



**Briefing 15-59      December 2015**

## **Care Act 2014 (Part 1) – A PESTLE Impact Analysis**

**To: All APSE contacts, England. For information to Scotland, Northern Ireland and Wales**

- This briefing explores the key issues from the Social Care Act 2014
- Using a PESTLE impact analysis this briefing is a useful short reference point for the main changes arising from the Care Act and provides an analysis of issues for local authorities who provide social care.

### **1. Introduction**

The Care Act 2014 (hereafter 'The Act') is the most far-reaching and influential piece of legislation related to care services in the history of welfare provision in the UK. The Act consolidates and builds upon the best local practices, in particular around safeguarding and personalised approaches to service planning and delivery.

What follows is a PESTLE analysis, examining the impact of the Act from a **P**olitical, **E**conomic, **S**ocial, **T**echnological, **L**egal and **E**nvironmental standpoint. This format is intended to offer a wide and brief sense of the scope of change and may be ideal for those who work outside adult social care, offering a thorough overview of the changes affecting their sector.

Links to further reading are included in the final section.

### **1. PESTLE Impact analysis**

#### **2.i Political**

- The process undertaken to develop the Act was innovative and has set a precedent of a highly collaborative approach in delivering new legislation. The programme management office has been set up jointly with the Local Government Association and the Association of Directors of Adult Social Services and so stakeholders have acted as partners, with responsibility for implementation, going beyond the more usual advisory role.

- Consultation has been careful and wide-reaching. Consultation on the draft guidance and regulations received over 4000 responses and changes were made in response. 'Stocktake' surveys of authorities with responsibility for social care have received 100% response rates and consequently progress with implementation has been reactive to local authority readiness.
- Due to the above, the legislation's passage through the House of Commons was smooth and has received cross-party political and stakeholder support, in spite of funding concerns following on from the Dilnot report.

## **2.ii Economic**

- The Department of Health's Impact Assessment of the Act's regulations and guidance which came into force this year, estimates the net benefit of these sections of the Act to be £22 825.7 million. Key changes which contribute to this total include:
  1. Better health outcomes for carers and more opportunity for carers to work due to a new duty on local authorities to prepare support plans for carers and fund support for eligible needs.
  2. Smoother transition into residential care, through access to a deferred payment scheme, mitigating the need to sell property in haste, reducing associated anxiety and hence health outcomes for care users.
  3. Greater understanding of the legal framework underpinning social care, due to the addressing of 'gaps' and the tying together of various pieces of legislation in to a single, modern law which is easier to understand. This should reduce time invested in interpreting the law and reduce the number of mistakes made and hence the cost of complaints and litigation fees.
- It is intended that the cost of the changes to services within the Act are fully funded by government. The government has allocated £470.5 million to local authorities for the implementation of the Care Act in 2015/16, intended for the following costs:
  1. Carer assessments and carer support
  2. Conducting assessments according to the new national minimum eligibility criteria for care services.
  3. Meeting new, more specific duties for providing information and advice about options for care.
  4. Providing an independent advocate in cases where needed when planning and reviewing care.
  5. Implementing new safe-guarding measures
  6. Funding for planning towards administering the cap on care costs and associated assessments with those who pay for their care.
  7. Provision of a deferred payment scheme, a new duty under the Act.
  8. Capital funding for new IT systems

9. Care and support in prisons
10. General pressures due across implementation

The risk to local authorities is that in determining funding levels, demand and costs have been under-estimated and in the case that costs exceed the funding allocations, the Department of Health has no contingency funds. All additional costs will fall to local authorities. In addition local authorities are facing unprecedented cuts to funding. The National Audit Office reported a risk that two in three councils have been over or under funded, with two types of councils in particular more likely to be underfunded than over funded; London Boroughs and Unitary councils.

- Approximately 30% of this funding has been allocated through (but not ring-fenced within) the Better Care Fund and Local Authorities need to negotiate access to this funding with health partners. Unfortunately, a survey of all 152 local authority providers in September 2014 indicated that, for a fifth of authorities, their access to funding through the Better Care Fund was 'not in line with expectations'.
- For the individual care user or carer, there are many ways in which their personal finance situation might improve under the changes effected by the Act. Carers are additionally entitled to funded support services which may enable them to take up further employment. In some local authority areas the new eligibility criteria may mean that more people are entitled to social care provision. Deferred payment schemes (if not already in place) will enable care users to retain property assets for longer.
- When implemented, the right for all residents to request that local authorities arrange their care may mean that those who are funding their own care can access the rates secured by local authorities and the cap on care costs, will mean that the amount individuals spend on care over their lifetime will not exceed £72 000 (calculated on the basis of the cost of local authority provision). Also, the upper capital limit below which individuals are eligible for support with care costs on a means-test basis has been lifted from £23 250 to £118 000.
- The changes may affect the housing market as property owners in residential care are able to retain their properties for longer. The Department of Health's Impact Assessment estimates a further 3500 properties nationwide may be empty and forecasts some limited pressure on housing prices.
- The government hopes that the cap on care costs will foster a market for insurance products to cover care costs.
- The care services market itself will be affected by greater oversight and more reporting duties, further online information enabling consumer choice and universal access to local authority services to arrange care.

### **2.iii Social**

- The Act represents a cultural shift in the delivery of social care services to be personalised, preventative and principle based. The key principle on which the reform is based is articulated in section 1 of the Act, which states that the general duty of a local authority in exercising any duty in respect of Part 1 of the Act is to promote the individual's wellbeing. This means that all actions undertaken should fall in line with this principle, promoting the use of professional judgement and preventing against over-reliance on policy and procedure. The user is placed at the heart of care provision, with care support outcome-based, encouraging bespoke approaches and users are supported to influence their care and support plans and the nature of their care.
- One aspect of the act designed to enable the care user to influence the nature of their care is the duty to provide information and advice, much of which will be disseminated online, leading to a greater awareness of care services and ways in which to plan for the care of oneself or loved ones. The simplification of the system, perhaps especially the introduction of a national threshold for state support with care needs will also aid greater understanding of the services available.
- Together with the provision of a cap on lifetime care costs and a right to access a deferred payment scheme and avoid selling one's property as well as a higher upper threshold on means-tested state support, this greater awareness of care options is likely to ease anxiety related to future care provision. Customer experiences will also be improved due to clarity within the Act on the duties of local authorities to support care users through transition periods such as childhood to adulthood or from one local authority area to another.
- The relationship between the older population and local government will change with all care users interacting with their local authority. Those who self-fund their care will now establish care accounts with their local authority to calculate progress towards the cap.
- The institution of carer rights represents a shift towards a greater recognition of carers' contribution to society. Similarly, the introduction of a statutory approach to safe-guarding, recognition of the importance of this issue.

### **2. iv Technological**

- New IT systems have been developed to facilitate administration of the new duties. Systems need to be updated or introduced to manage a vast range of additional or adapted services. For example, new deferred payment schemes, care and support in prisons and new forms of assessment such as the new carers assessments.
- This overhaul of IT systems has presented an opportunity to facilitate integrated service provision through the storing of NHS numbers (this is a requirement on use of the Better Care Fund) on care records, and the use of open APIs (Application Programme Interfaces), which make it easier to share information between different systems. This is particularly necessary since the Act includes new duties

related to the sharing of information when service users move between local authority areas.

- Technological solutions, implemented to support the Act are critical for efficient services and good monitoring of service provision. They are also sought and required to help manage anticipated increased demand for adult social care provision through for example, online assessment facilities.
- New online information services have been developed to help meet the duties for disseminating information and advice regarding local care services to residents.

## **2.v Legal**

- The Act draws together over a dozen different pieces of legislation into one cohesive framework. This has made the law related to social care provision easier to understand and apply.
- It has also modernised the legal basis on which the social care sector is based, framing duties within the context of the principles, which underpin today's care services. For example, running throughout the Act is a focus on the prevention of developing support needs and the involvement of the care user in designing their care services.
- The Act allows for regulations to establish a process through which appeals may be made against decisions taken by a local authority under Part 1 of the Act. (Not yet implemented.)

## **2.vi Environmental**

- There is no significant anticipated impact on the Environment, arising directly from the changes implemented through Part 1 of the Care Act 2014.

## **2. Further Reading**

The following hyperlinks provide useful sources of further reading.

[The Care Act 2014 – Full legislation](#)

[Care Act 2014 Part 1: Factsheets \(Department of Health\)](#)

[Impact Assessment - The Care Act 2014: Regulations and guidance for implementation of Part 1 of the Act in 2015/16 \(Department of Health\)](#)

[Results of local authority 'Stocktake' surveys](#)

[Care Act first phase reforms \(National Audit office\)](#)

[Care Act clause analysis \(Local Government Association\)](#)

### **3. APSE Comment**

APSE welcomes the introduction of the Care Act 2014. We particularly applaud the collaborative approach taken to preparing the legislation and supporting the sector to implement the changes and urge that further government departments seek to adopt this approach when developing legislation affecting the public sector.

It is clear that this modernisation and consolidation of the law surrounding social care will benefit customers and providers of care services. Greater clarity will lead to more successful implementation of the law and a simpler legal framework will lead to greater citizen understanding of their rights and opportunities, empowering citizens to make effective choices. The degree to which care provision has been standardised across local authority areas in England ensures a greater equality of access and a fairer system for all.

We particularly support the introduction of legislation designed to address possible 'stress-points' in the customer journey such as the transition between childhood and adulthood and different local authority areas and also, the initial entrance to residential care, where decisions need to be made about how to manage vacant properties. We urge local authorities to work to support house-owners to fill their empty properties and provide incentive and support to let their homes for affordable rents and to housing benefit recipients and to work together with local housing options teams to consider whether the houses can become homes for the homeless.

APSE welcomes greater access to care services, with all able to benefit from local authority support and advice, a higher threshold for means-tested support and no-one exposed to lifetime care costs beyond the cap. In an increasingly ageing society, it is incumbent upon society to carefully consider the way we respond to increasing care needs and so this thorough overhaul is a timely and prudent intervention.

We welcome the statement that the implementation of the Act will be fully-funded but in the light of no central contingency fund, urge local authorities to consider the precise calculations used to allocate their funding and source local intelligence to boost the estimates and seek to understand as far as possible whether allocated funding is likely to be sufficient within their context. The scale of change is such that the nature of upcoming demand is very difficult to predict and so, despite huge pressures related to implementation, we urge local authorities to dedicate programme management resource to monitoring and reporting on the users interaction with services in these initial months.

Finally, APSE welcomes the introduction of greater oversight of the care services market and urges local authorities to seek to build core capacity within social care services to enable an effective response to market failure. APSE will support its members looking to develop in-house services, as part of their contingency response. APSE is also of the view that social care support for older or disabled citizens should not be limited to services defined as 'social care' within a local authority but should in fact be a theme of service

improvement running through all council departments. For example South Gloucestershire council have developed a building maintenance led 'Handy Van' service to carry out minor repairs for all residents, regardless of home ownership or tenancy status, to enable older people to receive support that will enable them to remain in their own homes. Many councils have developed assisted collections for refuse and recycling whilst others have developed parks and leisure services to help older people out of isolation and loneliness. As the UK's population continues to age it is incumbent upon all strands of public services to explore what further solutions and support they are able to bring to social care on a holistic basis.

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