

For General Release

REPORT TO:	CABINET 16 MARCH 2015
AGENDA ITEM:	16
SUBJECT:	Implementation of the Care Act 2014 and the Market Position Statement for Adult Social Care
LEAD OFFICER:	Paul Greenhalgh, Executive Director - People
CABINET MEMBER:	Councillor Louisa Woodley – Cabinet Member for People and Communities
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT: The Care Act 2014 and linked statutory guidance suggest that the publication of a market position statement for adult social care will help local authorities to implement the new duty to manage the market for adult social care from April 2015. Croydon Vision – a caring city Community strategy – protect vulnerable people and a better borough through stimulating new business	
AMBITIOUS FOR CROYDON & WHY ARE WE DOING THIS: The publication of the Market Position Statement for Adult Social Care helps in taking forward these priorities: <ul style="list-style-type: none">• Tackling inequalities, including health inequalities - by setting out the Council's expectations of service providers to develop services that meet the needs of people with protected characteristics, particularly older people and people with a disability• Tackling inequalities - by setting out the Council's expectations of service providers in relation to workforce development and connecting people to economic opportunities• Tackling inequalities – by setting out the Council's expectations of service providers to assist with addressing geographical gaps in provision• Safeguarding vulnerable adults - by re-iterating the Council's expectations of service providers relating to safeguarding and by clarifying the Council's approach to managing the risks to vulnerable adults arising from potential market failure	
FINANCIAL IMPACT It is being assumed that the cost of implementing the Care Act will be covered by additional funding provided by the Department of Health and the NHS as this is a new burden on local authorities. In respect of the recommendations relating to the Market Position Statement there are no direct financial impacts arising. However the recommendation will help in the delivery of cost savings and efficiencies by sending a	

clear message to service providers about the financial context that the Council is operating in.

KEY DECISION REFERENCE NO.: this is not a key executive decision

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below

1. RECOMMENDATIONS

The Cabinet is recommended to:

- 1.1 Approve the Market Position Statement for Adult Social Care (MPS) printed separately as Appendix 1.
- 1.2 Agree that the Executive Director – People, in consultation with the Cabinet member for People and Communities, be given delegated authority to approve further editions of the MPS.
- 1.3 To note the latest position in respect of implementing the Care Act 2014.

2. EXECUTIVE SUMMARY

- 2.1 From April 2015 there is a new duty for the Council to implement the Care Act which involves a whole range of new duties and in addition there is the requirement to manage the market for adult social care services to ensure a variety of providers and services is available. The publication of the Market Position Statement for Adult Social Care Services (MPS) is suggested as a good start in meeting this requirement. The Council has consulted the relevant market stakeholders about the draft Statement, including through the Council's Health and Wellbeing Board. The Cabinet is recommended to approve the Market Position Statement attached as Appendix 1.

3. Implementation of the Care Act

- 3.1 There are a range of new duties placed upon local authorities in respect of implementing the Care Act during 2015/16 and the key new duties that need to be ready for April 2015 are as follows:
 - Adherence to a standard national eligibility criteria for service
 - A new duty as part of the assessment process for prevention and wellbeing to prevent or delay the need for care
 - The extension of the same eligibility criteria to include carers
 - A new duty to provide information and advice
 - A new duty to provide deferred payments (currently this is discretionary and is offered within Croydon)
 - The introduction of statutory Adult Safeguarding Boards and associated responsibilities for adult protection

- New duty to shape local care & support market which includes the production of an annual Market Position Statement

3.1.2 There is a further set of new duties scheduled for implementation in April 2016, these are:

- Introduction of Care Accounts and a Cap system
- Extension of the financial means test in residential care

These new duties are the subject of consultation on the Regulations and Guidelines between February and March 2015; confirmation of these changes will not be provided nationally until approximately October 2015.

3.2 Good progress is being made across all of the work streams and the expectation is that Croydon will be in a position to deliver on its new responsibilities from 1 April 2015. Particular items to note are:

3.2.1 Communications

The national campaign to inform the public of changes around the Care Act started in February including radio bulletins, posters and there is also a BBC produced tool to enable individuals to calculate the potential impact on costs for themselves (although this element of the Care Act is not scheduled to impact until April 2016).

The Council has also updated its web site to provide details about the Care Act and in addition there are a range of Frequently Asked Questions (FAQs) for individuals. The Contact Centre are able to assist those who are unable to access the internet but efforts are being made to use this as a first method of communications and an e-mail is also available for the public to raise specific queries with the Council not covered by the FAQs.

The voluntary sector has also been helpful in providing details about the Care Act.

3.2.2 CarePlace

This is the new system that will be available to assist the public by providing a directory of adult social care services that are available in the borough of Croydon. This directory will include the voluntary sector, NHS, and private sector provision with each organisation owning (and updating) their particular entries.

3.2.3 Deferred Payment Agreements (DPAs) and Housing

The requirement to provide DPAs is now statutory (Croydon was one of the Councils that previously provided this service when it was discretionary). However work is progressing on developing an offer to home owners who take up this option to have the Council manage their property for rental in the social housing market. This would potentially avoid an empty property, ensures that

the owner has additional funds to pay for their care as well as helping provide additional capacity in the housing market.

3.2.4 Charging Policy

With the change of the law there is a requirement for the Council to formally re-confirm the charging policy as it applies to Adult Social Care as well as confirm the new charges applicable in respect of the provision of deferred payments. This policy was approved on 23 February 2015 within the Council's annual Budget Report in line with previous years.

3.2.5 Training including for Members

To ensure that staff are able to appropriately interpret the new legislation significant levels of training are being provided. It is expected that NHS colleagues and the private and voluntary sectors will also take advantage of this offer. In addition sessions for Members were scheduled in February.

3.3 The Market Position Statement

3.3.1 The Care Act 2014 introduces a new duty for the Council to manage the market for adult social care services to ensure a variety of providers and services is available. The duty comes into force from April 2015. The Department of Health Guidance for the Care Act suggests that publication of a Market Position Statement for Adult Social Care Services (MPS) is a good start for local authorities in meeting this duty.

3.3.2 The purpose of an MPS is to help providers to develop their service offer to meet social care local needs regardless of whether they are paid for by the local authority or private individuals. Large national providers typically will have specialists developing their organisation's business strategy and there is limited scope for individual local authorities to influence their plans. Therefore the main target audience for the MPS is the range of local and small to medium size providers. The MPS brings together the Council's view of local need in a format that providers can easily understand and translate into service/ product development.

3.3.3 A range of preparations have already taken place and there is a plan going forward:

- Officers in the Integrated Commissioning Unit and Strategic Commissioning Performance and Procurement have worked together to develop the MPS with input from a range of colleagues including from adult social care, Croydon CCG and Economic Development
- Officers have taken part in the Department of Health commissioned support activities provided by Oxford Brookes University – this has generated guidance on what an MPS should look like.
- Officers have reviewed MPS documents prepared by other areas – their content, level of detail; range and usefulness to providers vary considerably.

- Much of the background work has already been done and is contained in the range of existing needs analyses, strategies and work-plans, policies and projects.
- The consultation draft MPS was published in January on the London Tenders Portal website inviting providers to submit comments on how useful they find it and how it could be improved. Providers were encouraged to respond through provider forums and at other events. The Health & Wellbeing Board was consulted on the same consultation draft in February 2015. Consultation will continue to inform future editions.
- The MPS will need to be regularly reviewed and updated. It is intended that a second edition will be published in autumn 2015 and further editions or updates will be published at least annually. Consideration is being given to resourcing and accountability for market management activities as part of proposals to reshape the Council, to create the People Department and to implement Croydon Challenge projects.

3.3.4 The MPS is intended to be a short, punchy and attractive document consisting of:

- A description of what an MPS is and how to use it;
- An overview of the strategic direction for adult social care services in Croydon, including personalisation, prevention, commissioning for outcomes and integration with health services;
- Summary of the analysis of future needs with links to on line needs data;
- Resources, finance and funding - projections and issues;
- Description of current supply, including gaps in provision and priorities for service development;
- Details of how the Council is supporting the market and other resources available for business development activity.

3.3.5 The London branch of the Association for Directors of Adult Social Services, with support from London Councils, is co-ordinating the pan-London response to the Care Act. In London many care services work across borough boundaries. Therefore consideration is being given to also developing a London MPS.

4. CONSULTATION

4.1 Providers of adult social care services are the primary audience for the MPS. They were consulted through a survey circulated through the London Tenders portal in January 2015 about the usefulness of the draft MPS and how it could be improved. Responses were received from 15 organisations of which 6 were private companies and 9 were voluntary and community sector organisations. The responses were mostly very positive. All respondents thought that the information about the Council's priorities, strategic direction and future demand was useful to them. All but one respondents thought that the information about

current supply and service user perspectives was useful to them; the one dissenting respondent did not give a reason for their response. The survey asked providers about further information that they would like to see in the document and there were seven responses to this question. The second edition of the MPS will be used to address some of the responses including those regarding outcomes measurement, social prescribing and new models of service delivery. Where the information requested is already published the respondent will be directed to the relevant source of information, for example the request for more data on Croydon's key healthcare needs.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 Funding for implementing the Care Act has been provided by the Department of Health, who have confirmed that all new burdens will be funded and this is how the matter is being treated. There will also be further funding in 2015/16 (and it is expected that this will be the case in future years) from the Better Care Fund (the integrated pooled budget with Croydon Clinical Commissioning Group). It is anticipated that funding for 2016/17 will be ratified after the next Comprehensive Spending Review in the Autumn of 2015.
- 5.2 In respect of the Market Position Statement there are no direct financial considerations arising from this recommendation. Publication of the market position statement, as part of a range of market management activities, will help in the delivery of cost savings and efficiencies by sending a clear message about the financial context that the Council is operating in and therefore enabling providers to position themselves in relation to the emerging needs of the population and service gaps.

5.3 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2014/15 £'000	2015/16 £'000	2016/17 £'000	2017/18 £'000
Revenue Budget available				
Expenditure	125	2,436	TBC	TBC
Income				
Effect of decision from report				
Expenditure	125	2,436		
Income				
Remaining budget	0	0		
Capital Budget available				
Expenditure		295		
Effect of decision from report				

Expenditure		295		
Remaining budget		0		

5.4 Risks

- 5.4.1 The expectation is that funds provided for 2015/16 will be sufficient as the costs largely relate to implementation costs; the higher potential risk is in 2016/17 when the funding reforms within the Care Act 2014 start. The Department of Health has stated that new burdens will be funded; therefore this remains the Council's assumption.
- 5.4.2 There are no direct risks arising from the Market Position Statement and publication of this statement.

5.5 Options

- 5.5.1 The Care Act 2014 is the law, it is not optional but all costs will be appropriately monitored and it is anticipated that issues referred to in 5 below can positively assist the Council and individuals jointly.

5.6 Future savings/efficiencies

- 5.6.1 The changes brought about within the Care Act are being built into business as usual processes. Areas such as the customer journey already form part of a Croydon Challenge project as does the requirement to provide enhanced information and advice – with the aim of signposting individuals to services in the community.
- 5.6.2 Contracts will continue to be reviewed throughout the year to ensure they deliver best value.

(Approved by: Lisa Taylor – Head of Finance and Deputy S151 Officer)

6. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

- 6.1 The Council Solicitor comments that s.5 of the Care Act 2014 imposes a duty on local authorities to promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market has a variety of providers and high quality services to choose from and sufficient information to make an informed decision about how to meet the needs in question.
- 6.2 In carrying out that duty the Council is required to have regard to the Department of Health's Care and Support statutory guidance issued under s.78 of the Act. The Chapter in the statutory guidance relating to Market Shaping and Commissioning of Adult Care and Support is present in terms of those things which the local authority should or must do. The guidance states it is 'suggested that a local authority can best commence its duties under Sections 5 (market shaping and commissioning) and 48-57 (market oversight and provider failure) of the Care Act by developing with providers and stakeholders a published

Market Position Statement'. However, while publication of the MPS may not be a duty it may be considered the most effective means of meeting those aspects of the Act and Guidance which are.

(Approved by: Gabriel MacGregor, Head of Corporate Law on behalf of the Council Solicitor & Director of Democratic & Legal Services)

7. HUMAN RESOURCES IMPACT

- 7.1 There are no human resource impacts arising directly from this recommendation in respect of the Market Position Statement, however it is anticipated that some further recruitment and/or training will be required to implement the Care Act. Where that is the case, the Council's existing policies and procedures must be observed and HR advice must be sought. All costs will be funded from with the monies provided by central Government.

(Approved by: Deborah Calliste, HR Business Partner, on behalf of the Director of Human Resources)

8. EQUALITIES IMPACT

- 8.1 The Care Act has been the subject of a national equalities impact assessment. The governments equality analysis states that the main purpose of phase one of the Care Act (2015/16 measures) is 'Creation of a single, modern statute for care and support for the first time; the introduction of a national eligibility threshold in care and support for the first time to eradicate unfair postcode lottery; to enable reform of funding system, in line with recommendations of the Commission on Funding Reform'. The national impact assessment of 23.05.14 states that the Care Act will contribute to the prevention of discrimination, harassment and victimisation by:

- Strengthening of adult safeguarding boards which will tighten procedures to detect harm done to adults in need of care and support;
- General duty of wellbeing will also strengthen local authorities role and responsibility to ensure that adults receiving social care are protected from all forms of abuse and neglect;
- Duty on local authorities to involve people in their care and support and duty to appoint an independent advocate for people who lack capacity when there is no one else to act on their behalf.

The Care Act 2014 seeks to treat all groups equally and national impact analysis states that 'we believe it does this, and does not feature any discriminatory aspect'.

- 8.2 The Market Position Statement contains a summary of quantitative and qualitative analysis that has already taken place and which has relevance to the Equality Act and protected characteristics. In particular the chapter on future demand addresses anticipated demand for services for older people and for people with a disability. The chapters on strategic priorities and direction set out how the Council expects providers to assist in addressing these demands.

9. ENVIRONMENTAL IMPACT

- 9.1 The Council's approach to Social Value is highlighted in the MPS, including the expectation that services minimise harm to the environment.

10. CRIME AND DISORDER REDUCTION IMPACT

- 10.1 The MPS highlights the requirement for providers of adult social care to safeguard vulnerable adults from avoidable harm. This includes enjoying physical safety and feeling secure. It includes being free from physical and emotional abuse, harassment and neglect.

11. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 11.1 The publication of the MPS is seen as the best way of starting to meet the new duty to manage the market for adult social care services. Feedback has been sought from the market on the draft MPS. It complies with the statutory guidance for the Care Act 2014, and with the Department of Health commissioned guidance published by Oxford Brookes University. It compares well with similar documents already published by other local authorities. It will support the Council in a range of commissioning activities with providers, including service development, commercial negotiations and procurement.

12. OPTIONS CONSIDERED AND REJECTED

- 12.1 A briefer version of the MPS was considered and rejected because it had insufficient detail to be useful across the market for adult social care. A more detailed version was considered and rejected because the detail is already published elsewhere and it is important that providers pay attention to the key messages in the MPS. A suite of client group specific MPS documents was considered but was rejected because many providers work across different client groups, providers need to consider people with multiple needs, there would be a lot of repetition and over time it could be difficult to maintain consistency when the MPS is updated.

CONTACT OFFICERS:

Alan Hiscutt, Head of Integrated Commissioning – Working Age Adults & Contracts Support Services

alan.hiscutt@croydon.gov.uk

020 8726 6000 extension 62627

Paul Heynes, Head of Care Act Implementation Programme

paul.heyne@croydon.gov.uk

0208 760 5500

Appendix 1 (printed separately): Proposed Market Position Statement