APPENDIX 1

BRIEFING NOTE - CARE ACT IMPLICATIONS

BRIEFING PURPOSE

This briefing is intended to provide additional detail about the Care Act and some of the potential impacts / implications.

Part 1- Care & Support

Part 1 is by far the largest part of the Act (80 of 129 sections) and together with schedules 1-4, updates and extend councils' responsibilities with regard to;

- The assessment and provision of social care services for residents with social care needs,
- Market shaping services for residents with minimum eligible social care needs and increasingly for those without those needs levels
- The development of universal services for local residents – together with a much improved Information, Advice & Guidance service / offer

These responsibilities include;

- Working to new assessment criteria and being required to offer services to those that meet new national minimum eligibility thresholds
- Improving the assessment processes and resulting 'offers' for carers and also for young people involved with Children's Services
- Delaying or reducing the need for care and support by commissioning preventative services
- Increasingly integrating care / support services and assessments with the NHS
- Better joining up and cooperation between children's, adults, housing and public health services
- Providing a universal and accessible Advice & Information Service for all residents – not just those with social care needs
- Promoting diversity and quality in the local care / support services market to enable more residents , as well as those with social care needs to receive the help that they need
- Updating all charging policies and financial assessment processes to reflect funding reforms , and also being required to offer a new Deferred Payment Process
- Brokering Services for those without minimum levels of eligible need, but that request this help
- Improving Safeguarding , and putting Safeguarding Adults Boards on a statutory basis
- Mitigating against provider failure by meeting more adults needs when care providers collapse, and revised working arrangements with the Care Quality Commission

Not all of these responsibilities are new – some update existing legislation, some reflect best practice and some are simply business as usual.

Taken together with increasing demand, increasing expectations and increasingly restricted funding however, the Act is projected to have major implications for councils / partners. These implications include additional assessments being required, improving a range of provisions / services, additional cost pressures as well as changes to on-going commissioning arrangements with partners.

Central Government additional funding to help with integrated working and with implementation costs is not new money and is unlikely to be sufficient .In addition turnaround times between the issue of final legislation and their implementation are tight;

Some of the main changes / implications of the Care Act are detailed below;

- Consolidation and replacement of most social care legislation and charging legislation – with individual well being considered as the main driving force for the provision of care and support.
- Clear legal entitlements to care and support, and with minimum eligible needs that must be met, with these suggested as being linked broadly to the current FACS 'Substantial' level.
- More carers to receive support - they must be assessed in their own right and more customers will count as carers due to the carer definition being relaxed.
- The implementation of a £72,000 cap on most customers care costs, with liability after that towards daily living costs only. As this cap includes any contribution the council itself makes towards the customers care services so people could pay much less. Others could pay more as the cap is also based on what it would cost the council to procure such services itself rather than the higher actual costs self-funders may face
- Self-funders or potential self-funders will be able to request a 'care needs' assessment simply in order to establish the costs of their care – and will receive a notional budget (Care Account) based on this to allow their contributions to be tracked towards the Contributions (Care) Cap.
- Councils to have increased statutory duties linked to the provision of information /advice for all potential customers, preventative services, market shaping, and to support more integrated working with Health.
- A strengthened requirement for the on-going review of care / support plans and of the information that must be provided to customers that have been assessed.
- All customers with eligible needs will have a right to a Personal Budget / Direct Payment.
- Self-Funders, including people that are adjudged to have insufficient eligible needs, will have the right to ask councils to arrange their care and support services for them.
- Councils will have a duty to offer Deferred Payments to more customers, subject to safeguards

- .The potential for customers to be able to ‘appeal to an existing statutory body about decisions on their assessments / decisions made about their contributions
- Increased safeguarding responsibilities – with Statutory Safeguarding Adults Boards being established in every area.
- Significant workforce considerations, including retraining and embedding additional capacity. These are to manage changing legal requirements as well as managing expected increased demands in some areas.

Part 2 - Care Standards

The second part of the Act relates to care standards, providing the Government’s legislative response to the Francis Inquiry into the failings at Mid-Staffordshire hospital.

- It provides for an extended ‘failure regime’ for NHS healthcare providers by: enabling the Care Quality Commission (CQC) to issue warning notices to NHS Trusts and NHS foundation trusts; extending Monitor’s powers to impose additional licence conditions on foundation trusts; and enabling Monitor to make an order authorising the appointment of a trust special administrator for foundations trusts on quality grounds.
- It introduces Ofsted-style ratings for hospitals and care homes, empowering the new Chief Inspector of Hospitals at the (CQC) to identify problems with care quality and then take action.
- It makes it a criminal offence for care providers to give false and misleading information about their performance.

Part 3 - Health

The third part of the Act covers the establishment and responsibilities of Health Education England and the Health Research Authority

- The establishment of Health Education England as a body designed to supervise education for healthcare professionals only has been seen as a missed opportunity to bring together the training of health and care professionals and to develop a workforce with a common culture and a more integrated approach across health and social care.

Parts 2 & 3

- The draft provisions in the Bill which dealt with the NHS failure regime had become highly controversial, since it was realised that the powers of the trust special administrators appear to allow them to make wide-ranging decisions about reconfiguring health services in the area of an NHS trust in administration, including closing hospitals. Following a campaign by MPs, pressure groups and trust representative bodies, the Government adopted an amendment which will allow local commissioners not directly involved with failing trusts to respond to proposals made by trust special administrators. This amendment does not, however, significantly reduce the contentious powers conferred on the administrators by the Act.