

## Summary of present position and key issues : Care Bill

Report Reference	Issue:	Present Position and Key Issues
3.2	<p data-bbox="340 475 958 507"><b>Prevention, information and market shaping</b></p> <p data-bbox="340 544 1173 643">The Care Bill describes the responsibilities which Local Authorities will have for all local people who live in their area. In summary, people will need to:</p> <ul data-bbox="488 683 1155 852" style="list-style-type: none"> <li data-bbox="488 683 1155 746">• Receive services that prevent their care needs from becoming more serious.</li> <li data-bbox="488 751 1155 815">• Get information they need to make good decisions about care and support.</li> <li data-bbox="488 820 1155 852">• Have a good range of providers to choose from.</li> </ul> <p data-bbox="340 890 1173 1021">Legislation will make it clear that Local Authorities <b>must</b> arrange services that help prevent or delay people deteriorating and provide comprehensive information and advice about care and support in their local areas.</p> <p data-bbox="340 1059 1099 1123">The Bill clearly sets out that Local Authorities must provide information on: -</p> <ul data-bbox="488 1161 1167 1369" style="list-style-type: none"> <li data-bbox="488 1161 1167 1193">• What types of care and support are available.</li> <li data-bbox="488 1198 1167 1262">• The range of care and support services available to local people.</li> <li data-bbox="488 1267 1167 1331">• What process local people need to use to get care and support.</li> <li data-bbox="488 1335 1167 1367">• Where people can find independent financial</li> </ul>	<p data-bbox="1202 475 2036 643">The Council has a directory of Adult Social Care Services linked to the Council's website and a range of other public information which will help it to move forward positively in this area. There are effective Adult Safeguarding and complaints procedures in place which comply with present regulations and guidance.</p> <p data-bbox="1202 681 1912 745">There are other key areas which will require significant development including: -</p> <ul data-bbox="1249 783 2047 1259" style="list-style-type: none"> <li data-bbox="1249 783 2047 847">• Liaison with independent financial advisors and ensuring that advice is available, appropriate and clear.</li> <li data-bbox="1249 885 2047 984">• Finalisation of a market position statement (presently being developed) outlining the Council's position/priorities for both service users and providers.</li> <li data-bbox="1249 1023 1957 1086">• Amending public information to take account of the significant changes within the Care Bill.</li> <li data-bbox="1249 1125 2031 1259">• Developing Adult Safeguarding and Complaints processes to meet the requirements of new legislation and the increased numbers of eligible individuals and an expected increase in complaints/disputes.</li> </ul>

	<p>advice about care and support.</p> <ul style="list-style-type: none"> <li>• How people can raise concerns about the safety and wellbeing of someone who has care and support needs.</li> </ul> <p>Further the Bill requires Local Authorities to support a market for Adult Social Care that delivers a wide range of care and support services that will be available to their local communities.</p> <p>The Government indicates that it will support Local Authorities to influence the development of various services through “market shaping”.</p>	
<p><b>3.3</b></p>	<p><b>Entitlement to Public Care and Support</b></p> <p>The Care Bill aims to clarify when people will be provided with care and support. The aim is to ensure that the law focuses on the needs of people rather than what is seen as the present legislative focus on providing particular services. A key aim is to ensure that the individual person is always at the centre of everything.</p> <p>Another aim is to ensure that there is one route for determining entitlement which works for all groups of people in all circumstances. The Care Bill aims to create a single consistent route to establishing an entitlement to public care and support for adults with needs for care and support. It also creates the first ever entitlement for support to carers on a similar basis. (see section 3.9.1)</p> <p>The Care Bill aims to be clear about the steps which must be allowed to follow to work out this entitlement including an assessment of need followed by a financial assessment. At the end of this a decision can be made about eligibility (see section</p>	<p>The position in Halton is that many of the assessment processes and reviewing processes are based on present legislation and the eligibility criteria as it presently stands.</p> <p>Many people at the present time do not access Council services as they fund their own social care support. These people are referred to as ‘self funders’. The introduction of a cap on costs to meet eligible social care need is likely to mean that more people will come forward for assessment.</p> <p>It is also likely that guidance and legislation will focus on reducing the bureaucracy associated with assessments and there will be a re-focus on processes such as self assessment, electronic assessment, etc.</p> <p>This may cause difficulties in ensuring effective and safe use of public money and alterations to existing assessment procedures. It is also likely that a significantly increased number of people will request assessments in order that their expenditure counts towards the ‘cap’ and mechanisms will be able to be developed to ensure that all assessments can be managed effectively,</p>

	<p>3.4.1). There will then be a legal duty for an adults “eligible needs” to be met by the Local Authority, subject to their financial circumstances. (Eligible needs are those that are determined after an assessment).</p> <p>The Care Bill will aim to give more flexibility to focus on what the person needs and what they want to achieve to design a package of care and support that suits them. Adults with eligible social care needs who are “ordinarily resident” in the Local Authority area, will be entitled to have their needs met.</p> <p>Adult Social Care will be provided free if either the person cannot afford to pay the full cost of their care and support, or the adult does not have mental capacity and there is no one else to arrange for them, or they have reached the cap on care fees, see section 3.7.1.</p>	<p>promptly and safely, with a need to ensure that priority needs are met first.</p>
<p><b>3.4</b></p>	<p><b>Changes to assessments and eligibility</b></p> <p>As outlined in section 3.3.1 the Care Bill outlines the Local Authorities responsibility to carry out an assessment, taking into account a person’s need and other circumstances. There will be increased focus on involving people and their carers in determining their care packages. The stated aim is to build a care and support system around the individual.</p> <p>The duties to carry out on these assessments will outline that: -</p> <ul style="list-style-type: none"> <li>• Local Authorities must provide an assessment to all people, regardless of finances or whether the Local Authority thinks a person will be eligible.</li> <li>• They must be of the adult’s needs and the outcomes they want to achieve.</li> </ul>	<p>In terms of the assessment processes, the practice in Halton complies with the outline of the key elements of the Care Bill.</p> <p>At present, the Council provides at a substantial level of eligibility criteria with some element of moderate services. The Care Bill is likely to set the new minimum standard as substantial. The Council will then need to make a decision as to whether it wishes to retain its provision bearing in mind its new statutory responsibility to provide preventative services.</p> <p>A focus on improving choice and control may also increase the expectations of individual service users and their representative groups about what they are able to utilise Council funding for.</p> <p>There will therefore need to be review of relevant policies and procedures and clear information for service users and carers with strengthened governance and management processes in</p>

	<ul style="list-style-type: none"> <li>• They must consider that adults capabilities and whatever support is available.</li> <li>• They must be carried out with the involvement of the adult and their carer.</li> <li>• The assessment must be appropriate and proportionate and consider the needs of the family.</li> </ul> <p>Regulations will set out a minimum eligibility framework to be applied across all parts of the country.</p> <p>A detailed consultation document (Draft Minimum Eligibility Threshold for Adult Care and Support, A Discussion Document June 2013, Department of Health) has been launched.</p>	<p>order that services focus on meeting needs, maximising the use of the available resources and ensuring that resources are allocated equitably.</p> <p>A key issue will be ensuring capacity to manage increased demand for assessments due to the inclusion of present self funders and the associated increase in reviews and anticipated disputes.</p> <p>Careful consideration will need to be given to anticipated guidance relating to self/electronic assessments to ensure that they are robust and avoid the possibility of fraud /misuse.</p>
3.5	<p><b>Personalising Care and Support Planning</b></p> <p>Local Authorities will be required to produce an individual support plan which clarifies how needs will be met. The Local Authority will need to develop a personal budget, working out the cost of the necessary care and the amount that the Local Authority is going to pay towards these costs.</p> <p>The government intends to change the law to focus on the person and their needs, their choices and what they want to achieve. It aims to put people in control of their lives and the care and support they receive.</p> <p>The Care Bill will give Local Authorities a new legal responsibility to set out care and support plan (or a support plan in the case of a carer).</p>	<p>Many of the existing procedures and processes in Halton would seem to meet the aspirations of the Care Bill. However, the unknown factor is that there will be people who presently fund their own care with no involvement from the Local Authority, who will come forward in order in order to be allocated a care and support plan and personal budget following an assessment in order that their own funding can be counted towards the cost of their care and their individual cap.</p> <p>It is likely that the changes will attract an ‘informed population’ with potentially support from the financial and legal services industries. This may hinder people in marginalized or hard to reach groups/communities.</p> <p>The Council will need to maintain a focus and prioritising the needs of people, perhaps with no financial and/or legal support.</p>

	<p>The Care Bill will provide people with a legal entitlement to a personal budget as one part of a care and support plan and strengthen the ability for the individual to ask for a direct payment to meet some or all of their needs.</p> <p>The adult and carer must be involved in developing the care and support plan.</p> <p>The Care Bill will also outline that Local Authorities have a legal responsibility to review the plan and to make sure that the adult needs and outcome continues to be met.</p>	<p>There are likely to be more disputes arising from decisions about funding and complaints about application of process.</p> <p>A key issue will be managing expectation of service users, carers and other partners. There is a major risk that publicity associated with the Bill may cause people to have raised and unrealistic expectations about what the Council can or is able to deliver.</p>
<p><b>3.6</b></p>	<p><b>Charging and Financial Assessments</b></p> <p>Care and support is not a free service like Health Services provided by the NHS. Local Authorities will continue to be required by the Care Bill to carry out a financial assessment and where appropriate, charge people for services. This will consider the persons income and any assets they own. The Local Authority will then calculate how much the person can afford to pay towards their care and support costs.</p> <p>Local Authorities will not be able to charge for some types of services and this will be set out in regulations.</p> <p>Detailed financial assessment rules will also be set out in the regulations so that everyone will have their finances assessed in the same way.</p>	<p>Halton has a strong and robust approach to financial assessments'. There will be a need to implement changes arising from new regulations and also to provide financial assessment services for those self funders who do not utilise Council services at the present time. Personal accounts will need to be developed for all individual service users and made available to them, see appendix six.</p>
<p><b>3.7</b></p>	<p><b>Care and Support Funding Reform</b></p> <p>The Government have launched a consultation on reforming what and how people pay for their care and support. This is</p>	<p>This is a part of the legislation that will require the most careful consideration. There are significant implications for the Local Authority. Many of these implications are yet unclear.</p>

seen as a key element of the Care Bill. The aim is to protect people from unlimited costs and implement the findings of the Dilnot Commission from April 2006. At the present time, people with approximately £118,000 worth of assets (savings or property) will be protected and individuals will be responsible for their care costs up to a maximum of £72,000 if they can afford it.

This compares to the present situation where there is no cap on the amount of payments and £23,000 of assets are protected.

It is important to note that those people living in a carehome will still be expected to pay around £12,000 a year towards their care costs (referred to as Hotel costs) if they can afford it. The Council will be required to fund this amount for those assessed as not being able to afford it.

In addition the Care Bill will make a requirement for deferred payment agreement so that people will not have to sell their home during their lifetime to pay care fees. The Local Authority will pay the care home cost during this time and Local Authorities will be able to charge interest on these payment arrangements.

In summary, some of the key implications/issues which is possible to identify from present guidance for the council are: -

- Risks in relation to funding for social care, both in terms of receiving sufficient government support to manage the implications of the Dilnot Commission including: -
  - Requirements for new preventative services
  - Loss of income
  - Funding for people who reach the cap and then become responsibility of the Council.
  - Funding for Carers Services.
- Determining issues in relation to residential and nursing care with a particular focus on the management of hotel costs including how this will be provided for people who do not have sufficient income to manage it themselves. This is a responsibility likely to fall on the Council.
- Clarifying issues in relation to the cap and understanding implications in relation to younger people, i.e. those under 65 and for young people who are anticipated to have a zero cap, i.e. those young people who become 18 with care needs.
- As the present guidance indicates the capital threshold will only apply to people in residential/nursing care, there is a need to avoid a perverse incentive for people to enter institutional forms of care which would seem to contradict with previous policy and the intention of the act.

		<ul style="list-style-type: none"> <li>• Identifying appropriate charging and financial support for Carers Services.</li> <li>• Considering issues in relation to financial planning information and advice at all stages for all members of the public but with a particular focus on ensuring that marginalized and hard to reach groups have access to clear and appropriate information.</li> </ul> <p>The Council presently offers a deferred payment scheme so it is in a stronger position than some other Council's. There will need to be consideration of whether to charge interest on loans and implement an administrative charge.</p> <p>The average value of properties in the Borough may mean that proposals have a significant impact on the income that the Council receives.</p>
3.8	<p><b>Safeguarding Adults</b></p> <p>The Care Bill will establish a clear legal framework for how Local Authorities and other parts of the health and care system should protect vulnerable adults at risk of abuse. In effect, Adult Safeguarding will be placed on the same statutory footing as Children's Safeguarding and Local Authorities will be required to set up a Safeguarding Adult Board in their area with a clear basis in law.</p> <p>A new requirement for Safeguarding Adults Reviews, which seem to be based on the same principles as Serious Case Reviews will be introduced.</p>	<p>Due to the ongoing commitment and investment in Adult Safeguarding in the Borough, the Council is well positioned to undertake any new requirements arising from the Care Bill, with many of the key initiatives already part of the routine practice of the Safeguarding Adults Board. Partners may need to consider the implications of the legislation for their organisation.</p>
3.9	<b>Carers Issues</b>	This is likely to be a difficult and contentious area. At present

<p>A carer is someone who helps another person, usually a relative or friend in their day to day life. This is not the same as someone who provides care professionally or through an organisation.</p> <p>The Care Bill will give Local Authorities a responsibility to assess a carers own needs for support. This replaces the existing law which says that the carer must be providing a substantial amount of care on a regular basis in order to qualify for an assessment. This will mean that more carers are able to have an assessment in a way that is comparable to the legal rights of the person they care for.</p> <p>If both the carer and the person they care for agree, a joint assessment of care can be made.</p> <p>Once a positive assessment of eligibility is complete, the carer will be eligible for support from the Local Authority. The Local Authority and the carer will need to think about the type of support that they might benefit from. Facts sheets published to support the Care Bill include examples such as: -</p> <ul style="list-style-type: none"> <li>• Help with housework or gardening</li> <li>• Buying a lap top to keep in touch with family or friends</li> <li>• Becoming a member of a gym so that the carer can look after their own health and wellbeing.</li> </ul> <p>It may also be necessary to provide replacement care to allow the carer to take a break.</p> <p>Local Authorities will need to determine whether they wish to</p>	<p>carers assessments and associated services are limited. Some of the proposals in the Care Bill are likely to significantly raise expectations of carers and their representative groups and there is a lack of clarity in the Care Bill about how many of these initiatives will be implemented.</p> <p>Extra care will need to be taken in this area to ensure that carers are effectively supported in accordance with the legislative requirements and in a way that is managed and appropriate.</p> <p>Any developments in requirements for young carers will require careful management and close liaison with Children and Young Peoples Services.</p> <p>In terms of transition of young people, existing processes between Children and Young Peoples Services and Adults Services would indicate that the Council is in a strong position to address any new requirements in this area.</p> <p>There is a risk that some people may wish to 'charge' normal aspects of family care to their 'care account' in order to qualify for the 'cap' quicker. This difficult area will require very careful management.</p>
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	<p>levy a charge on carers services and also issue a personal budget to carers. Carers will have a right to request that the Local Authorities meets some or all of their needs by giving them a direct payment.</p> <p>In addition, there will be a focus on the needs of young carers and there maybe a new requirement to include assessing what an adult needs to fulfil parental responsibilities for their children and to ensure that young people do not undertake caring responsibilities.</p> <p>There will be provision in the Care Bill for an adult carer of a disabled child to ask for an assessment of their caring needs in advance of the child reaching 18. Similarly, the Care Bill will clarify that Adult Social Care Services need to be involved in planning what support of a young carer may need once they reach 18.</p>	
<p><b>3.10</b></p>	<p><b>Continuity of Care</b></p> <p>Due to the introduction of the cap on care costs, the Care Bill will intend to ensure a continuity of care when individuals move between Local Authority areas.</p> <p>New requirements will be placed on the first Local Authority (ie the Council that the person is moving from) and the second Authority (ie the receiving local authority) in terms of what the Council will need to do when it receives someone new.</p> <p>A continuity duty will be placed on Local Authorities, so the second Authority (i.e, the receiving Authority) will need to provide those services put in place by the first Authority until it has carried out its own assessment processes.</p>	<p>There will be a need to develop new protocols and procedures surrounding this issue. The Council will be partly dependant in its role as the second Authority on being notified promptly and effectively and then responding to carry out its own assessments quickly and effectively.</p> <p>There is the potential for a challenge if the Council as a receiving/second Authority wishes to change components of the care package and there will be a need to develop processes to undertake required assessments promptly. There will also be associated issues relating to carers, financial assessment and reviews.</p>
<p><b>3.11</b></p>	<p><b>Market oversight of provider failure</b></p>	<p>The Council has experience of the failure of domiciliary care</p>

	<p>The Care Bill introduces new requirements, some of them relating to the Care Quality Commission in relation to market oversight and the need to monitor providers effectively.</p> <p>The Care Bill will also impose a clear legal responsibility on Local Authorities where a care provider fails, making it clear that Local Authorities will have a temporary duty to ensure that both residential care (care homes) and care provided in a person's own home continue if a provider fails.</p> <p>The Local Authority will have a responsibility towards people receiving care, regardless of whether they pay for it themselves or whether the Local Authority pays for it.</p>	<p>agencies and smaller care homes in the Borough, but has also, managed effectively, the difficulties experienced by Southern Cross. In effect the legal duty will enshrine good practice and from an initial reading of new requirements, these are the activities that the Council would normally carry out.</p> <p>Care will need to undertaken to ensure that the Council fully complies with any new guidance or regulation to avoid the risk of legal challenge.</p>
<p><b>3.12</b></p>	<p><b>Transition for Children to Adult Care and Support Services</b></p> <p>The Care Bill gives young people and carers of children a legal right to request an assessment before they turn 18. The Council will need to undertake this assessment if there is 'significant benefit' in doing so. This is regardless of whether the person currently receives Children's Services.</p> <p>The Care Bill also states that the Local Authority must assess the needs of a child's carer, where that child is already receiving support and can provide services to them.</p> <p>The age of when someone can request an assessment is not clear but the Local Authority must determine a 'significant benefit'. Again the principle of continuity will be enshrined in the Care Bill so that no one reaching the age of 18 who is already receiving support of some kind under the relevant legislation that relates to children, will suddenly find themselves without care and support.</p>	<p>The main issue, which will need more detailed analysis and consideration, is the issue of young people and their carer who are not currently receiving Children's Services who make a referral to Adult Social Care.</p> <p>There are also a cohort of young people who currently are in receipt of services from Children's Services who do not meet the threshold for services from Adult Social Care and Health. Under the new requirements these young people will be eligible for an assessment and potentially for preventative services as defined in the Care Bill.</p>

<p><b>3.13</b></p>	<p><b>Single Failure Regime</b></p> <p>The Care Bill will aim to ensure a single failure regime to deliver a simple, clear, flexible process for tackling quality failures in NHS Trusts and Foundation Trusts. There will be 3 stages to the regime including identification, problem intervention and administration of the issues.</p> <p>Administration will deal with both clinical and financial unsustainability.</p>	<p>There are no direct implications for the Council in relation to this initiative, although there is some possibility that the mechanism may be extended at some point to care providers.</p> <p>As a partner agency in relation to local NHS Trusts the Council may be involved in implementing the regime as a key partner if problems emerge with a local NHS Trust. There may also be issues if providers attempt to charge more for more highly rated services and in care homes this may have an impact on the complex issue of 'hotel costs'. See section 3.7.1.</p>
<p><b>3.14</b></p>	<p><b>Health and Social Care Ratings</b></p> <p>The Care Bill will ensure that the CQC publish a rating for GP practices, hospitals, care homes and domiciliary care. CQC will have a duty to consult in relation to the setting up of the new system and will decide how services and providers will be rated.</p>	<p>The Council has monitored the developments in relation to ratings. There may be some reputational risk if in-house (Council provided services), receive poor ratings and also issues in relation to responding promptly to changes in ratings and/or poor ratings.</p> <p>The Council will need to carefully consider links between ratings and fees paid for care. There may be a complex link with hotel costs and this simple initiative is likely to be fraught with complexity and contractual issues for the Council and other providers.</p>
<p><b>3.16</b></p>	<p><b>Health Education England and the Health Research Authority.</b></p> <p>The Care Bill will place both these special Health Authorities into non-departmental public bodies. Health Education England is responsible for planning and buying education and training for NHS and the public, and the Health research authority will have its research function extended to cover social care research.</p>	<p>The Council does not have active engagement with either of these 2 organisations at the present time, although the ongoing integration of Social Care with Health and changes in the activities of the 2 bodies may bring the Council into closer contact.</p>

