The Care Act 2014

How it will affect frontline practice in Surrey County Council

A version of these slides was delivered by Andy Butler (Principal Social Worker / Senior Practice Development Manager) to all Surrey County Council frontline adult social care assessment teams between November 2014 and January 2015
Purpose of this presentation

1. Help Surrey County Council social care staff to understand what the Care Act 2014 is

2. Identify what’s new and what’s different, and what that means for frontline social care practice

3. Describe how Surrey County Council social care staff will be supported to implement the changes, and explain how our response to the Act links to the other major change programmes in the Adult Social Care Directorate

4. Focus on the 2015/16 changes (i.e. not the 2016/17 funding reforms)
Surrey Information Summits

• The summits will provide an update on health and social care support, services and information.

• Tailored for staff in Surrey organisations who have a substantial role in providing information across the care pathway.

• A range of presentations and workshops will explain the new legislation and approaches influencing health and social care practice, including the Care Act 2014.

• Please hold one of the below two summit dates if you are interested. Booking forms will be issued in January 2015
  – 17th February 2015, Dorking Halls
  – 4th March 2015, Dorking Halls

• For further details, please contact Vineeta.Bali@surreycc.gov.uk
What is the purpose of the Care Act 2014?

Part 1 of the Care Act 2014 reforms adult care and support in England:

1. Simplifies and clarifies over 60 years of legislation, following the recommendations of a three-year review by the Law Commission.

2. Delivers many of the commitments in the *Caring for our Future* White Paper.

3. Provides for a new capped costs system for funding care and support, based on the recommendations of the Dilnot Commission.
Other parts of the Care Act 2014

• Part 2: Care Standards
  • Duty of candour in NHS trusts
  • Role of CQC

• Part 3: Health
  • Health Education England
  • Health Research Authority

• Part 4: Health and Social Care
  • Integration funds

• Part 5: General
  • Miscellaneous
Care Act 2014 implementation timescales

- **Primary legislation – the Care Act 2014**
  - The legal duties and powers

- **Secondary legislation – the regulations**
  - More detail on critical processes

- **Statutory guidance**
  - Guidance on best practice in meeting legal obligations and delivering care and support

- **Supporting toolkits**
  - Developed by the Local Government Association (LGA), Social Care Institute of Excellence (SCIE), Skills for Care and others to help local authorities implement the Act

- **The majority of the Act goes live**
  - April 2015

- **The cap on care costs, increase in capital eligibility threshold for residential care and appeals legislation goes live**
  - April 2016
Implications of the Care Act in Surrey

- The majority of the Act is not “new”, but consolidates current legislation and guidance into one coherent Act.

- It builds on and strengthens our current practice to embed Personalisation and Family, Friends and Community into our routine frontline practice.

- Where there is no change, it is an opportunity to reinforce best practice and ensure consistency across the service.

- Some parts of the Act introduce extensions or variations to current policy and practice.

- In some parts of the Act, there are new statutory duties which we must comply with and which practitioners will need to be familiar with.
Social care law and policy has evolved over more than 65 years, incorporating around 30 Acts of Parliament, but reform has usually been piecemeal.

1948: National Assistance Act 1948: established the welfare state and abolished the Poor Laws
1960+: NHS and Community Care Act 1990: first major set of reforms, including first right to assessments and start of commissioner/provider split.
1970: Chronically Sick and Disabled Persons Act 1970: reforms to key entitlements to community services
1980+: Community Care (Direct Payments) Act 1996: new powers to make Direct Payments
1990: Carers (Recognition and Services) Act 1995: the first Act to recognise carers
2000+: Carers and Disabled Children Act 2000: extending direct payments to carers
2010+: Health and Social Care Act 2001: updates on Direct Payments
Key Legislation and Guidance - not changing

- Mental Capacity Act 2005
- Mental Health Act 1983
- Children and Families Act 2014 (SEND code of practice)
- Human Rights Act 1998
Key complementary projects - not changing

- Family, Friends and Community support
- AIS upgrade
- Workload management
- Direct payments in care homes and pre-paid accounts
- Better Care Fund
- Equipment and adaptations
- Provider portal
- Making safeguarding personal
- 0 – 25 approach for young people with special educational needs and disabilities.
Care Act 2014: Key legal concepts

- **Must** - means the local authority (LA) has a legal duty to follow it

- **Should** - means the LA should adhere to it - unless there is very good reason not to

- **May** - means the LA can adhere to it but does not have to

- **May Not** - means the LA does not have the power to do it.
What’s **staying the same/small changes**, what’s **different** and what’s **new** for **frontline practice**? (1)

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Different: Promoting ‘wellbeing’
Section 1

What’s different?
• A new legal principle to promote wellbeing when carrying out any care and support functions in respect of an individual
• The wellbeing principle applies equally to carers, self-funders, prisoners and those who do not have eligible needs

What does that mean for frontline practice?
• The wellbeing principle does not require us to undertake any particular action – its purpose is to set common expectations for how local authorities should approach and engage with people
• It means we must consider how to meet each person’s specific needs rather than simply considering what service they will fit into
• The guidance provides a framework for identifying a persons ‘wellbeing related needs’

How will you be supported?
• ‘Confident and enabling conversations’ training; ‘Acting out’ training
• Considering wellbeing embedded into new core Care Act training
• Considering wellbeing embedded into refreshed procedures and practice guidance
“Well-being”, in relation to an individual, means that individual’s wellbeing so far as relating to any of the following:

a. Personal dignity (including treatment of the individual with respect);
b. Physical and mental health and emotional well-being;
c. Protection from abuse and neglect;
d. Control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
e. Participation in work, education, training or recreation;
f. Social and economic well-being;
g. Domestic, family and personal relationships;
h. Suitability of living accommodation;
i. The individual’s contribution to society.
Key matters to take account of
Section 1 (3)

1. The importance of beginning with the assumption that the individual is best-placed to judge the individual’s wellbeing
2. The individual’s views, wishes, feelings and beliefs
3. The importance of preventing or delaying the development of needs for care and support and the importance of reducing needs that already exist
4. The need to ensure that decisions are made having regard to all the individual’s circumstances
5. The importance of the individual participating as fully as possible
6. The importance of achieving a balance between the individual’s wellbeing and that of any friends or relatives who are involved in caring for the individual
7. The need to protect people from abuse and neglect
8. The need to ensure that any restriction on the individual’s rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary
Different: Preventing needs for care and support
Section 2

What’s different?
• We **must** arrange or provide support to prevent, reduce or delay the development of needs by adults and carers.
• Broken down into:
  • Prevent: primary prevention/promoting wellbeing
  • Reduce: secondary prevention/early intervention
  • Delay: tertiary prevention

What does that mean for frontline practice?
• We may see an increase in people presenting for adult social care support
• We will need to have a clear understanding of the timetable of the implementation of the Act, particularly in relation to funding reform
• We’ll need to work closer with other agencies, particularly voluntary and constituent-led organisations

How will you be supported?
• **Family, Friends and Community support**: ‘Confident and enabling conversations’ training; ‘Acting out’ training
• Assessment forms, procedures and practice guidance to be updated. Will be some changes to AIS
• Prevention will be embedded into core Care Act training
• Provider portal project; equipment and adaptations project
• Support from social care development coordinators
Different: Self-funders

What's different?

• From April 2015, the Act makes it clear self funders are entitled to information, advice and guidance (S4)
• If a self-funder in a care home setting asks the local authority to put arrangements in place, we may agree to do so but will be able to charge an administration fee, in addition to the full cost of the placement, to cover our costs
• A new Universal Deferred Payment scheme will be introduced and we must offer a deferred payment if the person meets the criteria (S34)
• Local authorities are under a temporary duty to meet people’s needs (including self-funders’) when a provider is unable to continue because of business failure
• More changes come into effect in April 2016 with the changes to capital eligibility threshold and the cap on care costs (S15, 16)

What does that mean for frontline practice?

• We must treat self-funders on an equivalent basis to those who fund their own care and support

How will you be supported?

• Principle of equivalence for self-funders will be built into core Care Act training
• Guidance will be available to help frontline staff understand the changes
• Support from your local management team
• Refreshed provider failure protocol
• Ongoing work to plan for the implementation of the new cap on care costs in April 2016
Different: Co-operating
Sections 6 and 7

What's different?
• A local authority must co-operate with each of its relevant partners
• Each relevant partner must co-operate with the authority

What does that mean for frontline practice?
• Relevant partners are: all councils; NHS bodies; Department of Work and Pensions; police; prisons; probation services
• Staff will need to co-operate in relation to adults with care and support needs and with their carers

How will you be supported?
• Information sharing protocol
• The Information Governance team can advise when necessary
Different: Assessing needs
Sections 9, 11 and 12

What’s changed?

- Where it appears that an adult may have needs for care and support the authority **must** assess to see if the needs do exist and what they are, regardless of level of need or financial resources
- Assessments **must** include:
  - The outcomes that the adult wishes to achieve in day to day life
  - The impact of the adults needs for care and support on their wellbeing
  - Whether the provision of care and support services could contribute to those outcomes
- Needs assessments **must** involve the individual, carer and any other relevant person
Different: Assessing needs (continued)
Sections 9, 11 and 12

What does that mean for frontline practice?
• Changes to the assessment form and tools for assessment
• Assessments will need to be flexible, proportionate and person centred
• Staff will need to explicitly record decisions around advocates and mental capacity
• Need to ensure joint working with key partners and that we consult experts and specialists when necessary

How will you be supported?
• Assessment forms, procedures and practice guidance to be updated
• Will be some changes to AIS
• Core Care Act training will be delivered to staff on the changes
• Support from your local management team
New: Eligibility criteria
Section 13

What’s new?

• New national eligibility criteria based on 3 key requirements:
  – Needs
  – Outcomes
  – Wellbeing

• No critical or substantial risk bandings

• Focus on wellbeing and outcomes

• Local authorities must consider an individual’s need over an appropriate period of time to ensure that all of their needs have been accounted for when the eligibility is being determined

• Where the person is found to have no eligible needs, local authorities must provide information and advice on what can be done to meet or reduce the needs (for example what support might be available in the community to help the adult or carer) and what can be done to prevent or delay the development of needs in the future
What does that mean for frontline practice?

- Local authorities **must** provide the person to whom the determination relates (whether that is an adult with care and support needs, or a carer with support needs) with a copy of their decision.

- Eligibility determinations **must** be made on the basis of an assessment, and cannot be made without having first carried out an assessment.

- Local authorities **must** inform individuals that a financial assessment will determine whether or not they pay towards their care and support, but this **must** have no bearing on the assessment process itself.

How will you be supported?

- Assessment forms, procedures and practice guidance to be updated
- Will be some changes to AIS
- Core Care Act training will be provided
- Support from your local management team
## New: Eligibility criteria (continued)
### Section 13

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<td>The adult’s needs arise from or are related to a physical or mental impairment or illness.</td>
<td>As a result of the needs, the adult is unable to achieve <strong>two or more</strong> of the following:</td>
<td>As a consequence, there is or is likely to be a significant impact on the adult’s wellbeing, including the following:</td>
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<td>a) managing and maintaining nutrition; b) maintaining personal hygiene; c) managing toilet needs; d) being appropriately clothed; e) maintaining a habitable home environment; f) being able to make use of the home safely; g) developing and maintaining family or other personal relationships; h) accessing and engaging in work, training, education or volunteering; i) making use of necessary facilities or services in the local community including public transport and recreational facilities or services; j) carrying out any caring responsibilities the adult has for a child.</td>
<td>a) personal dignity (including treatment of the individual with respect); b) physical and mental health and emotional wellbeing; c) protection from abuse and neglect; d) control by the individual over day-to-day life (including over care and support provided and the way it is provided); e) participation in work, education, training or recreation; f) social and economic wellbeing; g) domestic, family and personal relationships; h) suitability of living accommodation; i) the individual’s contribution to society.</td>
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New: Eligibility criteria (continued)
Section 13

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<td>1. Needs</td>
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<td>The needs arise as a consequence of providing necessary care to an adult, and the carer is ‘unable’ to achieve the following:</td>
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New: Eligibility criteria (continued)
Section 13

Carers’ eligibility decision process (contd.)

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<th>3. Wellbeing</th>
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As a consequence, there is or is likely to be a significant impact on the carer’s wellbeing, including:

a) personal dignity (including treatment of the individual with respect);
b) physical and mental health and emotional wellbeing;
c) protection from abuse and neglect;
d) personal dignity (including treatment of the individual with respect);
e) physical and mental health and emotional wellbeing;
f) protection from abuse and neglect;
g) control by the individual over day-to-day life (including over care and support provided and the way it is provided):
h) participation in work, education, training or recreation;
i) social and economic wellbeing;
j) domestic, family and personal relationships;
k) suitability of living accommodation;
l) the individual’s contribution to society.
Different: Carers’ and young carers’ assessments
Sections 10, 63

What’s different?
• No discreet carers legislation
• Carers are on an equal footing* with individuals in terms of access to assessments, support planning and reviews (* the equivalence principle)

What does that mean for frontline practice?
• Carers’ assessments should continue to be completed as part of a whole family approach
• Frontline staff should continue to identify and, if appropriate, assess young carers

How will you be supported?
• Rollout of young carer assessment tools and training
• Changes to carers’ eligibility and assessment to be included in revised procedures, practice guidance and training
New: Independent advocacy
Sections 67, 68

What’s new?

• New duty to provide independent advocacy in specified circumstances:
  – All adults (including carers) being assessed (under S9 and 10, having support planning under S25 or being reviewed under S27)
  – Young people approaching transition (under S58)
  – Young carers (under S62)
  – Adults subject to safeguarding (under S63)

• Conditions for independent advocacy:
  1. Were an independent advocate not provided the individual would experience substantial difficulty in doing one or more of the following:
     • Understanding relevant information
     • Retaining that information
     • Using or weighing that information as part of the process of being involved
     • Communicating the individual’s views, wishes or feelings
  2. AND there is no appropriate (unpaid) person available to represent and support the person’s wishes
New: Independent advocacy (continued)
Sections 67, 68

What does that mean for frontline practice?
• Assessor will have to identify the potential need for a care act advocate early in the assessment process
• Where the need is established the assessment can’t be completed without care act advocate involvement unless it is an emergency
• Assessor will need to have applied knowledge of the Mental Capacity Act 2005

How will you be supported?
• Review of current general advocacy and Independent Mental Capacity Advocacy provision
• New procedures and guidance to be developed
• Core Care Act training will be delivered to staff on the changes
Different: Exception for the provision of health services
Section 22

What's different?
• Local authority *may not* meet needs that are health related unless:
  – Doing so would be merely incidental or ancillary when meeting other needs
  – The service or facility in question would be of a nature that the local authority could be expected to provide

How will this affect frontline practice?
• Staff will need to work collaboratively with NHS colleagues to ensure that a seamless service is provided to those with health and social care needs. This includes joint funded packages of care.
• If a need for a continuing healthcare (CHC) checklist is indicated during the assessment staff have a duty to inform the clinical commissioning group.

How will you be supported?
• Core Care Act training.
• New practice guidance on assessments will be developed.
Different: Next steps after assessments
Sections 24, 25, 26 and 30

What’s different?

- A care and support plan or a support plan (carers only) **must** be prepared for all eligible individuals
- The individual **must** be told the needs which are going to be met and of their entitlement to a direct payment
- All people not assessed to have eligible needs **must** be given a written reason and advice and information on how their needs could be reduced and prevented
- A personal budget **must** be provided to aid support planning with all eligible individuals

What does that mean for frontline practice?

- Reviews of existing cases will need to take account of new Care Act changes
- The care and support plan or support plan will detail all needs being met, including non-eligible needs and how these are being met
- Self funders can request a care and support plan, reviews and information on the process of finding and sourcing care

How will you be supported?

- Assessment forms, procedures and practice guidance to be updated
- Will be some changes to AIS
- Core Care Act training will be delivered to staff on the changes
- Support from your local management team
Different: Charging and assessing finances
Sections 14, 17

What’s different?

• From April 2015 we will have a single charging framework. CRAG (Charging for Residential Accommodation Guide) and Fairer Charging will no longer apply, though there are different rules depending on the setting
• The duty to charge for residential and nursing care is replaced with a power to charge
• We are currently consulting on proposed changes to our charging policy and will inform frontline staff about any changes as they emerge

What does that mean for frontline practice?

• Frontline staff will need to familiarise themselves with any changes to our charging policy
• We anticipate that some residents may be unsure about charging and the cap on care costs which do not come in until 2016 - frontline staff will need to know the details

How will you be supported?

• Factsheets will be available to help frontline staff understand the changes
Different: Direct payments
Sections 31-33

What’s different?
• All eligible people should be informed about their entitlement to a Direct Payment (DP)
• Family members can receive a small payment to administer the DP
• Monitoring DP accounts will be lighter touch if all is well initially
• Payment accounts and DP in care homes are currently being piloted

What does that mean for frontline practice?
• Staff will need to understand direct payment legislative provisions and be able to provide information on DPs at the assessment stages

How will you be supported?
• Surrey Independent Living Council and the Financial Assessment and Benefits Team will be able to assist frontline staff as necessary
• New information leaflets for residents
• Core Care Act training will be delivered to staff on the changes and procedures revised and updated
• Direct payments in care homes and pre-paid accounts projects
Different: Deferred payments  
Sections 34-36

What’s different?
• A new Universal Deferred Payment Scheme will come into effect from 1 April 2015
• We **must** offer a Deferred Payment Agreement (DPA) to anyone who meets the criteria set by the Department of Health, providing the person can offer adequate security for the debt
• We will be able to charge interest on the loan from the outset
• We will be able to charge an administration fee for setting up the DPA

What does that mean for frontline practice?
• We are currently consulting on proposed changes to our deferred payments scheme
• We must be able to inform people about the proposed changes from January 2015, i.e. during the 12 week property disregard period before 1\textsuperscript{st} April 2015
• Frontline staff will need to familiarise themselves with the details of the new scheme as soon as it becomes available

How will you be supported?
• Factsheets will be available to help frontline staff understand the changes
New: Continuity of care  
Sections 37 and 38

What’s new?
- Individuals with eligible needs moving into or out of Surrey must have their care and support arranged and in place on the day that they move
- New duties on both local authorities to be proactive, person centred and collaborative in order to ensure smooth transition from one area to another

What does that mean for frontline practice?
- Planning moves in and out of Surrey for those with support needs will need to be more proactive and timely
- Frontline staff will have to liaise closely and work collaboratively with the new local authority before the move
- Where equipment is provided occupational therapists in both local authorities will need to liaise closely with each other
- Priority will have to be given for allocation for anyone moving in or out of Surrey

How will you be supported?
- Core Care Act training will be delivered to staff on the changes and new practice guidance will be developed
- Support from your local management team
Different: Ordinary Residence
Sections 39, 40 and 41

What’s different?
• Extension of the deeming provisions to include specified accommodation
• New rules around specified accommodation mean those ‘placed’ by Surrey in Supported Living, Extra Care or Shared Lives will remain ordinarily resident in Surrey and therefore Surrey County Council will continue to have funding responsibility even if they are placed out of county

What does that mean for frontline practice?
• People in Supported Living, Extra Care or Shared Lives will need their care and support arrangements to be put in place by Surrey County Council even if they are out of county
• Choice of accommodation guidance now includes specified accommodation

How will you be supported?
• Core Care Act training will be delivered to staff on the changes and practice guidance will be developed
• Support from your local management team
Different: Safeguarding
Sections 42 to 48

What's different?
• The local authority must make enquiries (investigate) where it is inappropriate for a provider to do so
• Each local authority must establish a Safeguarding Adults Board
• Serious case reviews will be called ‘safeguarding adults reviews’
• Making safeguarding personal (MSP)

What does that mean for frontline practice?
• Making safeguarding personal will become the basis of the way we work with safeguarding issues
• Staff will need to undertake enquiries where necessary
• We will always find out what the person wants to happen and place the person at the centre of the safeguarding and focuses on their personal outcomes
• Staff will need to understand and follow new safeguarding procedures

How will you be supported?
• Core Care Act training as well as specific training on MSP
• Procedures and practice guidance are being updated / reviewed
• Safeguarding Advisors will be recruited in each locality team
• Surrey Safeguarding Adults Board is reviewing its policies, procedures, training
Different: Transition
Sections 58 to 66

What's different?
• Young people moving into adulthood can now be assessed earlier if it is of significant benefit to them
• New power to meet the needs of a child’s carer prior to the child being 18
• New duty to assess a young carer for care and support when they reach 18

What does that mean for frontline practice?
• Staff will need to be aware of the changes and adjust their practice accordingly
• New duties relating to young carers will mean proactive identification of them as a part of the whole family assessment

How will you be supported?
• Core Care Act training will be delivered to staff on the changes.
• Procedures and practice guidance will be updated.
• As part of the 0-25 agenda there will be engagement with all key stakeholders about how best to support young people through their transition to adult life
Different: Aftercare
(Section 117 of the Mental Health Act 1983)
Section 75

What's different?
• New regulations allow for a person under Section 117 of the Mental Health Act 1983 to have a choice of accommodation and pay a top up if it is more expensive than the local authority rate will provide
• All individuals under S117 will be able to receive direct payments
• New provisions for determining Ordinary Residence for S117

How will this affect frontline practice?
• People subject to S117 aftercare, and their carers / families will need to be given information and guidance about top up fees and direct payments on discharge

How will you be supported?
• Core Care Act training will be delivered to staff on the changes
• Procedures and practice guidance will be updated
New: Prisons
Section 76

What’s new?

• Each local authority responsible for the assessment of all prisoners in custodial settings in its area who appear to be in need of care and support regardless of which area the individual came from or where they will be released to

• Principle of equivalence with those in the community, however complicated in some areas, e.g. aids & adaptations

• Initial assessment key as prisoners move often

• Prisons can be invited to sit on Safeguarding Adults Boards

What does that mean for frontline practice?

• Currently developing plans with wide group of stakeholders including prison governors, NOMS (National Offender Management Service), SABP (Surrey and Borders Partnership) and senior managers

How will you be supported?

• If changes to frontline working arrangements and practice are made, training will be put in place
Further information

• The Care Act guidance and regulations are available at: https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation

• Department of Health factsheets on the Act are available at: https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets

• We have a Surrey Care Act webpage: www.surreycc.gov.uk/careact

• If you would like to know more regarding Surrey’s response, contact:
  
  • Email: careact@surreycc.gov.uk

  • Post: The Care Act Project Team, Room G34, Surrey County Council, County Hall, Penhryn Road, Kingston-upon-Thames, KT1 2DN