

# REPORT FOR DECISION



<b>DECISION OF:</b>	<b>CABINET</b>
<b>DATE:</b>	<b>5th September 2018</b>
<b>SUBJECT:</b>	<b>CARE ACT 2014 – OPERATIONAL POLICIES</b>
<b>REPORT FROM:</b>	<b>THE DEPUTY LEADER – CABINET PORTFOLIO HOLDER HEALTH AND WELLBEING – CLLR ANDREA SIMPSON</b>
<b>CONTACT OFFICER:</b>	<b>Shirley Allen</b>
<b>TYPE OF DECISION:</b>	<b>CABINET – KEY DECISION</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>The Care Act 2014 is the biggest change to English adult social care law in over 60 years, reforming the law relating to care and support for customers and carers. The Care Act became effective from 1<sup>st</sup> April 2015 and replaces a number of different pieces of legislation with a single modern law and a new legal framework that affects how Councils support people with care and support needs and carers.</p> <p>The Care Act introduced a number of significant changes to how care is charged for, who may have to contribute and how much people will have to pay towards their care.</p> <p>As a result of the implementation of the Care Act, Bury Council have reviewed and refreshed the following key operational policies and produced an internal staff Personal Budget guidance document.</p> <ul style="list-style-type: none"> <li>• Assessment and Eligibility Policy</li> <li>• Charging and Financial Assessment Policy</li> <li>• Personal Budget Policy</li> <li>• The Residential Care Top Up Policy is a new policy that has been developed as a result of the legislation and will require processes and</li> </ul>

	<p>pathways to be established prior to implementation.</p> <ul style="list-style-type: none"> <li>• Personal Budget Policy Staff Guidance (for internal use only)</li> </ul> <p><b>Key Policy Changes</b></p> <ul style="list-style-type: none"> <li>• To introduce a national eligibility criteria which will apply to all councils in England.</li> <li>• Replacement care is a significant part of the Act, this has now to be incorporated into the customers support plan and financially assessed accordingly.</li> <li>• People who only receive a Day Service will now be asked to pay a charge but will have the opportunity to have a financial assessment of their ability to pay.</li> <li>• To remove from the calculation an allowance of the amount between the Disability Living Allowance (DLA) higher/middle rate where night sitting services are not received.</li> <li>• The charge and financial assessment will be worked out against 100% of the value of the personal budget package.</li> <li>• People who receive more than one carer at the same time may now be required to pay an increase in charges.</li> <li>• In relation to residential care top up charges- a person (third party) agreeing to pay the extra amount will have to sign a legal agreement with the Council, agreeing to meet the extra costs and agreeing to provide details of their personal information.</li> </ul> <p>A small additional resource will be needed to implement the changes to the financial assessment process, this has been agreed on a temporary basis in the first instance, to ensure that a digital approach is embedded.</p> <p>Work is underway to develop the pathways and processes required for implementation, and it is expected that this will be completed by January 2019.</p> <p>On completion of this development work the policies, processes and pathways will be published and implemented.</p>
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<b>OPTIONS &amp; RECOMMENDED OPTION</b>	Requesting the approval of the Assessment and Eligibility Policy, the Charging and Financial Assessment Policy, the Personal Budget Policy, the Residential Care Top Up Policy and the Personal Budget Staff Guidance Policy which is for internal use only.
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	<p><b>Executive Director of Resources to advise regarding risk management</b></p> <p>This report brings the Council's policies in line with the requirements of the Care Act.</p> <p>It is estimated that 350 clients will be impacted by the proposals; the extent of which will be known once financial assessments are undertaken.</p> <p>There is an initial cost of circa £46k relating to temporary posts to implement the changes; this will be met from "Improved Better Care Fund" resources.</p>
<b>Health and Safety</b>	There are no health and safety impacts
<b>Statement by Executive Director of Resources:</b>	There are no wider resource implications
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	<p>Yes                      Comments</p> <p>The Act sets out provisions for the assessment of care needs and those of carers; duties to arrange care; funding and a care cap (deferred until 2020) and new requirements to assess and meet the needs of carers.</p> <p>It includes provisions which should greatly increase transparency about costs of care and a number of general duties which apply</p>

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	<p>when local authorities are fulfilling their social care functions; including duties to promote the wellbeing of individuals and promote integration between health and social care services.</p> <p>As these carry the prospect of significantly more people qualifying for financial assistance and arranging care for those with eligible needs (even if they will not be receiving any financial support); these policies are therefore essential to professional, quality delivery of assessment, support, information and advice for those working with adults who have social care needs and to ensure legal compliance with the Care Act.</p> <p>In considering these policies the Council must have "due regard" to the public sector equality duty and equality impact assessments have been carried out and are attached to this report for consideration.</p>
<b>Wards Affected:</b>	All
<b>Scrutiny Interest:</b>	Yes but is scheduled to take place after Cabinet approval.

## TRACKING/PROCESS

**DIRECTOR: Julie Gonda**

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
26 <sup>th</sup> February 2018/ 3 <sup>rd</sup> September 2018	2 <sup>nd</sup> March 2018		
Scrutiny Committee	Committee	Council	
October 2018			

## 1.0 BACKGROUND

- 1.1 The Care Act 2014 is the biggest change to English adult social care law in over 60 years, reforming the law relating to care and support for customers and carers. The Care Act became effective from 1<sup>st</sup> April 2015 and replaces a number of different pieces of legislation with a single modern law and a new legal framework that affects how Councils support people with care and support needs and carers.

- 1.2 The Care Act introduced a number of significant changes to how care is charged for, who may have to contribute and how much people will have to pay towards their care. The changes identified in section three are not optional and must be implemented in law.
- 1.3 As a result of the implementation of the Care Act, Bury Council have reviewed and refreshed the following key operational policies and produced an internal staff Personal Budget guidance document.
- Assessment and Eligibility Policy
  - Charging and Financial Assessment Policy
  - Personal Budget Policy
  - The Residential Care Top Up Policy is a new policy that has been developed as a result of the legislation and will require processes and pathways to be established prior to implementation.
  - Personal Budget Policy Staff Guidance (for internal use only)
- 1.4 There will be a staff and budget resource requirement to implement the changes, this amounts to £ £46,284 and will be funded temporarily, in the first instance for 12 months from obtaining policy approval.
- 1.5 Work is underway to develop the pathways and processes required for implementation, and it is expected this will be completed by January 2019.

## **2.0 ISSUES**

### **2.1 Changes as a result of the implementation of the Care Act**

- 2.1.1 The key changes will have an impact both in terms of Council and customer resources, the implications for council resources have now been scoped, all of the changes and their possible impact are provided in full detail below;

### **2.2 Assessment and Eligibility Policy**

- 2.2.1 To introduce a national eligibility criteria which will apply to all councils in England. This will bring consistency as everybody will be subject to the same determination wherever they live in England.
- 2.2.2 All carers to be offered an assessment and the development of a national eligibility criteria for carers which will apply to all councils in England. Although Bury has always undertaken carers assessments, some councils do not.
- 2.2.3 Specialist assessments must be provided for people with autism and adults who are deaf blind. This now applies across England. Bury is already doing this.
- 2.2.4 Council has to ensure there is an appropriate individual who can facilitate involvement in the assessment process for people who would have substantial difficulty, if no suitable individual is available the Council must facilitate access to an independent advocate. There is an advocacy service in place for Bury which can also be accessed by carers in their own right.
- 2.2.5 Replacement care is a significant part of the Act, which removes the ability to have services delivered to a customer on the basis of a carers' assessment.

This has now to be incorporated into the customers support plan and financially assessed accordingly.

- 2.2.6 This will impact upon all current carers who have replacement care on their support plans although in most cases this will be transferred to the cared for support plan with no changes to services or additional payments. If a cared for person has been financially assessed and has reached the maximum contribution they can pay towards services there will be no additional payments.

### **2.3. Charging and Financial Assessment Policy**

- 2.3.1 Social Care services are not free and the Government expects councils to charge and collect income to help provide these services. Social Care Services might include, for example, care at home, day services, or residential care services. The Council has to make sure that it follows the rules that the Government has set in the Care Act 2014.
- 2.3.2 People who only receive a Day Service will now be asked to pay a charge but will have the opportunity to have a financial assessment of their ability to pay. Some people will already be paying their individual maximum amount if they are receiving other services and have already had a financial assessment. Therefore they will pay no more. Some people will already be receiving services with no charge because of the result of their financial assessment. This will not change.
- 2.3.3 To remove from the calculation an allowance of the amount between the Disability Living Allowance (DLA) higher/middle rate where night sitting services are not received. This allowance will now be removed from the financial assessment and this may increase charges for some people.
- 2.3.4 The charge and financial assessment will be worked out against 100% of the value of the personal budget package. People whose elements of the support plan are not personal care will now be charged, previously these non - personal care elements were left out of the financial calculations.
- 2.3.5 Charges will be for the total time for all carers required to carry out the task. People who receive more than one carer at the same time may now be required to pay an increase in charges, people with only one carer or who already pay the maximum financially assessed amount will not be affected.

### **2.4 Residential Care Top Up Policy**

- 2.4.1 The person (third party) agreeing to pay the extra amount will have to sign a legal agreement with the Council, agreeing to meet the extra costs and agreeing to provide details of their personal information. This will affect people who have agreed to meet the extra costs on behalf of a resident in a care home, that charges more than the agreed rate, where previously the person contracted directly with the care home but will now contract with the Council.
- 2.4.2 The person (third party) must provide financial details to confirm they have;
- 2.4.3 At least 3 year's worth of savings to cover the extra costs, or they have;

- 2.4.4 Enough weekly income above this weekly expenditure to meet the extra costs. This calculation and the process are new and pathways and procedures will need to be developed once the policies are approved.
- 2.4.5 To introduce a way of calculating that the person (first party) living in the care home can pay this extra cost themselves, this is usually only when they have a house to sell. Checks will need to be made that there is enough capital within the property to offset the additional costs for at least 3 years.

## **2.5 Personal Budget Policy**

- 2.5.1 Clarifies the amounts allowed to be spent from the personal budget to purchase services needed, the budget will be generated using a series of established fees and will apply to all people who receive direct payments. This makes sure it is fair and consistent approach compared with those people who chose to have their services provided to them by the Council. Further details are contained in the appendices of the Personal Budget Policy.
- 2.5.2 If a person chooses a service at a higher rate it must be identified who will be willing and able to meet the additional costs. This will apply to all people receiving direct payments who choose services higher than standard rate. This makes sure it is a fair and consistent approach compared with those people who choose to have their services provided to them by the Council.

## **2.6 The Engagement Process**

- 2.6.1 A steering group was set up to look at how Bury Council could communicate these impending changes to as many people as possible in Bury, including current customers, providers and the wider general public.
- 2.6.2 The engagement exercise began in the second week of September 2017 and ran until the 18<sup>th</sup> of January 2018.

## **2.7 The following engagement methods were used;**

- 2.7.1 An engagement booklet was produced with details of the process, all of the changes, how people could let us know about any particular issues, details of a number of public drop in sessions and where further information could be found. The engagement booklet was designed to allow people to contact us to let us know their thoughts and was designed so that it could be folded up and sealed and returned postage paid to the Council.
- 2.7.2 5000 hard copies of the engagement booklet were designed and printed and 4500 were distributed to various sources.
- 2.7.3 Hard copies of the engagement booklet were sent through the post to current customers and carers, or their nominated representatives, where we had the information on our systems.
- 2.7.4 Hard copies were also made available at all libraries, the Town Hall, Knowsley Place, Whittaker Street and Humphrey House reception areas, Connect and Direct Hub and the Carers Centre on Silver Street.
- 2.7.5 Hard copies were also provided to social care assessment staff. Social care assessment staff were provided with information about the engagement

process at least two weeks before commencement so that they would be able to respond to any issues that arose as part of their day to day duties.

- 2.7.6 The engagement booklet, draft copies of the four policies and the Care Act guidance were available to read or download on the Bury Directory.
- 2.7.7 Comments could also be provided on line through survey monkey, the link to the survey was widely advertised amongst partners and all council staff and via social media by the Social Development Team.
- 2.7.8 A designated telephone line was provided and advertised widely so that people could contact the Council if they had any queries, wanted copies of the draft policies, or needed the information in a different format. A number of people used this method to find out how the changes in policies would affect them personally.
- 2.7.9 A number of public drop in sessions, one in each township, were held where people could drop in and find out more. Most of the people attending the drop ins wanted to know how the changes would impact upon them personally.
- 2.7.102 Appropriate staff also attended a number of targeted forums where the changes were discussed in detail. One coffee morning at the Carers Centre where over 50 carers attended, one session at the Carers Forum at which over 40 people were in attendance, two provider forums.
- 2.7.11 Officers also attended other forums that were already booked and initiated discussions around the changes.
- 2.7.12 All Bury Council staff with internet access were sent an electronic copy of all of the engagement information and given the opportunity to feed back any comments.
- 2.7.13 Electronic information was sent to all care at home, residential and nursing and supported living providers registered with Bury Council, to Bury Clinical Commissioning Group for distribution to their staff, Bury Dementia Action Alliance members and to the local Dementia Champions network.

## **2.8 Numbers of people engaged with over the period;**

- 2.8.1 45 people attended drop in sessions set up at Radcliffe Library, Elms Community Centre, Ramsbottom Centre, Elton Community Centre, The Mosses Centre and the Green Room Textile Hall.
- 2.8.2 2 provider forums were held at which 60 representatives from various providers attended.
- 2.8.3 Over 110 people attended the two carers events.
- 2.8.4 The dedicated phone line received 34 calls and 40 responses were received back from either online survey monkey or hard copies sent pre - paid back to the Council.
- 2.8.5 The Bury Directory received 447 views between 1<sup>st</sup> September to 31<sup>st</sup> December 2017 which was up by 200.65% on the site average



## **2.9 Feedback Received**

2.9.1 The majority of people who contacted the Council or attended an event wanted to know how the changes would affect them personally. Where this was the case officers contacted them personally and discussed these issues in private.

2.9.2 The most common themes;

- People's concerns about Residential Care Top Ups and the financial checks that would be required to check sustainability.
- A number of people wanted to let us know that they were currently being charged a top up by care homes for their relatives.
- Just to note that at every session, excepting the provider forums we received comments/complaints about this.

2.9.3 Other common themes that were discussed were;

- Charges for day care, charges for 2 carers and replacement care.
- A number of people were concerned about the changes to DLA and PIP and how this may result in them having to pay more for services.

## **2.10 Equality and Diversity**

2.10.1 The Care Act 2014 was brought into legislation in order to offer clearer more equitable access to social care and services. Many of the changes to policies will ensure that customers for whom the Council commissions services will be treated equally to those for whom the Council provides a personal budget to buy their own services as the funding available to a customer will be formulated from the same fee baselines as detailed in the Charging and Financial Assessment Policy appendices.

2.10.2 In relation to the Assessment and Eligibility process all cared for customers and carers will be subject to the same eligibility criteria across England no matter where they live.

2.10.3 In relation to the Residential Care Top Up policy this is expected to ensure that all customers are treated fairly in relation to additional charges set by Residential Care Homes and that there is a transparent system in place so that customers who choose to have an enhanced service from a provider know exactly what they are being charged extra for. All EIAs are included in the background papers for further information.

## **2.11 Risk**

2.11.1 The full financial implications of the legislative changes have not yet been fully scoped. Each customer is treated individually under the personalisation agenda and as such will have to be individually assessed to assess personal impact. There are a number of variations to be assessed including type and complexity of services provided and personal income that will be subject to financial assessment.

### 3.0 CONCLUSION

- 3.1 Work is underway to develop the pathways and processes required for implementation, and it is expected that this will be completed by January 2019.
- 3.2 On completion of this development work the policies, processes and pathways will be published and implemented.

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#### List of Background Papers:-

##### 1. Policies for Approval



Eligibility and  
Assessment Policy



Charging and  
Financial Assessment



Personal Budget  
Policy - Staff Guidance



Personal Budget  
Policy v0.13 May 2018



Residential Care  
Top Up policy v0.7 N

##### 2. Equality Impact Assessments



Equality Analysis -  
Charging and Financial



EA - Equality  
Analysis Form Care



Equality Analysis  
Form Residential Care



EA - Equality  
Analysis Form Personal

##### 3. Link to the Care Act 2014 Guidance

<https://www.gov.uk/government/publications/care-act-statutory-guidance>

##### 4. Care Act Engagement Booklet



40087 Bury Council  
questionnaire booklet

#### Contact Details:-

*Shirley Allen*

*Project Lead*

*Communities and Wellbeing - Strategic Development Unit*

[S.Allen@bury.gov.uk](mailto:S.Allen@bury.gov.uk)

0161 253 6302