Committee: Health Scrutiny Panel

Date: 10th November 2015

Agenda item:

Wards:

Subject: Implementation of the Care Act 2014 in Merton

Lead officer: Simon Williams, Director of Community and Housing

Lead member: Caroline Cooper-Marbiah

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Recommendations:

A. The Health Scrutiny Panel receives and notes the contents of this report

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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1. This report aims to briefly explain the requirements of the Care Act 2014 and then report implementation progress and where possible give data illustrating the impact the Care Act has had on adult social care customers and on adult social care of workloads.

1.2. The report also identifies some important opportunities that the Care Act provides and the main challenges to realising these opportunities.

2 DETAILS

2.1. **The Care Act provides** a coherent approach to the development of adult social care in England over the next few years. It builds on recent reviews and reforms and consolidates and replaces numerous previous laws and guidance papers (see Annex 1 for a list of replaced laws and guidance). The main aims the Care Act can be summarised as to:

2.1.1 Be clearer and fairer than the previous laws/guidance it replaces,

2.1.2 Promote “Wellbeing” which the Act defines,

2.1.3 Prevent or delay or reduce the need for adult social care support,

2.1.4 Put people in control of their care and support, and

2.1.5 Place the rights of carers on the same footing as the rights of adults needing support.

2.2. **Part 1 of the Act** (and its Statutory Guidance issued in Oct 2014) sets out new duties for local authorities and its partners, and new rights for service users and carers. It was to be implemented in two phases as follows. The:

2.2.1 Majority of its care and support reform provisions were to be implemented from 1 April 2015, and

2.2.2 Funding reform provisions incl. the cap on life time care costs, care accounts and increases in capital thresholds were to be implemented from 1 April 2016.

2.3. However, the funding reform provisions have subsequently been postponed and the new requirement is to implement these from 1 April 2020.

Requirements of the Care Act	Update/Progress
1. Promoting wellbeing: Local authorities **must** promote wellbeing when carrying out any of their care and support functions. This means helping people to achieve the outcomes that matter to them in their life i.e. the requirement is now to "meet needs" rather than "provide services".	Staff are aware of the wellbeing principle and systems/processes have been redesigned to consistently promote wellbeing e.g. • Carefirst assessment and review documents and processes have been redesigned • New Mosaic assessment and review documents and processes are being designed to be consistent with wellbeing • 8x½ day Care Act Overview training sessions covering wellbeing were run by Social Care Institute of Excellence (SCIE) and attended by 184 staff.
2. Preventing, reducing or delaying needs: Local authorities **must** provide or arrange for services, facilities or other resources which will prevent, delay or reduce: • Individuals' care and support, and • Carers needs for care support.	We aim to build on the success of the current grant funded Ageing Well Preventative programme. We have retained £450k p.a. to fund this programme to: • Reduce trigger events such as incontinence, dementia, isolation, loss of mobility and depression that lead to social care • Promote independence, restorative care, resilience and connectedness • Assess the needs of and support for carers e.g. a one stop-shop for carers • Enable people to maximise their contributions including their time or financially • Take an inter-generational approach • Make use of assets in neighbourhoods • Deliver collaborative partnerships • Use technological solutions
3. Information and Advice: Local authorities **must** enable people in its area to access information and advice relating to care and support for adults/support for carers as it: • Enables people to control their own lives and the achievement of wellbeing, • Helps prevent, reduce or delay the development of care and support needs.	People who want to access information/advice: • On-line can access can use Merton-i. It is an on-line directory of adult Social Care Services available to all who live and work in Merton. It has been challenging to keep this up to date and this is being addressed. • By telephone or face to face can use the information, advice and support hub run by 7 local voluntary organisations in partnership with Merton Council since 1 April 2016.
4. Market Shaping and Commissioning: Local authorities **must** facilitate markets to ensure they offer a diverse range of high-quality and appropriate services. In doing this authorities must promote: • Continuous improvement, and • The development of a sustainable and skilled	• The commissioning team has engaged with providers and negotiated new rates based on the cost of service provision and/or to maintain essential capacity that might otherwise be lost due to competition, service withdrawal or market failure. • We have agreed rate increases that are on

<table>
<tr><td>workforce to underpin the market.</td><td>average 38% of what providers asked for. The estimated cost impact is £581k versus £1,522k asked.</td></tr>
<tr><th>Requirements of the Care Act</th><th>Update/Progress</th></tr>
<tr><td>5. Manage provider failure and service interruptions:

Local authorities have a temporary duty to ensure peoples' needs are met where a care and support provider fails.

The duty applies whether or not the authority has contracts with the provider, and irrespective of whether the people affected are self-funders.

The duty does not apply if:

• An administrator, or other person, continues to run the service, or

• Failed provider's customers are in receipt of NHS Continuing Healthcare as the NHS has the duty to meet these needs.</td><td>Provider failure remains a risk, but the market shaping work (at 4) has significantly mitigated this.

Since the Care Act came into force we have not experienced the failure of a local provider, but if a failure was to occur we are confident we would be able to deal effectively with it as:

• Under the Act Care Quality Commission is responsible for monitoring large national providers i.e. if a large provider was about to fail we would expect to have advance warning giving us time to prepare our response, and

• If a small local provider failed we would have the capacity to respond quickly and our track record shows we have dealt with local provider failure in the past.</td></tr>
<tr><td>6. Assessment and Eligibility:

Assessments:

Local authorities must undertake an assessment for any adult, including a carer (see below), who "appears to have any level of needs" for care and support, irrespective of whether the local authority thinks the individual has eligible needs.

Eligibility

Local authorities must apply a national eligibility threshold. It consists of three criteria, all of which must be met for a person's needs to be eligible. It is based on identifying whether:

•• A person's needs are due to a physical or mental impairment or illness

•• The needs affect their ability to achieve two or more specified outcomes, and

• The needs have a significant impact on the person's wellbeing.</td><td>Staff are aware of the new requirements under the Care Act and systems/processes have been redesigned to comply with the Act. Specifically:

• Carefirst assessment and review documents and processes have been redesigned in line with new requirements,

• New Mosaic assessment and review documents and processes are being designed to be consistent with the new requirements, and

• 6 whole day assessment and review training sessions were run by SCIE. 153 staff attended.

So far there is no evidence that assessment work volumes have increased significantly as a result of the Care Act, except that more Carers are being assessed, supported or advised (see Carers A,S or A below):

<table>
<tr><th>Work Type</th><th>2014-15</th><th>6 months to 30/09/15</th></tr>
<tr><td>Assessments/Reviews (1)</td><td>3,591</td><td>1,163</td></tr>
<tr><td>Adult Assessments (2)</td><td>1,596</td><td>635</td></tr>
<tr><td>Eligibility threshold met</td><td>1369</td><td>558</td></tr>
<tr><td>% adults eligible</td><td>86%</td><td>88%</td></tr>
<tr><td>Carers Assessed (2)</td><td>733</td><td>101</td></tr>
<tr><td>Carers eligible for support</td><td>222</td><td>48</td></tr>
<tr><td>% carers eligible</td><td>30%</td><td>47%</td></tr>
<tr><td>Carers A, S or A</td><td>1144</td><td>952</td></tr>
</table>
</td></tr>
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	Note 1: All assessments & reviews of all types Note 2: Only incl. assessments against new national eligibility framework e.g. excl. reablement.
Requirements of the Care Act	Update/Progress
7. Independent Advocacy: Individual adults should be supported to participate as fully as possible in decisions, perhaps by family, friends or carer, or by an independent advocate if the local authority thinks the person has substantial difficulty in involvement and the person has no one else available to help them.	We refer customers to a Local Advocacy Centre (Centre for Independent Living – CIL) and can spot purchase where necessary from Advocacy Partners. Referrals numbers are not known as referrals for advocacy are note packages of support and as such are not recorded on the "Carefirst" system. Staff have been briefed of the requirements of the Act e.g. at the 6 whole day assessment and review training sessions were run by SCIE. 153 staff attended this training and a separate guidance note on how to access independent advocacy with the support of the brokerage team has been issued.
8. Charging and Financial Assessment: After a person is assessed as being eligible for support local authorities **must** undertake a financial assessment under the Care and Support (Charging and Assessment of Resources) Regs. The Care Act also proposed several significant reforms originally to be implemented from 1st April 2016 most notably a: • Lifetime cap on care costs (proposed to be £72,000) • Requirement for individual care accounts to record care costs against the proposed cap • Extension to the Means Test Thresholds (to £118,000 where a property is included or £27,000 where there is no property) • Appeals system for individuals to complain and challenge a decision e.g. about eligibility or the value of a personal budget	Our processes include a financial assessment under the Care and Support (Charging and Assessment of Resources) Regulations after people are assessed as eligible for support. All these proposals have now been postponed until 1 April 2020 following lobbying by local government. In its frequently asked questions paper in September 2015 DH said: "*The Government has said that they are firmly committed to implementing the cap on care costs system. The additional time will be used to consider what else can be done to help people plan and prepare for the costs of care as well as considering feedback on how the system may be improved. This has been a difficult decision but one that has been taken in response to genuine concerns from stakeholders*."
9. Deferred Payment Agreements (DPA): Local authorities **must** offer a deferred payment scheme to people who have local authority arranged care and support, and to people who arrange/pay for their own care if the person has: • Eligible needs and lives in residential care, • Less than £23,500 in assets excluding the value of their home, and	Merton has had a DPA in place for a number of years. At present: • Four customers have a DPA in place. • All four had a DPA prior to 1 April 2015 • No new DPA's have been set up in 2015-16 Cabinet will consider a paper on revisions to the scheme on 9 Nov 2015. It will cover a revised schedule of charges and restate eligibility criteria.

• Their own home owned outright and it is not occupied by a spouse or a dependent relative.	
Requirements of the Care Act	**Update/Progress**
10. Care and Support Planning: If the local authority has **a duty** to meet a person's needs, it must help the person decide how their needs are to be met by preparing a care and support plan, or support plan for carers. The plan must describe what needs the person has and which needs the authority is to meet. The plan must consider any needs that are already being met, by a carer for instance. In addition, it must include a tailored package of information and advice on how to delay and/ or prevent the needs the local authority is not meeting.	Staff have been trained in the new approach to care and support planning and briefed on the new requirements under the Care Act. Systems and processes have also been redesigned to comply with the Act. Specifically: • Carefirst assessment and review documents and processes have been redesigned in line with new care and support planning requirements • New Mosaic assessment and review documents and processes are being designed to be consistent with the new requirements • Care and support planning was covered at 6 whole day assessment and review training sessions were run by SCIE. 153 staff attended this training.
11. Personal Budgets: Everybody **must** have a personal budget as part of their care and support plan that identifies the cost of their care and support and the amount the local authority will make available, regardless of their care setting.	Each person is notified of their personal budget as required along with their care and support plan.
12. Direct Payments: Person centred care and support planning means that a person **must** be allowed to choose to receive part or their entire personal budget, as a direct payment.	Customers continue to be offered direct payments but there has been no discernible increase in uptake e.g. At the end of Quarter 2 in: • 2014-15 508 people had direct payments • 2015-16 507 people had direct payments
13. Review of Care and Support Plans: Local authorities **must** keep care and support plans under review and should establish systems to do this. Reviews should be proportionate, but should as a minimum be annual. Reviews should be person-centred and seen as a positive opportunity to take stock of outcomes and to consider if the plan is enabling the person to meet their needs and achieve their aspirations.	Carrying out reviews on an annual basis was our aim before the Care Act i.e. our practice remains the same as before the Act. In terms of volumes reviews in 2015-16 are currently down compared to 2014-15, but we still aim to review all clients on an annual basis as a minimum. Reviews carried out in the: • Whole of 2014-15 = 966 • 6 months to 30/09/15 = 259

<table>
<tr><th>Requirements of the Care Act</th><th>Update/Progress</th></tr>
<tr><td>14. Safeguarding:

The introduction of the Care Act sets out for the first time a legal framework for safeguarding adults with Safeguarding Adults Boards becoming statutory. It states that:

Local authorities must make enquiries where they believe an adult is experiencing, or is at risk of, abuse or neglect, and take proportionate steps to prevent or stop it and address the cause.

Local authorities must lead a Safeguarding Adults Board (SAB). This Board must involve the local community and Healthwatch in establishing an annual Safeguarding strategic plan. It must also:

• Publish an annual report, detailing what the SAB has done during the year
• It must conduct a Safeguarding Adults Review when an adult in its area dies, or is at risk of dying or of serious harm, as a result of known or suspected abuse or neglect, and there is concern that partner agencies could have worked more effectively to protect the adult.</td><td>Merton had a Safeguarding Board prior to the Act and the NHS and the police were already core members of the Board as required by the Act. They are also key partners on Merton's Safeguarding Adult's Partnership Board. The Safeguarding Adults Partnership Board meets four times a year to ensure that Adult Safeguarding is delivered effectively. The Board comprises of senior lead managers from all these key partner agencies.

Safeguarding referrals have increased since the Act

<table><tr><th></th><th>2014 -15</th><th>6 mths to 30/09/15</th></tr><tr><td>N° of safeguarding referrals</td><td>475</td><td>507</td></tr></table></td></tr>
<tr><td>15. Integration, Co-operation and Partnerships:

Local authorities must have an aim of promoting greater integration with NHS and other health-related services in the delivery of care and support.

Note: NHS England and Clinical Commissioning Groups (CCGs) have similar duties to promote integration in relation to care and support.</td><td>The Merton Integration Board has existed and managed our integration programme since 2013. It also aims to deliver the Government's Better Care Fund objectives. Current formal S75 partnerships exist for learning disabilities, mental health, equipment, and the Better Care Fund. These will be continued subject to satisfactory performance and risk management.</td></tr>
<tr><td>16. Transition to Adult Care and Support:

The Care Act identifies three groups of people covered by its Transition requirements e.g. a:

• Young person approaching transition,
• Carer for a young person approaching transition, and
• Young person approaching transition who has care responsibilities for others

Local authorities must carry out a transition assessment of anyone in the three groups "when there is significant benefit" to the young person/ carer <u>and</u> where they are likely to have needs for care or support after age 18.</td><td>The number of referral s to initiate transition assessments have not changed significantly since the Care Act was implemented but the age distribution has i.e. assessments are being initiated at a younger age when it is more beneficial.

<table><tr><th></th><th colspan="9">Age transition assessment initiated</th></tr><tr><th>Period</th><th>17</th><th>18</th><th>19</th><th>20</th><th>21</th><th>22</th><th>23</th><th>24</th><th>T</th></tr><tr><td>2014-15</td><td>0</td><td>4</td><td>7</td><td>9</td><td>6</td><td>6</td><td>1</td><td>1</td><td>34</td></tr><tr><td>1/4/15 30/9/15</td><td>4</td><td>2</td><td>3</td><td>3</td><td>1</td><td>2</td><td>0</td><td>0</td><td>15</td></tr></table>
Transition processes were recently reviewed by consultants (Alder Advice). We have given our feedback on their draft report. When this report is finalised we will implement the recommended improvements to processes/ procedures to ensure</td></tr>
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	we comply with the requirement of the Care Act.
Requirements of the Care Act	Update/Progress
17. Prisons and approved premises: Local authorities are responsible for the assessment of all adults who are in custody in their area and who "*appear to be in need of care and support*", regardless of which area the Adult lives in. If an individual is transferred to another custodial establishment in a different local authority area this responsibility will transfer to the new area.	This does not apply to Merton since there are no prisons or any other approved premises in Merton.
18. Delegation of Local Authority Functions: The Care Act allows local authorities to **delegate functions to other parties**. This power to delegate is intended to allow flexibility for local approaches to be developed in delivering care and support, and to allow local authorities to work more efficiently and innovatively. Local Authorities retain ultimate responsibility for how its functions are carried out i.e. delegation does not absolve the local authority of its legal responsibilities.	Currently the only delegated functions are mental health related Care Management functions. These are delegated through a section 75 Agreement to the South West London and St Georges Mental Health Trust. There has been no additional delegation of functions since the Care Act came into force on 1 April 2015.
19. Moving between areas: **Ordinary Residence**: Care Act Regulations set out three types of accommodation (1) Care home/nursing (2) Supported living/extra care housing, and (3) Shared lives schemes, where the principle of deeming applies. For all of them, the responsible authority is the "placing" authority not the "host" authority, as the placing authority has arranged the care. **Continuity of Care**: The Care act places a high value on continuity of care. So if an adult moves from one area to another it requires the local authority that is currently arranging care and support and the authority to which they are moving to, to work together to ensure there is no interruption to the person's care and support even if Ordinary Residence is unclear or disputed. It also requires the local authority of the area where an individual moves to, to provide services based upon the adults existing care and support plan, until it is able to carry out its own assessment.	The requirements under the Care Act reflects the practice at Merton before the Act was implemented on 1 April 2015. Therefore, to date, the Care Act has had minimal impact on our practice and processes.

3 ALTERNATIVE OPTIONS

3.1. N/A

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. N/A

5 TIMETABLE

5.1. N/A

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. This is a progress report with no specific financial implications. Government has provided implementation funding.

7 LEGAL AND STATUTORY IMPLICATIONS

7.1. This is a progress report with no specific legal implications, although compliance with the Care Act is in its self a statutory requirement.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. This is a progress report with no specific human rights, equalities or community cohesion implications.

9 CRIME AND DISORDER IMPLICATIONS

9.1. This is a progress report with no crime and disorder implications.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. This is a progress report with no specific risk management or health and safety implications.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

Appendix 1: Laws and Guidance Replaced by the Care Act 2014

The Care Act repeals or replaces a number of documents, including:

- National Assistance Act 1948
- Chronically Sick and Disabled Persons Act 1970
- NHS and Community Care Act 1990
- Choice of Accommodation Directions 1992
- Delayed Discharges Regulations 2003
- NHS Continuing Healthcare (Responsibilities) Directions 2009
- Charging for Residential Accommodation Guidance (CRAG) 2014
- Transforming Adult Social Care (LAC (2009)1)
- Fair Access to Care Services (FACS) guidance on eligibility criteria
- No secrets: Guidance to protect vulnerable adults from abuse

Appendix 2: Adult Social Care Efficiency Framework

In 2010 the Social Care "Efficiency Framework" was developed by Directors of Adult Social Care (ADASS) and brought together by Simon Williams the Director of Merton's Community and Housing service. The framework provides guidance, identifies performance measures and offers approaches to efficient delivery of services. This approach helps councils to use their resources in the most effective way possible and is particularly relevant set against the current economic climate. The six key areas within the Efficiency Framework are as follows:

12 BACKGROUND PAPERS

12.1. None.

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