intervening at crisis point, is also new. This fits well with a range of preventative activity delivered by the public health team.

Environmental and Climate Change Considerations

50. Not applicable.

Equalities Impact of the Proposal

51. One of the intentions of the Care Bill is to ensure that no-one faces catastrophic care costs and that individual rights are strengthened. Impact Assessments have been produced for each part of the Bill together with a statement of compliance with the Human Rights Act.

Risk Assessment

Risks that may arise if the proposed decision and related work is not taken

1. Wiltshire Council is ill-prepared for the implementation of the Care Bill and as a result incurs unnecessary costs and delivers poor quality care
2. Reputational risk to the Council given the priorities in the business plan which describe the Council as forward looking and resident focused.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

- | Risk | Action to mitigate the risk |
|--|--|
| 1. Early preparations may raise expectations | Clearly communicate when the provisions come into effect |

A Programme Board has been established to manage the implementation of the Care Bill. Individual projects have been set up to look at the different areas the bill will cover and relevant stakeholders will be included. The programme boards

role will be to monitor progress and manage the risks associated with implementing the bill.

Financial Implications

52. Drawing on the impact assessments for the Care Bill it is clear that a number of measures are likely to have financial implications for Wiltshire Council. These include:
- *Increased demand for needs assessments.* The needs assessment will help self funders of care count their eligible care costs towards the cap from 2016. The government estimates that there will be an increase in the number of assessments (for new care users) of between 180,000 and 230,000 in 2016/17 and of reviews (for people already receiving care) of between 440,000 and 530,000 in 2016/17. The unit cost of an assessment is estimated at £400-500, of a review at £200-250 and of case management at £1000 to £1100 per case. In Wiltshire two-thirds of people currently pay the entire cost of their care.
 - *Increased demand for carers assessments:* the government's impact assessment estimates the number of carer's assessments will increase by 230,000-250,000 as a result of the Bill (up 60%), from a base of 400,000 in 2010-11. The government estimates the increase will take place over three to four years from implementation in April 2015. It is estimated that each assessment costs £100. The Bill makes it clear that local authorities should see carer's assessments and needs assessments as equally important. The council will need to carry out more carer's assessments which may mean we need to employ more staff. We currently carry out two to three thousand assessments each year, but census data suggests nearly 47,000 people have caring responsibilities in Wiltshire. Assessing more carers is likely to increase the cost of carer's support – currently around 47 percent of carers who are assessed receive support.
 - *More people being identified as eligible for council-funded care and support* due to increased numbers of assessments. Similarly, depending on whether the national eligibility criteria is set at a higher or lower level than our current eligibility criteria the council may need to fund additional support.
 - *Deferred payment agreements* – these will also have a cost nationally, although Wiltshire Council already offers these in some cases and could potentially benefit from some funding for delivering a service which is currently optional. The cost of the prevention, market shaping and provider failure provisions are still to be determined.
53. The Government is making available £470m to support Care Bill pressures in 2015/16. This comes through:
- £135m revenue funding in the £3.8bn Better Care Fund (not ringfenced);
 - £50m capital funding including funding to implement new IT systems, through the Better Care Fund (top sliced from other local government funding); and

- £285m revenue funding for transitional costs and new burdens (top sliced from other local government funding).

54. The Better Care Fund money is indicatively allocated to support the implementation of policies associated with the Care Act in 2015/16 and the Care and Support White Paper as follows:

Care Bill implementation funding in the Better Care Fund (£135m nationally)		Amount for 15/16 (approx £m)
Personalisation	Create greater incentives for employment for disabled adults in residential care	3.0
Carers	Put carers on a par with users for assessment.	16.6
	Introduce a new duty to provide support for carers	33.1
Information advice and support	Link LA information portals to national portal	0.0
	Advice and support to access and plan care, including rights to advocacy	24.9
Quality	Provider quality profiles	5.0
Safe-guarding	Implement statutory Safeguarding Adults Boards	8.1
	Set a national minimum eligibility threshold at substantial	40.2
Assessment & eligibility	Ensure councils provide continuity of care for people moving into their areas until reassessment	4.4
	Clarify responsibility for assessment and provision of social care in prisons	6.6
Veterans	Disregard of armed forces GIPs from financial assessment	2.5
Law reform	Training social care staff in the new legal framework	4.6
	Savings from staff time and reduced complaints and litigation	-13.6
Total		135.4
IT	Capital investment funding including IT systems (£50m nationally)	50
Grand Total		185

55. In Wiltshire, the Council and CCG have agreed to allocate £2.5m from the Better Care Fund to address the local burdens associated with these elements as well as other transitional costs. The revenue costs set out in the table above are expected to rise to £290m by 2018/19 and the government will have to set out how this, transitional costs and deferred payment costs are met in future spending rounds for 2016/17 onwards.
56. For 2015/16, the £285m of revenue funding which has been allocated in the current spending round referred to above (top sliced from other local government funding), consists of:
- £145m for early assessments and reviews (ahead of the introduction of the cap in 2016/17);
 - £20m for capacity building including recruitment and training of staff;
 - £10m for an information campaign; and
 - Up to £110m for the administration of the deferred payments scheme.
57. The implementation of the extended means test and cap in 2016/17 is likely to lead to additional costs of £738m nationwide (including extra assessments, reviews, support and financial support), growing to £2.2bn by 2020/21 and £3.5bn by 2025/26. The government has indicated that the cost of the cap will be met in part by extending the freeze on the Inheritance Tax threshold at £325,000, or up to £650,000 for couples, by three years from 2015-16. The remainder will be funded from extra headroom created by private and public sector employer National Insurance Contributions associated with the end of contracting out as part of the introduction of the Single Tier Pension.

58. To allocate the funding, the Department for Health is currently conducting a [review](#) of the adult social care relative needs formula (RNF). As well as updating the current formula that relates to demand for means-tested social care, the review will also work out an allocation formula for the capped cost system, which will have a different pattern of need as it is universal rather than means-tested. This new formula will be used to allocate the money within the DCLG grant. Work on the new formulae will be completed in 2014 and allocations for 2015/16 will be published in late 2014. Wiltshire Council is contributing to the review. In the meantime, modelling work on the possible funding impact on Wiltshire is being undertaken.

Legal Implications

59. Regulations and statutory guidance will provide further details on the legal implications of the Bill in due course. A timetable for the publication of these is set out in Appendix 1.

Maggie Rae

Corporate Director

Statutory Officer for Adults' Social Services and Public Health

Report Author:

David Bowater, Senior Corporate Support Officer, 01225 713978

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Background Papers

The following background papers have informed this report:

[Caring for Our Future White Paper](#) (July 2012)

[Policy statement on care and support funding reform](#) (February 2013)

[The Care Bill: factsheets](#) (May 2013)

[Care Bill Impact Assessments](#) (May 2013)

[Draft national eligibility criteria for adult care and support: discussion document](#) (June 2013)

[Caring for our future: consultation on reforming what and how people pay for their care and support](#) (July 2013)

[Care Bill Homepage](#) (November 2013)

Care and Support Reform Programme Board: How care and support reform is paid for (28 November 2013)

No unpublished documents have been relied on in the preparation of this report.

Appendices

Appendix 1: Timescale for implementation of key provisions of the Care Bill

Appendix 2: National support programmes for implementation of the Care Bill

Timescale for implementation of the provisions of the Care Bill



Key regulations come into force April 2015 with the cap and extended means test beginning April 2016.

Caring for our future: consultation on reforming what people pay for their own care and support.

Joint Programme Office support for implementation of the Care Bill

The Department of Health, Adass and the LGA have set up a single office to help councils deliver on the Care Bill. Staff from the joint office will be getting in touch with individual councils in the New Year to identify their support needs. Key areas of support are below.

Legislation, Informatics, Communications Strategy, Workforce, Finance allocations,									Enablers
Prevention & Co-operation	Information & Advice	Quality & Safety	Care Planning	Assessment & Eligibility	Care Markets	Paying for Care	Charging for Care	Law Reform	Workstreams
Evidence Library	Improve local on line services	Quality Ratings	Personal's'n Action Plan	Assessment framework	Market oversight regime	Deferred payment scheme	Cap on care costs	Wellbeing principle	Policy commitments
Housing Fund	National info on C&S		Direct payments in res. care	National min. eligibility threshold	Developing Care Markets	Financial planning	Charging framework		
C&S in prisons	Improve connect'y nat'l & local systems		X-border placements	Transition child to adult care	Commissioning Quality	Environ't for financial products	Top ups		
Prisons; Co-operation; Delayed discharges			PBs / IPBs; Direct payments; Choice of accom'n; X-border; Ordinary Residence disputes	Assessments; Eligibility criteria; Delegation of powers; Continuity	Provider failure; Market oversight	Deferred payment scheme	Financial assm't.; Care A/c; Charging; Top-ups; Cap level; Debt recovery	NHS Boundary; Sight registers etc.	Secondary legislation
Wellbeing; Prevention; "Asset-based" approach; Delayed discharges	Information and advice (inc. financial advice)	Safeguarding; Operation of Safeguarding Adults Boards	Personal plans; Care planning; Calculating care costs; Direct Payments; X-border; Ordinary residence; Brokerage; Cap transition; Aligning plans	Needs assesst; Carer's assessment; Eligibility; Whole family approach; Delegation of powers; Continuity; Transition child to adult	Commiss'g services; Market shaping; Provider failure; Market oversight	Deferred payment scheme; Financial planning; challenges & disputes	Financial assm't.; Care A/c; Treatment income & capital & glc; Implement cap system; Debt recovery	Sight registers, etc.	Statutory guidance
Specialist Housing Market Shaping Guidance	Improving on-line info support; Info & advice publications;	Safeguarding good practice guidance; Toolkits and template development	Res. alloc'n principles; Non-DH guide / best practice; National res. Alloc'n toolkit /model system OR guide & completed determinations	Assess. tools; Tools/training for assess. & eligibility framewk; Tools for continuity of care; Transition protocol	Serious provider failure principles; Comiss'g best practice; Access to comiss'g academy	DPA model scheme, best practice, train'g; fin. info & advice best practice,model pathway, train'g	Personal care planning tools; Tools to support LA implement'n decisions		Implementation Support