

# The Care Act 2014

July 2015

## Summary

The Care Act received Royal Assent on 14<sup>th</sup> May 2014, and is in its first year of a two year implementation phase.

This Act brings together best practice around personalisation, personal budgets, and direct payments. Local authorities now have a new duty to provide or arrange services that reduce need for support in the local area, and to embed preventative measures. Councils also have a new duty to provide or commission advice, and ensure it is open and accessible to all who might benefit from it.

## Impact on and Opportunities for the Voluntary and Community Sector

- Because of the increased emphasis on **prevention**, local authorities are now required to examine services already available in the area (including those offered by the VCS), examine how these help local people, and help people to access them
- The **enshrining of personal budgets in law** means that the VCS needs to be clear on what personal budgets are, how they work in practice, and how they can best seize on opportunities associated with personal budgets
- A new responsibility for local authorities to **develop the market** for those that have personal budgets means that local authorities need to engage with all organisations providing care, in order to map need and anticipate where providers may need to 'spring up' to meet need in the future
- Because **more people are receiving support for care costs**, there is be a growing need for advocacy and information services for those in receipt of care. These changes may result in an increased level of demand for services from those who have received local authority support and are looking for advice on where to spend their personal budget
- The Care Act gives local authorities more responsibility for safeguarding and a duty to establish a **Safeguarding Adults Board**. Southwark already has a Safeguarding Adults Partnership Board, which has representation from voluntary sector representatives
- The responsibility for local authorities to provide clear information and advice to allow personal budget holders to make good decisions may open up opportunities for the VCS, as local authorities may want to **commission these advice services**

## Important changes include:

1. A **cap on the costs of care** of £72,000 (from April 2016)
2. A **national minimum eligibility threshold** for council-funded social care (from April 2015)
3. The right to an **assessment support plan and personal budget** (regardless of personal financial circumstances) (from April 2015)
4. A strengthened duty for local authorities to provide **preventative services** and consider the **physical, mental and emotional wellbeing** of those in care. Additionally the duty for local authorities to take on new safeguarding responsibilities and establish a **Safeguarding Adults Board** (from April 2015)
5. **Carers will be given the same rights as those they care for** – the right to an assessment, a care and support plan, and a personal budget (from April 2015)

### 1. The Care Cost Cap

From April 2016, the Care Act will introduce a cap on care costs of £72,000, after which the local authority will need to care for pay costs. Additionally, people with around £118,000 worth of assets or less will start to receive financial support if they need to go to a care home.

The Care Act also expands the existing 'deferred payment agreements' to make them available across England. This means that people who own their home will be able to ask the local authority to cover their care costs, and recover the money that a person owes (plus interest) further down the line. The universal deferred payment scheme will mean that people are not forced to sell their home during their lifetime in order to pay for care. Universal deferred payment agreements will come into force in April 2015.

### 2. The National Minimum Eligibility Threshold

The national minimum eligibility threshold has standardised when local councils are obliged to provide care for residents. Previously, thresholds were decided by local authorities individually. This threshold has meant that older people and those with disabilities will be able to move from one area to another without worrying that their care will be interrupted.

There are concerns that the national minimum eligibility criteria may be set at a higher level, which means some people will be left out. This is currently being reviewed, so

will not be clear until arrangements are finalised.

A person needs to meet three criteria for their needs to be met:

1. They must have needs which are due to a physical or mental impairment
2. They must be unable to carry out certain day-to-day activities
3. The inability to carry out these activities must have an impact on the individual's wellbeing

### 3. Personalisation, Assessment Support Plans and Personal Budgets

The Care Act has entrenched personal budgets in law and put personalisation at the heart of care. Everyone who has needs that are eligible to be met by the local authority has a legal right to a personal budget. Arrangements for direct payments are similar to the system in place before; individuals cannot be forced to take a direct payment but must be given the choice. From October 2014, individuals had the right to receive direct payment.

The Care Act gives a new duty to local authorities to help people who will be self-funding with an assessment, so there may be an increase in the number of people signposted who may wish to purchase services directly.

The aim of personalisation is to ensure that the person is at the heart of their care delivery, involving people in their assessment and planning as much as possible, and seeing them in the context of their family and social networks. Those that are seeking assistance

with their care costs will have an assessment carried out by the local authority.

Assessments must focus on a person's needs and what they want to achieve, with a package of care designed around this. A person is also able to carry out a "supported self-assessment" if they wish to do so.

After an initial assessment, if an individual is deemed eligible for local authority support, the Act gives local authorities a new legal responsibility to provide a care and support plan, which should be designed in partnership with the individual as much as possible.

#### **4. New Duties for Local Authorities**

Under the Care Act, local authorities now have a duty to ensure that people who live in their area:

- Receive services that prevent their care needs from becoming more serious or delay the impact of their needs (preventative)
- Can get the information and advice they need to make informed decisions about their care and support (local authorities will be required to establish and maintain an information service in their area)
- Have a range of high quality care providers to choose from (as mentioned above, local authorities have new responsibilities for managing the local market, to ensure access to a variety of high quality providers)
- Ensure that care and support functions are integrated as much as possible with those provided by the NHS and other health related services

This legislation places a much greater deal of emphasis on the importance of prevention. Additionally, councils now have a duty to consider the wellbeing of an individual receiving care. This involves considering how

wellbeing might be affected when buying and arranging services.

The information and advice services that local authorities now need to provide must help people to understand how care and support services work locally, care and funding options available, and how people can access the services they need.

In developing the market for services, local authorities need to work with local providers to map services that may be required in the future, and examine what types of support should be developed. Market-shaping and commissioning activity needs to focus on outcomes and wellbeing, promote quality services, support sustainability and ensure choice is available.

Additionally, local authorities now have a legal duty to set up a Safeguarding Adults Board, which must work with local people to develop plans to protect vulnerable adults. The Act requires local authorities to make enquiries (or ask others to make enquiries) when they think an adult with care or support needs may be at risk of abuse or neglect.

The Act has also introduced a new inspection methodology by the Care Quality Commission for residential care homes and providers. This new inspection process came into effect on October 1<sup>st</sup> 2014.

#### **5. Changes to the Rights of Carers**

As a result of the Act, after April 2015, carers are now placed on the same legal footing as people they care for, with rights to an assessment and new entitlements. Local authorities now have a new responsibility to assess a carer's need for support to determine whether they are eligible for support from the local authority. If so, the local authority and the carer will agree a support plan. Carers should receive a personal budget as part of this support plan, and they can request that this is provided as a direct payment.

## Care Act 2014: Implementation Timeline

### From April 2015:

- Duties on prevention and wellbeing
- Duties on information and advice (including paying for care)
- Duties on market shaping
- Assessments (including carers' assessments)
- National minimum threshold for eligibility
- Personal budgets and care and support plans
- Safeguarding
- Universal deferred payment agreements

### From April 2016:

- Extended means test
- Care accounts
- Capped charging system

If you need more information or need advice in responding to the consultation, contact **Rachel Clarkson**, Policy Officer, CAS at [rachel@casouthwark.org.uk](mailto:rachel@casouthwark.org.uk) or on 020 7358 7017.