

**Title:** Care Act Implementation

**Wards Affected:** All

**To:** Health and Wellbeing Board **On:** 16 September 2014

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## **1. Purpose**

- 1.1 This report provides an update to the Health and Wellbeing Board on the Care Act.

## **2. Recommendation**

- 2.1 That, as the process of implementation of the Care Act continues, the Health and Wellbeing Board receive regular updates in order that:
- the financial and operational risks associated with complying with the Act are understood and mitigated; and
  - the continuing work on integration, cooperation and prevention is embedded coherently across all the elements of system change in Torbay including the establishment of the Integrated Care Organisation and the Pioneer programme.

## **3. Background**

- 3.1 The new Care Act in England creates a single modern piece of law for adult care and support in England. It updates complex and out-dated legislation that has remained unchanged since 1948.
- 3.2 The Act brings about many of the improvements to the care system described in the Government's white paper 'Caring for Our Future: reforming care and support (July 2012)'
- The Assessment Process
  - Building Stronger Communities
  - Better Information and Advice
  - Keeping People Safe

- 3.3 The Act provides better support for carers and also puts into legislation the changes recommended by the Dilnot Commission regarding the funding of care and support and takes forward elements of the government's initial response to the Francis Inquiry.
- 3.4 The Act is split into 3 parts.

### ***1. Reform of care and support***

The Act brings together existing care and support legislation into a new, modern set of laws and builds the system around people's wellbeing, needs and goals.

It sets out new rights for carers, emphasises the importance of preventing and reducing care and support needs, and introduces a national eligibility threshold for care and support.

It introduces a cap on the costs that people will have to pay for care and sets out a universal deferred payment scheme so that people will not have to sell their home in their lifetime to pay for residential care.

### ***2. Response to the Francis Inquiry on failings at Mid-Staffordshire Hospital***

The Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry led by Robert Francis QC, identified failures across the health and care system that must never happen again. The Act helps deliver the Government's commitment to ensure patients are the first and foremost consideration of the system and everyone who works in it.

It sets out Ofsted-style ratings for hospitals and care homes so that patients and the public can compare organisations or services in a fair and balanced way and make informed choices about where to go.

It will enable the new Chief Inspector of Hospitals, appointed by the Care Quality Commission, to trigger a process to deal with unresolved problems with the quality of care, more effectively.

It will also make it a criminal offence for health and care providers to supply or publish false or misleading information.

### ***3. Health Education England and the Health Research Authority***

The Act establishes Health Education England (HEE) and the Health Research Authority (HRA) as statutory non-departmental public bodies, giving them the impartiality and stability they need to carry out their roles in improving education and training for healthcare professionals, and protecting the interests of people in health and social care research.

#### 4. Care Act Key Milestones and Main Provisions

May 1 2013 – April 1 2014	April 1st 2014	May 1st 2014	October 1 <sup>st</sup> 2014	April 1 <sup>st</sup> 2015	April 1st 2016
Care Bill in Parliament until Royal Assent	Royal Assent of the Care Bill	Consultation period for regulations and guidance (coming into effect April 2015) plus impact assessments	<ul style="list-style-type: none"> <li>Regulations laid before Parliament for provisions coming into force April 2015</li> <li>Publication of regulations and guidance</li> </ul>	Care Act part 1 provisions (excluding funding reform) come into force	Care Act part 1 funding reform provisions come into force

##### Deferred Payments

<b>Implementation</b>	April 2015
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>People who face the risk of having to sell their home in their lifetime to pay for care home fees will have the option of a deferred payment</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>Everyone in a care home who meets the eligibility criteria will be able to ask for a deferred payment regardless of whether or not the local authority pays for their care</li> <li>Councils will be able to charge interest on loans to ensure they run on a cost neutral basis</li> </ul>
<b>Key impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>Sound financial processes to support increased number of DPAs</li> <li>Sufficient staff / IT capacity</li> <li>Creation of a “funding pool” for loans</li> </ul>

##### Additional Assessments and Changes to Eligibility

<b>Implementation</b>	April 2015
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>Early intervention and prevention: supporting people as early as possible to help maintain their wellbeing and independence</li> <li>Eligibility to be set nationally based on risk to the individual's wellbeing (as opposed to the risk to the individual's independence)</li> <li>Focus on outcomes and wellbeing</li> <li>Assessment to take into account the needs of the whole family as well as of any carers</li> <li>New arrangements for transition to adult care and support</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>Councils will have a new duty to carry out a needs assessment for all carers (no longer dependent on the cared-for person meeting the FACS eligibility criteria)</li> <li>New duty to provide advice and information to service users and carers who do not meet the eligibility threshold</li> <li>Duty to assess young people, and carers of children, who are likely to have needs as an adult where it will be of significant benefit, to help them plan for the adult care and support they may need, before they (or the child they care for) reach 18 years</li> <li>Legal responsibility for local authorities to cooperate to ensure a smooth transition for people with care needs to adulthood</li> <li>New national eligibility threshold (likely to be set at Substantial and Critical)</li> </ul>
<b>Key impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>Expanded assessment capability to cope with increased demand</li> <li>Assessment process that is focused on outcomes and wellbeing</li> <li>Strong and effective partnership working across adults' and children's services during transition</li> </ul>

<b>Advice and information</b>	
<b>Implementation</b>	April 2015
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>Information should be available to all, regardless of how their care is paid for</li> <li>Good quality, comprehensive and easily accessible information will help people to make good decisions about the care and support they need</li> <li>Councils have a key role in ensuring good quality advice is available locally and for sign posting people to independent financial advice</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>Councils will be required to provide comprehensive information and advice about care and support services in their area and what process people need to use to get the care and support that is available</li> <li>They will also need to tell people where they can get independent financial advice about how to fund their care and support</li> <li>Councils will be required to provide independent advocates to support people to be involved in key processes such as assessment and care planning, where the person would be unable to be involved otherwise</li> </ul>
<b>Key impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>Establish strong joint working arrangements across Health, Children &amp; Adult services to support the transition pathway</li> <li>Establish processes for sharing information and completing assessments when eligible clients move between areas</li> <li>Continuous development of POD to ensure up to date and relevant information and advice available</li> </ul>

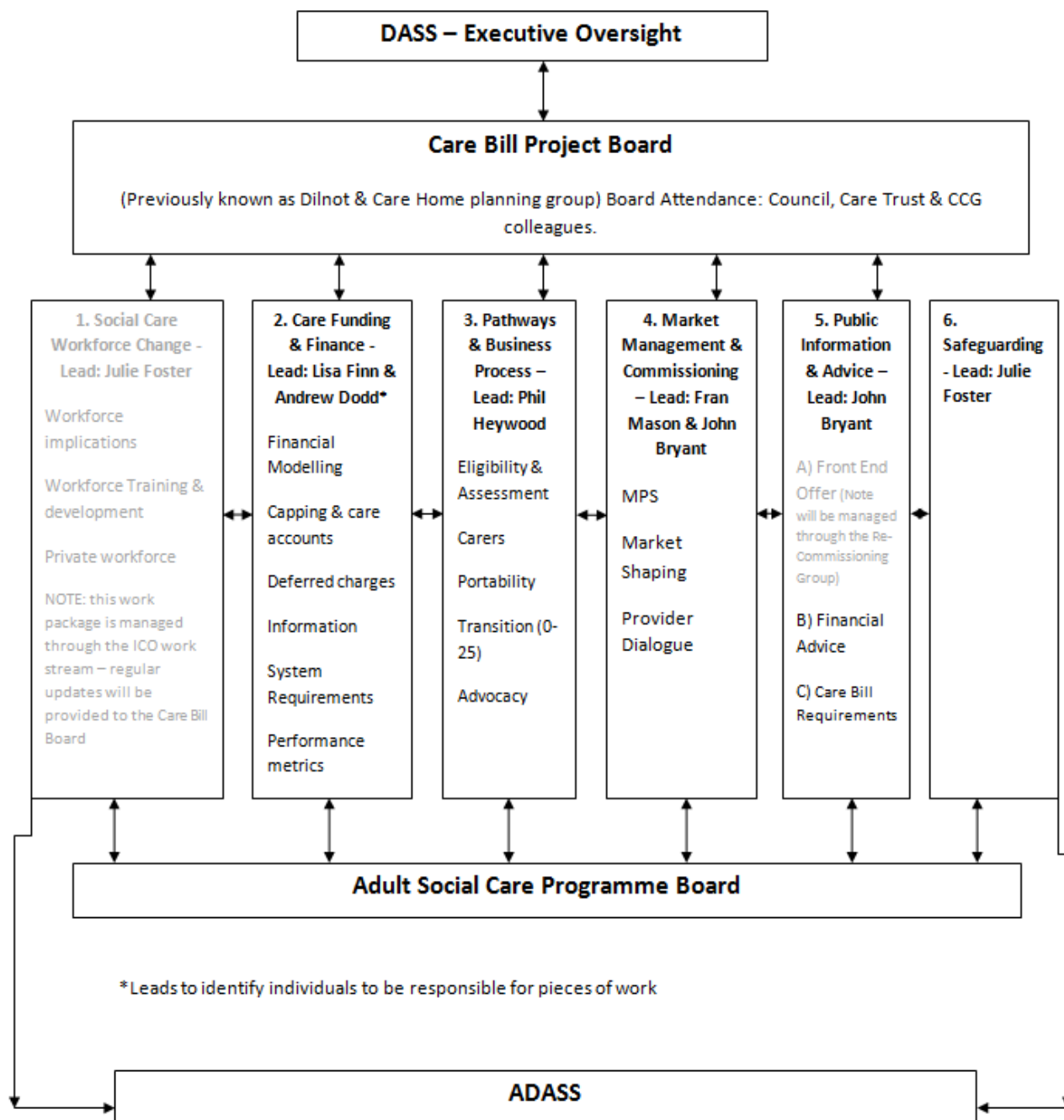
<b>Commissioning</b>	
<b>Implementation</b>	April 2015
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>A wide range of good quality care and support services will give people more control and choice and ensure better outcomes</li> <li>Councils have an important role in developing the quality and range of services that local people want and need</li> <li>Integrated commissioning with key partners, including health and housing, is essential to ensure quality as well as value for money and improve user satisfaction</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>Duty on councils to join up care and support with health and housing where this delivers better care and promotes wellbeing</li> <li>Duty on councils to ensure there is a wide range of care and support services available that enable local people to choose the care and support services they want (market shaping)</li> <li>New right to a personal budget and direct payment</li> </ul>
<b>Key impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>Develop market position statement(s) which clearly identify strengths / weaknesses in local provision</li> <li>Review interface with Housing functions</li> <li>Use Better Care Fund (formerly Integration Transformation Fund) to promote coordinated health and social care</li> </ul>

<b>Safeguarding</b>	
<b>Implementation</b>	April 2015
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>The Act sets out a clear legal framework for how local authorities should protect adults at risk of abuse or neglect</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>The Act creates a legal framework requiring key organisations with responsibility for adult safeguarding to agree how they must work together to keep vulnerable adults safe.</li> <li>The Act legislates for Safeguarding Adults Boards (SAB) to be established by the Local Authority.</li> </ul>
<b>Key impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>Establish systems to ensure the SAB arranges Independent Management Reviews and Serious Case Reviews as necessary</li> <li>Establish joint working protocol with key partners which clarifies roles, responsibilities and allows for the sharing of information.</li> </ul>

<b>Funding reform (cap on costs)</b>	
<b>Implementation</b>	April 2016
<b>Key Principles</b>	<ul style="list-style-type: none"> <li>▪ Financial protection: everyone will know what they have to pay towards the cost of meeting their eligible needs for care and support</li> <li>▪ People will be protected from having to sell their home in their lifetime to pay for any care home costs</li> <li>▪ People will be helped to take responsibility for planning and preparing for their care needs in later life</li> </ul>
<b>Important Changes</b>	<ul style="list-style-type: none"> <li>▪ Introduction of a cap on costs of meeting eligible needs for care and support (to be set at £72,000, when it is introduced, for those of state pension age and above when it is introduced) including independent personal budgets and care accounts. The cap will be adjusted annually, as will the amount people have accrued towards the cap</li> <li>▪ No contribution expected for young people entering adulthood with an eligible care need</li> <li>▪ Lower cap for adults of working age (level to be determined)</li> <li>▪ Increase in capital thresholds / extension to the means test providing more support to people with modest wealth. The changes will mean that people with around £118k worth of assets (savings or property) or less will start to receive financial support if they need to go to a care home</li> <li>▪ New legal basis for charging covering both residential and non-residential care</li> <li>▪ Consistent approach towards calculating a contribution towards general living costs for people in residential care (general living costs reflects the cost that people would have to meet if they were living in their own home such as food, energy bills commonly referred to as 'Hotel' costs)</li> <li>▪ New framework for eligibility with threshold to be set nationally (to be implemented in April 2015)</li> </ul>
<b>Key Impact/support requirements for Implementation</b>	<ul style="list-style-type: none"> <li>▪ Financial and IT systems to establish and monitor care accounts</li> <li>▪ Additional assessment capacity for all self-funders who ask for a care account</li> </ul>

## 5. Local Implementation

- 5.1 The decision has been reached to link the Implementation of the Care Act to the wider programme of 'joined up' integrated commissioning and integrated provision (the expectation is the prime provider will be an Integrated Care Organisation (ICO)). In line with this methodology a Project Board have been established, with the Director of Adult Social Services as project sponsor and involves colleagues from the council, the 'care trust' and the CCG. There are a total of 5 work groups to steer through the implementation of the different components:



- 5.2 This approach reflects the broader approach through ADASS in the south west to ensure synergy and maximising the use of regional resource. Torbay has received a one off grant of £125,000 to support the implementation of the Care Act Project. An options appraisal is currently being developed to agree how the grant will be used to support the project however, it is anticipated that the money will be used to support Finance, Performance & IT work packages.