



The Care Act 2014

Barnsley Health and Wellbeing Board

12 August 2014



Background

The Care Act 2014:

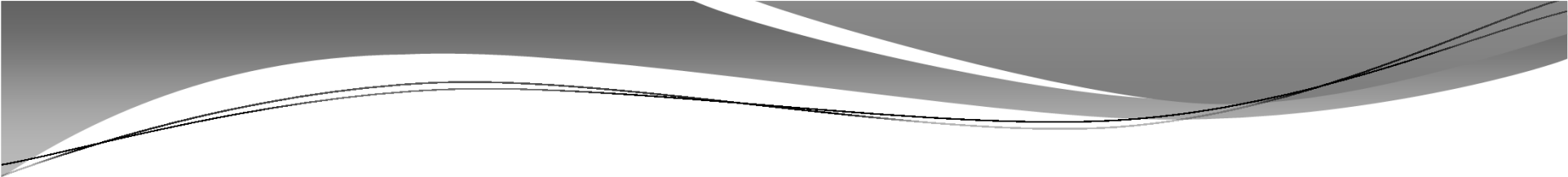
- Replaces and updates complex and outdated legislation that has remained unchanged since 1948
- Introduces a care and support system that is aimed at being clearer, fairer and fit for the future
- Focuses on people's well-being, supporting them to live independently for as long as possible.

The Act is therefore designed to support policy objectives that have been in place for some time, but it also introduces new approaches and responsibilities.



Care Act - Timeline

- 2012 White Paper *Caring For Our Future: Reforming Care and Support* and draft *Care and Support Bill*
- May 2013 Care Bill incorporating funding reform
- May 14 Care Act
- Spring/summer 14 open consultation on draft regulations and guidance (closes 15 August) but the Act is an Act so limited scope for change
- October 14 final regulations and guidance
- April 15 implementation of professional practice aspects of Act plus deferred payments, market shaping, advice and information etc.
- April 16 'Dilnot reforms' – Care cap etc. (after next general election!)



Care Act - Guidance

- Care Act billed as “most significant reform of care and support in more than 60 years” *Norman Lamb*
- Consolidates old legislation into a single framework
- Supports existing policy objectives, e.g. prevention, early intervention, personalisation but some new responsibilities – now enshrined in law
- Guidance is very detailed (431 pages) – too prescriptive? But will spell out local authority and individual professional activity
- Language – *must* and *should*



Care Act – Legislation to be repealed includes:

- National Assistance Act 1948
- Health Services & Public Health Act 1968
- Chronically Sick & Disabled Persons Act 1970
- Health & Social Services & Social Security Adjudications Act 1983
- Disabled Persons Act 1986
- NHS & Community Care Act 1990
- All three Carers Acts
- Health & Social Care Act 2001 (the Act concerning Direct Payments)



Terminology

- *Adult*: the Act does not talk of disabled, elderly or ill people – instead it uses the word ‘adult’ – but this is generally qualified as being an adult in need of care and support.
- *Carer*: a carer is someone 18 or over who provides or intends to care to someone but is not contracted to provide the care, or providing the care as formal ‘voluntary work’.
- *Individual*: the Act uses ‘individual’ to mean either an adult ‘in need’ or a carer.



Care Act – Individual Well-being

- Criteria based on risk to wellbeing (as opposed to independence). From crisis response to wellbeing service
- Enable support for a ‘good life’ based on person’s wishes – a return to old fashioned social work?
- Social and economic wellbeing:
 - work, education training & recreation
 - domestic and personal relationships
 - suitability of living accommodation
 - contribution to society



Care Act - Prevention

- Universal duty to all adults:
 - Primary: promoting wellbeing for all citizens whether or not they have health or care needs
 - Secondary: early intervention – more targeted on those at risk
 - Tertiary: IC and re-ablement
- Working with others to focus on prevention
- Identifying those who may benefit from prevention
- Enabling access to prevention
- Supporting people to make the most of community resources plus build and develop their strengths and networks
- Duty to ensure diversity and adequacy of provision and ensure integration
- Such services to remain free (i.e. no charge)



Care Act – Information and Advice

- Whole population duty – not just those with existing care needs
- Some emphasis on independent financial advice – to make informed and sustainable decisions
- Advice in relation to wellbeing not just care
- Independent advocacy where someone may have difficulties in understanding and there is no one else
- Provide for carers information and advice needs
- Key points – diagnosis, hospital episode, etc.



Care Act – Market Shaping

- Duty to facilitate a vibrant, diverse and sustainable market for high quality care and support for the whole population, including self-funders
- Fostering a workforce which underpins the market and delivers high quality care
- Variety of providers and types of service, ensuring efficiency of provision
- Manage provider failure – link to CQC responsibility to assess sustainability



Care Act - Assessment

- Now - trigger based on likelihood of eligible needs
- Future – duty to assess where there may be care and support needs whether or not LA has a duty to meet them
- Duty to assess carers who may have needs for support (but they can be charged for support!) – sustainability of caring role, effect on carers wellbeing
- Legal responsibility to ensure a smooth transition for people with care needs to adulthood
- Levels of need and financial circumstances are irrelevant
- Provide a written record of assessment covering all needs not just eligible needs
- Enshrines personalisation principles, DP's, etc.
- Looks at impact on wellbeing – ability to meet their desired outcomes
- Independent advocacy



Care Act – Eligibility Criteria

- National criteria set at substantial but more generous?
- Need to consider prevention and reablement
- Duty to help people to meet non-eligible needs – signposting, prevention, etc.
- Eligibility is ‘carer blind’
- Assessment will determine eligible and non-eligible needs. Arrangements to meet eligible needs must be made where person:
 - wishes LA to do so, and/or
 - person cannot pay full cost, and/or
 - person does not have capacity, and/or
 - person has exceeded the cap
- Non-eligible needs; must provide written (?) I&A



Care Act - Safeguarding

- SAB's on a statutory footing
- LA, police and health statutory partners
- Strategic plan and annual report
- Make enquiries if someone is at risk – wider than present?
- Powers to require information from others
- Focus on outcomes, openness and transparency, measuring effectiveness



Care Act – Deferred Payments

- Applies from April 15
- Only for those below capital limits (minus value of property) LA's will be able to charge interest But:
 - Encourages empty properties
 - Loss of Council Tax
 - Care costs can exceed value of asset
 - Joint tenancies
 - Those without mental capacity
 - Property maintenance
 - Insurance liabilities
 - Is rent counted as income?
 - Set up costs – we can charge but could be substantial

The Care Act – 3 broad areas of change



Dilnot and financial reforms:

- Introduction of a cap on care costs (£72,000) and care accounts
- Increase of upper threshold for state support (£118,000)
- Free care for those with needs before 18
- Deferred payments



Social care reforms:

- Prevention and well-being
- Assessments and eligibility
- Legal reform
- Safeguarding, personalisation, transitions
- Market shaping



Integration:

- Integrate services with health and housing by 2018



The Care Act and the workforce

The Act highlights the need for a specific focus on LA's, due to their new duties and statutory responsibility for workforce development across the whole social care workforce in their locality, to ensure sufficient capacity exists to meet the requirements of the reforms.

- A piece of reforming legislation – opportunity to develop and promote change in culture and practice
- Much of the Act consolidates good practice and existing policy in statute
- But... new statutory duties and responsibilities likely to require increase in workforce capacity, new roles and ways of working
- Analysis and planning needs to start now



Key areas for training and development:

- Basic understanding / awareness of the overarching principles of the Act – wider workforce, key council and external partners
- High level legal training – senior managers, social workers, social care lawyers et al
- Culture change – best practice, implications for social work practice, managers, social workers, commissioners et al



Understanding the impact on the workforce

- Review the Act's policy, duties and responsibilities against current practice
- Identify and scope potential workforce capacity, skills and knowledge gaps
- Determine operational approach i.e. Council delivered function or commissioned or delegated
- Recruit / train or commission / contract
- Closer planning, collaboration and integration with health, housing and public health



Care Act – And Finally

- Portability of assessments (cross border)
- Integration and partnership working - no intention to change current health/social care boundary
- Charging – status quo for now
- Transitions
- Ordinary residence
- Delegation of LA functions
- Debt recovery
- Appeals
- Hospital discharge and delayed transfers
- After care under MHA 1983
- Prisoners
- Disability registers
- Workforce implications