

Appendix 1

Briefing note on the Care Act 2014

The Care Act is the government's response to three key public reports:

1. **The Law Commission Report, May 2011**, which described adult social care law as: "...inadequate, often incomprehensible and outdated. ...a confusing patchwork of conflicting statutes enacted over a period of 60 years.
2. **The Dilnot Commission Report, July 2011**, which stated: "...the current funding system [for adult social care] is in urgent need of reform: it is hard to understand, often unfair and unsustainable. People are left exposed to potentially catastrophic care costs with no way to protect themselves."
3. **The Public Inquiry into the NHS Mid-Staffs scandal, February 2013 ['Francis Report']**: "...a story of terrible and unnecessary suffering of hundreds of people who were failed by a system which ignored the warning signs of poor care and put corporate self-interest and cost control ahead of patients and their safety."

The Care Act is intended to deliver three key outcomes from those reports:

1. **Law Commission**: "...a single, modern statute to which service providers and service users can look to understand whether (and, if so, what kind of) services can or must be provided... a clearer, modern and more cohesive [legal] framework for adult social care."
2. **Dilnot Commission**: "Putting a limit on the maximum lifetime costs people may face will allow them to plan ahead for how they wish to meet these costs. By protecting a larger amount of people's assets, they need no longer fear losing everything."
3. **Francis Report**: "...focusing on the role of three key 'lines of defence' against poor-quality care: frontline clinical teams, the boards leading NHS organisations, and national organisations responsible for overseeing the commissioning, regulation and provision of care."

The Care Act has four Parts, reflecting those objectives:

1. **Part One [Law Commission & Dilnot]**: Consolidates adult social care law into one Statute; introduces the 'Well-being Principle' for all actions; and will impose a lifetime cap on the cost of care for any individual.
2. **Part Two [Francis]**: Mandatory health care and management standards for the NHS.
3. **Part Three [Francis]**: Regulation of Health Education & Health Research; and powers of 'Trust Special Administrators' to close hospitals
4. **Part Four [Combined]**: Promotion of greater integration between adult social care and the NHS.

Stages of enactment:

Royal Assent received	14 th May 2014;
Draft Regulations and Guidance published for consultation	6 th June 2014;
Consultation period ends	15 th August 2014;

Final Regulations and Guidance scheduled	October 2014;
Enactment (bar the 'care cap')	April 2015
'Care cap' enactment	April 2016

Headline changes impacting on adult social care:

- Introduction of the 'Well-being Principle': "The general duty of a local authority, in exercising a function under this Part in the case of an individual, is to promote that individual's well-being." Part 1, 1(1).
- The deletion of the current four-tier eligibility criteria (Critical/Substantial/Moderate/Low) based on 'risk to independence', and replacing that with a single-tier functionality eligibility test based on 'significant risk to well-being'.
- New rights in law for carers to be assessed and to receive services, using a single-tier functionality test based on 'significant impact on well-being'.
- The deletion of the current criteria for a carer's assessment that the carer is providing 'a regular and substantial amount of care'.
- Enhanced rights for 'self-funders' to receive information, advice, guidance and support, from April 2015.
- New rights for all, including self-funders, to open a 'Care Account' in order to calculate costs of care towards the lifetime cap on costs, from April 2016.
- A new duty to provide independent advocacy for anyone who might have 'substantial difficulty' in being 'fully engaged' in any aspect of adult social care including: understanding how adult social care functions; and the assessment, care planning and review processes.
- An enhanced duty to provide or commission information, advice, guidance and advocacy services, including access to independent financial advice.
- An enhanced duty to prevent, reduce or delay needs for adult social care arising and to prevent loss of well-being for people with adult social care needs.
- An enhanced duty to seek out local people with unidentified social care needs.
- A duty to maintain a diverse, high-quality and sustainable market of providers of adult social care services.
- New duties for Councils to take a statutory local lead on adult safeguarding.
- New duties to ensure continuity of care and 'portability' of services for people moving to a new Local Authority.
- Enhanced duties to assess the needs of prisoners and others in secure accommodation, and to provide services to meet eligible needs.
- Enhanced duties to support young carers and young people with social care needs in transition to adulthood.
- New powers of delegation of adult social care functions.
- Enhanced duties, powers and expectations to co-operate with local agencies and to integrate with the NHS.