Report No. CS13049	London Borough of Bromley PART ONE - PUBLIC

Decision Maker:	**EXECUTIVE** **FOR PRE DECISION SCRUTINY BY CARE SERVICES PDS COMMITTEE**
Date:	**29th October 2013**
Decision Type:	Non-Urgent Executive Key
Title:	**ADULT SOCIAL CARE – IMPACT OF THE CARE BILL AND FUTURE NHS FUNDING**
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Chief Officer:	Executive Director, Education Care and Health
Ward:	

1. Reason for report

This is the second in a series of reports on the future of Adult Social Care, the first of which was considered by the Executive in July 2013 (Report CS 13017 Adult Social Care – Gateway review), and the work on the market testing of our Direct Care Services discussed in that report is now underway. This report provides further information on the potential impact of the changes to adult social care proposed in the Care Bill which was published in May 2013, but also considers the changes now made necessary by the Government's proposals to integrate further health and adult social care. It sets out proposals for a programme of detailed modeling of the impact on adult social care in order to be able to address the challenges arising from the Care Bill. It also considers the proposals from the Department of Health relating to the Integration Transition Fund and offers a way forward to allow the London Borough of Bromley to be best placed to exploit the opportunities presented by further integration with the NHS in the coming years.

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2. RECOMMENDATION(S)

2.1 Care Services PDS Committee is asked to consider and comment on the contents of this report and refer the report to the Executive for approval.

2.2 Executive is asked to:

a) Note the proposals for the future of adult social care services contained in the Care Bill and the proposals for the Integration Transition Fund (ITF) and the potential implications for services and budgets from 2014;

b) Support the allocation of £276k from the NHS social care funds to enable detailed financial and activity modelling of the implications of the Care Bill, the ITF and the Independent Living Fund to be carried out;

c) Require a further Report to be brought to Executive in the early summer of 2014 to allow options for the future delivery of adult social care to be considered; and,

d) Support the proposal that the Health and Wellbeing Board should be able to authorise the s256 agreement for 2013/14 at its meeting of 30th January 2014, and provide governance on behalf of the Council for all future work on integration between the health and social care sector.

Corporate Policy

1. Policy Status: Existing Policy:
2. BBB Priority: Excellent Council Supporting Independence

Financial

1. Cost of proposal: £276k investment in 2013/14
2. Ongoing costs: Non-recurring
3. Budget head/performance centre: Report covers functions funded by adult social care budget
4. Total current budget for this head: £38m
5. Source of funding: Revenue budget – adult social care; investment proposal from NHS social care funds

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Staff

1. Number of staff (current and additional): There are currently 149.78 FTEs in Care Services Assessment and Care Management teams whose activity would be impacted by the proposals in the Care Bill
2. If from existing staff resources, number of staff hours:

Legal

1. Legal Requirement: Statutory Requirement :
2. Call-in: Applicable:

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Currently there are approximately 9800 people in receipt of social care services

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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1 Care Bill 2013

In May 2013 the government published the Care Bill which represents the most significant changes to adult social care in recent times. The Bill proposes fundamental reforms to how the law on adult social care will work, prioritising wellbeing, highlighting the importance of prevention and postponement of the need for care and support, and putting people in control of their care and support. The Bill is based on the principles of:

- People's well-being at the heart of every decision
- Carers rights on the same footing as the people they care for
- Freedom and flexibility to encourage innovation and integration
- Preventing and delaying needs for care and support
- Personal budgets giving people greater control over their care
- Information and advice about the care and support system
- Promoting the diversity and quality of the local care market, shaping care and support around what people want
- New guarantees to ensure continuity of care
- Equity of funding

3.1.1 The publication of the Bill was followed by the publication of a discussion document, *Draft national eligibility criteria for adult care and support,* in June, and a consultation document, *Caring for our future – implementing funding reform*, in July which set out in more detail the proposals regarding eligibility criteria and care costs. The consultation on funding reform is open until 25th October.

3.1.2 If the Bill is passed in its current form, there will be significant implications for local authorities. From April 2015 there would be:

- New duties on prevention and wellbeing
- New duties on the provision of information & advice (including advice on paying for care)
- New duty on market shaping
- National minimum threshold for eligibility (proposed to be set at substantial & critical need)
- New duties regarding assessments for carers and self funders
- Statutory requirements in respect of personal budgets and support plans
- Statutory requirement to offer deferred payment agreements

3.1.3 From April 2016 the funding reforms would be introduced:

- A capped charging system;

- Introduction of care accounts; and,
- An extended means test.

3.1.4 From an initial analysis, the changes which would have the most significant impact on costs and activity for Bromley are summarised below:

Cap on care costs: A cap of £72,000 will be set on the costs that people of state pension age will have to pay to meet their eligible needs. The cap will be lower for working age adults and for people who turn 18 with eligible needs, their care will be free. This would significantly reduce the income which the Council receives from client contributions.

More people eligible for financial support: Financial support will be provided to more people. For people in residential care for example, the threshold at which the local authority will begin financial support changes from £23,250 to £118,000. This means people entering a care home with assets less than this value will not have to pay the full cost of their care as they do at present. Lower thresholds and thresholds for other services will also change. London Councils have estimated that the cap on care costs and changes to thresholds for financial support would result in 37% more people receiving funding support.

In both the above cases, clients will be expected to contribute up to £12,000 p.a. towards board and lodgings (hotel costs) which will also be means tested. This will therefore reduce the impact of the cap.

Increased numbers of social care assessments: Although anyone can request a social care assessment at present, there will be an additional incentive for people to request an assessment as this will, if they have eligible needs, trigger the start of the recording of their “care account” – i.e. their contribution towards the cap on care costs. Even if people are fully funding their own care up to the point when they reach the cap, they can also request that the Council arranges their care on their behalf (although the Council would be able to charge for this service and recover the full cost of the services provided). The Council would have to monitor the care account and would have a responsibility to review the service user if their needs changed. For those whose needs are deemed to be below the eligibility criteria, the Council will have a new duty to provide advice and information on how to reduce, delay or prevent the need for care and support.

Carers: Although carers currently have a right to an assessment of their needs, separately from the service user, the Council does not currently have a statutory duty to meet those needs. Under the Care Bill, for the first time carers will have a legal right to receive support if they meet the eligibility criteria. This will put additional pressure on budgets, although local authorities would have the power to charge under a means tested regime for any support provided directly to the carer.

National eligibility criteria: Within the discussion document, it is proposed that the national eligibility criteria would be set at substantial and critical in respect of the Fair Access to Care Services (FACS) regime. Although this is the Council’s current eligibility threshold, a national requirement would limit the Council’s discretion in future to consider addressing budgetary pressures through raising the eligibility threshold.

Ability to consider other forms of delivery for assessment services: Under current legislation (National Health Service and Community Care Act 1990 Section 47) the statutory assessment function can only be carried out by a local authority or by an NHS organisation on behalf of the local authority through an agreement under Section 75 of the National Health Service Act 2006. The Care Bill introduces the power for local authorities to delegate these and other functions to bodies other than an NHS organisation. In effect this allows local authorities the freedom to market test, and outsource if appropriate, most adult social care functions with the exception of safeguarding, integration with health, and charging for services.

3.2 Based on figures quoted in the government's impact assessment, the potential additional cost from the changes is estimated at £5.0m in 2016/17 per local authority with social care responsibilities, rising to £11.7m in 2019/20.

3.3 All of the proposals in the Bill will require significant changes to the way in which the adult social care assessment and planning functions are delivered. There will be considerably increased numbers of people, both potential service users as well as carers, who will need to be assessed and reviewed. There will be additional requirements for the Council to set up and monitor care accounts with consequential changes to the financial assessment process. The proposed changes are numerous and complex and officers will need to carry out a detailed analysis of the potential impact for Bromley.

3.4 The government has indicated that it will make £285m available to local authorities in 2015/16 to support local authorities to prepare for the introduction of the funding reforms in April 2016. This is a one-off sum, equating to approximately £1m for Bromley. The funding is made up of £110m to cover the costs of the introduction of statutory universal deferred payments and £175m to cover the capacity building and early assessments required for transition to the capped cost model.

3.5 The Spending Round settlement funds are said to have taken account of the costs of other reforms set out in the Care Bill including new duties for the assessment and support of carers, better provision of information and advice, and a national minimum eligibility threshold. How this will impact on the Council is yet to be worked through as no detail has as yet been made available.

3.6 Department of Health Integration Transition fund

3.6.1 In 2013, the Department of Health (DoH) announced changes to the way in which health funds for social care will be managed. For 2013/14, the annual DoH Social Care Grant allocation continued (£4.26m for Bromley) although proposals for use of the funds now have to be agreed by NHS England, rather than by the local Clinical Commissioning Group (CCG) and are much more demanding in terms of accountabilities. Proposals have to be jointly endorsed by the local authority and the local CCG via the Health and Wellbeing Board.

3.6.2 In 2014/15 the annual DoH grant will be increased by £200m to £1.1bn specifically to help local authorities prepare for the implementation of an "Integration Transition Fund" in 2016 and make early progress on priorities. It should also be noted that the present proposals include linking around a quarter of the fund to payment by results, although the mechanism and the targeted outcomes have yet to be decided by the DoH.In a letter received at the Council on 17th October 2013, the Chief Executive of the NHS, Sir David Nicholson, made the expectations placed on local areas wishing to access these monies clear:

> 1. **Improving outcomes** - commissioners need to place improving outcomes for patients at the heart of their work. For that reason, commissioners should prioritise an approach to planning which combines transparency with detailed patient and public participation***.*** We need to construct, from the bottom up, quantifiable ambitions for each domain of the NHS Outcomes Framework. We will, therefore, be asking CCGs and NHS England Area Teams to work together to determine local levels of ambition, based on evidence of local patient and public benefit, against a common set of indicators that place our duty to tackle health inequalities front and centre stage. This will ensure that we can clearly articulate the improvements we are aiming to deliver for patients across seven key areas:

- Reducing the number of years of life lost by the people of England from treatable conditions (e.g. including cancer, stroke, heart disease,
- respiratory disease, liver disease);Improving the health related quality of life of the 15 million+ people with
  one or more long-term conditions;
- Reducing the amount of time people spend avoidably in hospital through better and more integrated care in the community, outside of hospital;
- Increasing the proportion of older people living independently at home following discharge from hospital;
- Reducing the proportion of people reporting a very poor experience of inpatient care;
- Reducing the proportion of people reporting a very poor experience of primary care;
- Making significant progress towards eliminating avoidable deaths in our hospitals.

2. **Strategic and operational plans** – given the scale of the challenges we are facing, we are asking commissioners (CCGs and NHS England commissioners) to develop ambitious plans that look forward to the next five years, with the first two years mapped out in the form of detailed operating plans. Taking a five year perspective is crucial, as commissioners need to develop bold and ambitious plans rather than edging forward on an incremental basis one year at a time. It will be essential for commissioners to work closely with providers and social care partners as they develop these plans, and we are in dialogue with the relevant national bodies to define fully aligned planning processes to facilitate this.

3. **Allocations for CCGs**– we want to provide certainty to commissioners. To this end, we intend to notify CCGs of their financial allocations for both 14/15 and 15/16 to help them plan more effectively. We are currently working with a subgroup of the Commissioning Assembly to finalise proposals for future allocation formulae for CCGs and direct commissioning, but stability is a key consideration and the pace of change is likely to be slow, given that we are operating with very limited financial growth overall.

4. **The tariff** – we recognise the importance of stability of tariff as well as its accuracy and responsiveness to the needs of patients. Together with Monitor, we intend to minimise changes to the structure of the tariff for 14/15. By December we plan to jointly publish our priorities for tariff in 15/16, giving commissioners and providers the maximum amount of time to assess any impact on the financial position of their services and respond systematically to tariff signals.

5. **The integration transformation fund** – the financial settlement for 15/16 includes the creation of an integration transformation fund (ITF). This will see the establishment of a pooled budget of £3.8bn, which will be committed at local level with the agreement of Health & Wellbeing Boards. (Locally, CCGs can decide to place additional resources into the ITF if they wish). The ITF is a 'game changer': it creates a substantial ring-fenced budget for investment in out-of-hospital care. However, it will also require us to make savings of over £2bn in existing spending on acute care. This implies an extra productivity gain of 2-3% across the NHS as a whole in 15/16. We will work with Monitor

to determine how this is reflected in the expectations placed on commissioners (in the form of QIPP savings from demand management,
pathway change, etc) and providers (in the form of the efficiency deflator incorporated in tariff). We are currently exploring the feasibility of bringing forward an element of the 15/16 saving requirement into 14/15 to avoid a financial ‘cliff edge’ in 15/16.

6. **Developing integrated plans** – the NHS will only be sustainable in 15/16 if we put the ITF to the best possible use and reduce significantly the demand for hospital services. It is my view that investment should be targeted at a range of initiatives to develop out of hospital care, including early intervention, admission avoidance and early hospital discharge - taking advantage, for example, of new collaborative technologies to give patients more control of their care and transform the cost effectiveness of local services. This will require investment in social care and other Local Authority services, primary care services and community health services. We are currently exploring how an accountable clinician can be identified to coordinate the out-of-hospital care of vulnerable older people and the ITF might be used to accelerate this initiative. We will write to you over the next few days (jointly with the Local Government Association) with more details on the process for developing integrated plans.

7. **Working together** – a critical ingredient of success for the transformation fund will be the quality of partnership working at local level. Health & Wellbeing Boards will need to have strong governance arrangements for making transparent and evidence-based decisions about the use of the ITF. The Chief Executive of NHS England will remain the accounting officer for the ITF, accountable to parliament for its use, and in that context I am asking NHS England Area Directors to take a close interest in the effectiveness of local arrangements for governance and implementation.

8. **Competition** – there has been considerable discussion about the impact of competition rules on commissioners over recent months. The key requirement for commissioners is to determine how to improve services for patients including how to use integrated care, competition and choice. Commissioners should adopt transparent decision making processes which use competition as a tool for improving quality, rather than as an end in itself. NHS England and Monitor will support commissioners who adopt this approach to competition.

9. **Local innovation** – while we will set a national framework for planning we want to encourage local innovation and don’t want to be overly prescriptive. Within the scope of the new tariff rules for 14/15 agreed with Monitor, we will welcome innovative local approaches that enable change to happen on the ground. For example, commissioners could add additional resources to the transformation fund or they could agree local variations to the national tariff in line with the recently published 14/15 national tariff system rules, where they can demonstrate that it is in the interests of patients to do so. Commissioners could explore new contracting models, such as giving acute providers responsibility for patients 30-100 days following discharge from hospital and introducing prime contractor arrangements for integrated care.

10. **Immediate actions** – I would encourage commissioners to focus on three immediate tasks. First, you should progress the development of five year

plans and engage local people in this work. Second, you should strengthen your local partnership arrangements so that you are well placed to make decisions about the use of the ITF. Third, you should identify the things that will make the greatest difference to patients locally and maintain a relentless focus on putting them into action at pace.

3.6.3 The application for the 14/15 round of funding, the amount of which will be announced in the Autumn Statement, has to be with NHS England by 14th February and so would need to go to the Health and Wellbeing Board of 30th January 2014 for approval. We also need to produce alongside our proposals a detailed and integrated clinical risk assessment for the borough, an entirely new requirement on local government. In effect, this gives only a few weeks to secure a sum we believe will be to be in excess of £4m. Executive is asked therefore to give authority to the Health and Wellbeing Board to agree the integration plan at the January meeting.

3.6.4 We have established a joint Board with the CCG to oversee this work at a senior level. The CCG is supported by NHS London with additional capacity to achieve thes outcomes. The current proposals from the centre would see local authorities receiving additional resource in 15/16, far too late to ensure our voice is heard at all stages of the development. This is work that needs to be underway urgently.

3.6.5 In 2015/16 the annual DoH grant of £1.1bn is subsumed into the new Integration Transition Fund (ITF) budget of £3.8bn.. The government is in effect requiring local authorities and CCGs to operate a pooled budget. The ITF includes funding that they previously received independently, as set out below:

Previous funding streams included in ITF	**£**
LAs annual DoH grant (revenue)	£1.1bn
LAs Disabilities Facilities Grant (capital)	£220m
CCGs reablement funding (revenue)	£300m
CCGs carers break funding (revenue)	£150m
DoH Community care and support grant (capital)	£134m
Additional allocation to pooled budget (£1bn performance related)	£1.9bn
Total	**£3.8bn**

3.6.6 For Bromley, the anticipated ITF would result in around £8.5m being identified to support these new ways of working. As the table above demonstrates, little of this is new funding, and is achieved in part by top slicing the CCG of 3% of its budget. Members will also note that it includes funding Bromley presently receives and which will, in future years, be rolled-up into this single fund. Moreover, there is as yet no clarity as to whether some of these monies will be needed to fund the Care Bill costs.

3.6.7 In order to be able to access the DoH funding, local authorities are required to produce two-year plans for 2014/15 and 2015/16, which must be in place byFebruary 2014, and the CCG a draft five year plan to the same timescale.

3.6.8 Sir David Nicholson's letter referenced above gives some considerable detail as to the expectations placed on localhealth and adult social care systems. In summary, local plans must address how the pooled budget will be used and the ways in which the national and local targets attached to the performance-related £1 billion will be met. The plan will also set out how the £200m transfer to local authorities in 2014/15 will be used to make progress on priorities and build momentum. Although the plan is designated "local", it must address national priorities including:

- protection for social care services (not spending) used to offset the impact of the funding reductions overall;
- as part of agreed local plans, 7-day working in health and social care to support patients being discharged and prevent unnecessary admissions at weekends;
- better data sharing between health and social care, based on the NHS number (it is recognised that progress on this issue will require the resolution of some Information Governance issues by the Department of Health;
- ensure a joint approach to assessments and care planning;
- ensure that, where funding is used for integrated packages of care, there will be an accountable professional;
- risk-sharing principles and contingency plans if targets are not met – including redeployment of the funding if local agreement is not reached; and,
- include an assessment of the impact on acute services and agreement on the scale and nature of changes required, e.g. impact of reduced emergency activity on bed capacity.

3.6.9 The government will also make available £188m to local authorities in 15/16 through the Department for Communities and Local Government to prepare for the closure of the Independent Living Fund in April 2015. This could also have a significant impact on the Council's funding.

3.7 Meeting the challenge – modelling the impacts for adult social care

3.7.1 Taken together, these changes amount to the largest single change in adult social care provision for forty years. As noted above there is a need for detailed financial and activity modelling of the implications of all of these changes, as well as assessment of the changes required to information systems, financial assessment processes and care management functions. It is proposed that this be carried out during the next six months with a further more detailed report being brought back to Executive in early summer 2014 setting out:

- Detailed analysis of projected future activity levels, including impact of demographic changes;
- Financial modelling of the impact of the Care Bill;
- Options for the redesign of Care Management functions to address the new requirements for assessments;
- Care Management and other resources required from 2015/16; training requirements and programme;

- Analysis of changes needed to information systems; Gateway Review of options for the provision of the information system;

- Identification of resources required in 2014/15 to implement changes;

- Timetable for implementation of changes; and,

- Agreement of Local Plan for DoH funding with CCG (which would be the subject of a separate report for approval in February 2014).

3.7.2 It is anticipated that the Bill, which appears to have cross party support, would be enacted during 2014. Carrying out this programme of work at this stage would allow Bromley to be better prepared to implement the changes in time for 2015. In order to carry out this work there will be a requirement for the following funding:

Action	**£,000**	
Project Manager	50	Already agreed by Executive July; recruitment process under way
Information systems support		
Analyst	50	
Development support	50	
Finance officer	30	
Senior Care Manager	50	Redesign of assessment/ care management pathways
Contingency @ 20%	46	
Total	**276**	

3.7.3 There is currently £3.527m held in the Council's central contingency, consisting of:

Source	**£,000**
Winter pressures 2011/12	734
Winter pressures 2012/13	808
NHS social care funding 2011/12 and 2012/13	1,985
Total	**3,527**

3.7.4 This funding was transferred to the Council through agreements between the Council and the Bromley Clinical Commissioning Group (previously Bromley Primary Care Trust) under S256 of the National Health Service Act 2006 which set out the conditions for use and which contain reporting requirements against the spend. If the conditions set out in the S256 agreements are not met, the CCG could require the funding to be repaid.

3.7.5 It is proposed that £276k (the costs set out above plus £20% contingency for potential redundancy costs etc) be allocated from these funds to invest in the programme of work required to prepare for the legislative and funding changes, and to secure the additional grants in 14/15 onwards.

4. POLICY IMPLICATIONS

4.1 The proposals in the Care Bill are designed to prioritise wellbeing, prevention and postponement of the need for care and support, all of which are in line with the Council's Building a Better Bromley aim of supporting independence.

5. FINANCIAL IMPLICATIONS

5.1 These are set out in the main body of the report.

6. PERSONNEL IMPLICATIONS

6.1 The posts referred to in para 3.7.2 above would be appointed to on a time limited basis. Should there be any redundancy costs at the end of the project, these would be covered by the contingency sum.

Non-Applicable Sections:	Legal
Background Documents: (Access via Contact Officer)	Gateway review – adult direct care services. Report CS12060 Executive 6 February 2013 Adult social care – gateway review. Report CS13017 24th July 2013 Care Bill May 2013 Draft national eligibility criteria for adult care and support. DH, June 2013 Caring for our future – implementing funding reform. DH, July 2013