Birmingham Health and Wellbeing Board

	Agenda Item: 8
Report to:	**Birmingham Health & Wellbeing Board**
Date:	**30th September 2015**
TITLE:	**CARE ACT 2014: INTEGRATION, CO-OPERATION AND PARTNERSHIPS**
Organisation	**Directorate for People, Birmingham City Council**
Presenting Officer	**Alan Lotinga, Service Director Health and Wellbeing**

Report Type:	**Information**

1. Purpose:
To update Board members on the Care Act 2014 and specifically the duties to integrate, co-operate and work in partnership.

2. Implications:		
BHWB Strategy Priorities	Child Health	N
	Vulnerable People	Y
	Systems Resilience	N
Joint Strategic Needs Assessment		N
Joint Commissioning and Service Integration		Y
Maximising transfer of Public Health functions		N
Financial		N
Patient and Public Involvement		N
Early Intervention		Y
Prevention		Y

3. Recommendation
The Health & Wellbeing Board is asked to note and discuss the contents of this report and implications for its Health and Wellbeing Strategy, and ask their respective teams to make themselves aware of Section 15 of the Care Act 2014 statutory guidance (attached as **Appendix A**).

4. Background

4.1 The Care Act 2014 consists of five Parts, eight Schedules, and is supported by 506 pages of statutory guidance. Much of the Act is about consolidating and modernising relevant care and support legislation passed since the late 1940's into one Act. But, there are also a wide range of new duties and responsibilities, many effective from April 2015, others from April 2016. The Board may be aware of recent Government statements made to delay the implementation of significant aspects of those due to be implemented in April 2016, including the capping of care costs and associated matters, until at least 2020.

4.2 This report relates specifically to Part 1 of the Act - Care and Support, which covers such things as the general responsibilities of local authorities, meeting needs for care, assessing needs, charging and assessing financial resources, direct payments, deferred payment agreements, continuity of care when an adult moves, establishing where a person lives, safeguarding adults at risk of abuse and neglect, provider failure, market oversight, transition for children into adult care and support, independent advocacy support and enforcement of debts. Part 2 of the Act covers Care Standards, including the "duty of candour", making the provision for national regulations to ensure appropriate information is given in cases where incidents affecting a person's safety occur in the course of the person being provided with a service. Part 4, a short section, gives statutory backing to the setting up of the Better Care Fund, which the Board is well aware of.

4.3 The main aims of the Care Act are to ensure that care and support:

- Is **clearer** and **fairer**;
- Promotes people's **wellbeing**;
- Enables people to **prevent and delay** the need for care and support, and carers to maintain their caring role; and
- Puts **people in control** of their lives so they can pursue opportunities to realise their potential.

4.4 The Act and statutory guidance have an underpinning principle of wellbeing, supported by a number of key duties and responsibilities (prevention, integration/partnerships/transition, information/advice/advocacy, diversity of provision and market oversight, safeguarding), and processes (assessment and eligibility, care and support planning, charging and financial assessment, personal budgets and direct payments, review).

4.5 To further assist the Board in this, promoting individual wellbeing relates to any of the following; personal dignity (including treatment with respect), physical and mental health and emotional wellbeing, protection from abuse and neglect, control by the individual over day-to-day life, participation in work/education/training or recreation, social and economic wellbeing, domestic/family and personal relationships, suitability of living accommodation and the individual's contribution to society.

4.6 Section 15 of the statutory guidance is attached as **Appendix A**. This covers integration, co-operation and partnerships i.e. how the local authority should

be looking to integrate with other local services (in relation to strategic planning and integrating service provision and combining or aligning processes), co-operation of partner agencies (the general duty to co-operate, who must co-operate, co-operation within local authorities, co-operating in specific cases), working with the NHS (the boundary between the NHS and care and support e.g. with regard to Continuing HealthCare cases, delayed transfers of care), working with housing authorities and providers and working with welfare and employment support. Partner agencies for this are other local authorities within the area (e.g. District Councils in shire counties), neighbouring councils or from areas where people are being placed, NHS bodies in the local authority's area, local offices of the Department for Work and Pensions, Police services and Prisons and Probation services in the local area.

4.7 In summary:

- The Care Act ensures that people should experience provision that works well together and where each participant knows what the others are doing and why;
- The responsibility goes wider than just integration and co-operation with health services to other services that provide care and support; and
- The duty to co-operate is not just one way, and involves both a general requirement to co-operate as well as a specific requirement in the case of individuals.

4.8 Board members are asked to make their respective teams/colleagues aware of Section 15 of the Care Act 2014, in particular the statutory guidance.

5. Compliance Issues

5.1 Strategy Implications

Section 15 of the Care Act is about organisations working together to provide the support and services required by vulnerable people, in particular older people. The links to 'strategy on a page', hence strategic implications, are:

- Vulnerable people – support older people to remain independent and increase the independence of people with a learning disability or severe mental health problem, including prevention and early intervention; and
- Keep people healthy – common NHS and Local Authority approaches, including joint commissioning and health and acre system in financial balance.

5.2 Governance & Delivery

Board members will be responsible for making their respective teams aware of Section 15 of the Care Act and updates may be required by the Board.

5.3	***Management Responsibility***
	Board: Chair and Vice Chair. Day- to-day: Alan Lotinga – Service Director for Health & Wellbeing.

6.	**Risk Analysis**		
Identified Risk	**Likelihood**	**Impact**	**Actions to Manage Risk**
Teams are not made aware of Section 15 of the Care Act.	Low	Low	An update will be requested to ensure teams are made aware.

Appendices
Appendix A – Section 15 Care Act.

Signatures	
Chair of Health & Wellbeing Board (Councillor Paulette Hamilton)	P. A Hamilton
Date:	18/09/2015

The following people have been involved in the preparation of this board paper:

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15. Integration, cooperation and partnerships

This chapter provides guidance on:

- *Sections 3, 6, 7, 22, 23, 74 and Schedule 3 of the Care Act 2014;*
- *The Care and Support (Provision of Health Services) Regulations 2014;*
- *The Care and Support (Discharge of Hospital Patients) Regulations 2014.*

This chapter covers:

- integrating care and support with other local services;
  - Strategic planning;
  - Integrating service provision and combining and aligning processes;
- cooperation of partner organisations;
  - General duty to cooperate;
  - Who must cooperate;
  - Cooperation within local authorities;
  - Cooperating in specific cases;
- working with the NHS;
  - The boundary between the NHS and care and support;
  - Delayed transfers of care from hospitals;
- working with housing authorities and providers;
- working with welfare and employment support.

15.1. For people to receive high quality health and care and support, local organisations need to work in a more joined-up way, to eliminate the disjointed care that is a source of frustration to people and staff, and which often results in poor care, with a negative impact on health and wellbeing. The vision is for integrated care and support that is person-centred, tailored to the needs and preferences of those needing care and support, carers and families.

15.2. Sections 3, 6 and 7 of the Act require that:

- local authorities **must** carry out their care and support responsibilities with the aim of promoting greater **integration** with NHS and other health-related services;

- local authorities and their relevant partners **must cooperate generally** in performing their functions related to care and support; and, supplementary to this,
- local authorities and their partners **must cooperate** where this is needed in the case of **specific individuals** who have care and support needs.

Integrating care and support with other local services

15.3. Local authorities **must** carry out their care and support responsibilities with the aim of joining-up the services provided or other actions taken with those provided by the NHS and other health-related services (for example, housing or leisure services). This general requirement applies to all the local authority's care and support functions for adults with needs for care and support and carers, including in relation to preventing needs (see chapter 2), providing information and advice (see chapter 3) and shaping and facilitating the market of service providers (see chapter 4).

15.4. This duty applies where the local authority considers that the integration of services will:

- promote the wellbeing of adults with care and support needs or of carers in its area;
- contribute to the prevention or delay of the development of needs of people;
- improve the quality of care and support in the local authority's area, including the outcomes that are achieved for local people.

15.5. The local authority is not solely responsible for promoting integration with the NHS, and this responsibility reflects similar duties placed on NHS England and clinical commissioning groups (CCGs) to promote integration with care and support.[117] Under this provision, NHS England must encourage partnership arrangements between CCGs and local authorities where it considers this would ensure the integrated provision of health services and that this would improve the quality of services or reduce inequalities. Similarly, every CCG has a duty to exercise its functions with a view to securing that health services are provided in an integrated way, where this would improve the quality of health and/or reduce inequalities in access or outcomes. The Care Act adds further coherence by placing an equivalent duty on local authorities to integrate care and support provision with health services and health related services, for example housing (see paragraphs 15.7-15.8 below about the integration of health and health related services).

15.6. There are a number of ways in which local authorities can fulfil this duty, where they think this will integrate services: at the strategic level; at the level of individual service; and in combining and aligning processes. Some examples are discussed below.

Strategic planning

Integration with health and health-related services

15.7. A local authority **must** promote integration between care and support provision, health and health related services, with the aim of joining up services.

15.8. To ensure greater integration of services, a local authority should consider the different mechanisms through which it can promote integration, for example;

[117] See sections 13N and 14Z1 of the National Health Service Act 2006

(a) Planning – using adult care and support and public health data to understand the profile of the population and the needs of that population. For example, using information from the local Joint Strategic Needs Assessments to consider the wider need of that population in relation to housing. The needs of older and vulnerable residents should be reflected within local authorities' development plans with reference to local requirements for inclusive mainstream housing and specialist accommodation and/or housing services.

Case study: Promoting the integration of housing, health and social care across Leicestershire

District Councils in Leicestershire have taken a strategic approach to working with county wide providers on priority issues, including housing, health and wellbeing. A District Chief Executive leads across the 7 District Councils working with a network of senior managers in each individual council.

This has built the influence and credibility of District Councils with health and social care leaders who now have an increasing understanding of the vital role housing and housing based services play in the delivery of better outcomes for vulnerable people.

The Housing Offer to Health in Leicestershire is built into the County's Better Care Fund priorities and work is underway across health, social care and housing in the following key areas:

- Housing's Hospital to Home discharge pathway – looking to place housing options expertise within the day-day discharge assessment and planning work of both acute and mental health providers so that the planning and decisions around an individual's hospital discharge includes early consideration, and actioning of appropriate and supportive housing options.
- Establishing an integrated service to provide practical support to people in their own homes across all tenures so that aids, equipment, adaptations, handy person services and energy efficiency interventions are available and delivered quickly. Through this we hope to reduce the time taken to provide practical help to individual people with care and support needs, reduce process costs for services paid for through the public purse and support vulnerable people to access the low level practical support that helps them remain independently at home.
- Establishing a locality based approach to prevention and housing based support which includes Local Area Co-ordination, Timebanking and delivery of low level support services to vulnerable older people through a mixture of community volunteers and multi-skilled workers.

(b) Commissioning – a local authority may wish to have housing represented at the Health and Wellbeing Board/Clinical Commissioning Groups (CCGs) making a visible and effective link between preventative spend (including housing related) and preventing acute/crisis interventions. Joint commissioning of an integrated information and advice service covering health, care and housing would be one way to achieve this.

(c) Assessment and information and advice – this may include integrating an assessment with information and advice about housing, care and related finance to help develop a care plan (if

necessary), and understand housing choices reflecting the person's strengths and capabilities to help achieve their desired outcomes. There may be occasions where a housing staff member knows the person best, and with their agreement may be able to contribute to the assessment process or provide information.

(d) Delivery or provision of care and support – that is integrated with an assessment of the home, including general upkeep or scope for aids and adaptations, community equipment or other modifications could reduce the risk to health, help maintain independence or support reablement or recovery. For example, some specialist housing associations and home improvement agencies may offer a support service which could form part of a jointly agreed support plan. A housing assessment should form part of any assessment process, in terms of suitability, access, safety, repair, heating and lighting (e.g. efficiency).

Joint Strategic Needs Assessments

15.9. Local authorities and clinical commissioning groups already have an equal and joint duty to prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWS) through health and wellbeing boards. JSNAs are local assessments of current and future health and care needs that could be met by the local authority, CCGs or the NHS Commissioning Board, or other partners. JHWSs are shared strategies for meeting those needs, which set out the actions that each partner will take individually and collectively.

15.10. Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies are therefore key means by which local authorities work with CCGs to identify and plan to meet the care and support needs of the local population. JHWSs can help health and care and support services to be joined up with each other and with health-related services.

15.11. Under the Act, local authorities, when contributing to JHWSs, must consider greater integration of services if doing so would achieve any or all of the objectives set in paragraph 15.4 above (promoting wellbeing; preventing or delaying needs; improving the quality of care). The JHWSs should set the local context and frame the discussion with partners on how different organisations can work together to align and integrate services. However, local authorities should bear in mind that carrying out the JSNA and JWHS on their own is unlikely to be sufficient to fulfil the requirement to promote integration; it will be the agreed actions which follow the strategies and plans that will have the greatest impact on integration and on the experience and outcomes of people.

Integrating service provision and combining and aligning processes

15.12. There are many ways in which local authorities can integrate care and support provision with that of health and related provision locally. Different areas are likely to find success in different models. Whilst some areas may pursue for integrated organisational structures, or shared funding arrangements, others may join up teams of frontline professionals to promote multi-disciplinary working. There is no required format or mechanism for integrating provision, and local authorities should consider and develop their strategy jointly with partners.

15.13. At the strategic level, there are many examples of how local authorities can integrate services including:

- the use of "pooled budgets", which bring together funding from different organisations to invest jointly in delivering agreed, shared outcomes.[118] For example, the Better Care Fund, which provides local authorities and CCGs with a shared fund to invest in agreed local priorities which support health and care and support, will be a key opportunity to promote integration in provision.[119]
- the development of joint commissioning arrangements.

15.14. In terms of working practices to encourage greater integration at an individual level, this could include recruiting and training individual care coordinators who are responsible for planning how to meet an adult's needs through a number of service providers. Another example could be in relation to working with people who are being discharged from hospital, where staff from more than one body may be involved with providing or arranging care and support to allow the person to return home and live independently.[120] As with other examples of integration, this would not necessarily require structural integration – i.e. organisations merging – but a seamless service, from the point of view of the person, could be delivered by staff working together more effectively, for example, integrating an assessment with information and advice about housing options see paragraphs 15.54-15.75 on housing and integration.

15.15. Local authorities, together with their partners, **should consider** combining or aligning key processes in the care and support journey, where there may be benefit to the individual concerned from linking more effectively. For example, combining assessments may allow for a clearer picture of the person's needs holistically, and for a single point of contact with the person to promote consistency of experience, so that provision of different types of support can be aligned. A number of assessments could be carried out on the same person, for example a care and support needs assessment, health needs assessment and continuing health care assessments. Where it is not practicable for assessments to be conducted by the same professional, it may nonetheless be possible to align processes to support a better experience, for example , the 2nd or 3rd assessor could be obliged to read the 1st assessment (provided there is a lawful basis for sharing the information) and not ask any information that has already been collected, or the different bodies could work together to develop a single, compatible assessment tool. Local authorities have powers to carry out assessments jointly with other parties, or to delegate the function in its entirety.

Co-operation of partner organisations

15.16. All public organisations **should** work together and co-operate where needed, in order to ensure a focus on the needs of their local population. Whilst there are some local services where the local authority must actively promote integration, in other cases it must nonetheless co-operate with relevant local and national partners.

15.17. Co-operation between partners **should** be a general principle for all those concerned, and all should understand the

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118 http://www.england.nhs.uk/wp-content/uploads/2012/10/lga-nhscb-concordat.pdf

119 Link to BCF guidance: http://www.england.nhs.uk/ourwork/part-rel/transformation-fund/bcf-plan/

120 Hospital 2 Home guide http://www.housinglin.org.uk/hospital2home_pack/

reasons why co-operation is important for those people involved. The Act sets out five aims of co-operation between partners which are relevant to care and support, although it should be noted that the purposes of co-operation are not limited to these matters:

- promoting the wellbeing of adults needing care and support and of carers;
- improving the quality of care and support for adults and support for carers (including the outcomes from such provision);
- smoothing the transition from children's to adults' services;
- protecting adults with care and support needs who are currently experiencing or at risk of abuse or neglect;
- identifying lessons to be learned from cases where adults with needs for care and support have experienced serious abuse or neglect.

15.18. The processes and systems behind the areas noted above, as well as how working with partners is integral to achieving the best outcomes, are set out in more detail in other chapters of this guidance.

15.19. Local Authorities and relevant partners **must** co-operate when exercising any respective functions which are relevant to care and support. This requirement relates to organisations existing functions only, and the Act does not confer new functions.

15.20. "Co-operation", like integration, can be achieved through a number of means, and is intended to require the adoption of a common principle, rather than to prescribe any specific tasks. There are a number of powers which local authorities may use to promote joint working. For example, local authorities may share information with other partners, or provide staff, services or other resources to partners to improve co-operation. Some of the actions may be the same as those undertaken to promote integration, for example under section 75 of the NHS Act 2006, a local authority may contribute to a "pooled budget" with an NHS body – a shared fund out of which payments can be made to meet agreed priorities. Other actions may be specific to particular circumstances or the needs of a specific group, for example the local authority co-operating with prisons in its area to develop a joint strategy for meeting the care and support needs of prisoners.

Who must co-operate?

15.21. The local authority **must** co-operate with each of its relevant partners, and the partners **must** also co-operate with the local authority, in relation to relevant functions. The Act specifies the "relevant partners" who have a reciprocal responsibility to co-operate. These are:

- other local authorities within the area (i.e. in multi-tier authority areas, this will be a district council);
- any other local authority which would be appropriate to co-operate with in a particular set of circumstances (for example, another authority which is arranging care for a person in the home area);
- NHS bodies in the authority's area (including the CCG, any hospital trusts and NHS England, where it commissions health care locally) [see paragraphs 15.29-15.53 about care and support and the NHS];
- local offices of the Department for Work and Pensions (such as Job Centre Plus) [see paragraphs 14.75-14.81 about care and support, welfare and employment];
- police services in the local authority area;

- prisons and probation services in the local area [see chapter 17 on care and support in Prisons].

15.22. In addition, there may be other persons or bodies with whom a local authority **should** co-operate if it considers this appropriate when exercising care and support functions, in particular independent or private sector organisations. Examples include, but are not limited to, care and support providers, NHS primary health providers, independent hospitals and private registered providers of social housing. In these cases, the local authority should consider what degree of co-operation is required, and what mechanisms it may have in place to ensure mutual co-operation (for example, via contractual means).

Ensuring co-operation within local authorities

15.23. Local authorities fulfil a range of different functions that have an impact on the health and wellbeing of individuals, in addition to their care and support responsibilities (e.g. children's services, housing, public health). It is therefore important that, in additional ensuring co-operation between the local authority and its external partners, there is internal co-operation between the different local authority officers and professionals who provide these services. Local authorities **must** make arrangements to ensure co-operation between its officers responsible for adult care and support, housing, public health and children's services, and should also consider how such arrangements may also be applied to other relevant local authority responsibilities, such as education, planning and transport.

15.24. For example, it is important that local authority officers responsible for housing work in co-operation with adult care and support, given that housing and suitability of living accommodation play a significant role in supporting a person to meet their needs and can help to delay deterioration. Similarly, the transition from children's social care to adult care and support will require local authority officers in the respective departments to co-operate to share information, prepare for transition, and ensure the young person's needs are met.

Co-operating with partners in specific cases

15.25. Co-operation should be a general principle for partners, which should inform how they undertake their day-to-day activities. However, there will be circumstances where a more specific approach will be required, and a local authority or partner will need to explicitly ask for co-operation which goes beyond the general approach, where this is needed in the case of an individual. The Care Act provides a new mechanism for the local authority, or partner, to use in such cases.

15.26. Where the local authority requires the co-operation of a partner in relation to a particular individual case, the Act allows for the local authority to request co-operation from that partner. The relevant partner **must** co-operate as requested, unless doing so would be incompatible with the partner's own functions or duties. The converse also applies: where a relevant partner asks for co-operation from a local authority in the case of an individual, then the local authority **must** co-operate, again providing this is compatible with its functions and duties.

15.27. This mechanism is intended to support partners with a means of identifying specific cases in which more targeted co-operation is required. In practice, it may be the case that general working protocols and

relationships between organisations mean that this further process is not required. However, there will be situations that arise which that necessitate a more tailored response to fit around the person concerned. This might include, for example:

- when a person is planning to move from one area to another, and the authorities involved require co-operation to support that move;
- when an assessment of care and support needs identified other needs that should be assessed (for instance, health needs that may indicate eligibility for NHS Continuing Healthcare);
- when a local authority is carrying out a safeguarding enquiry or review, and requires the support of another organisation.

15.28. Where the local authority or relevant partner decide to use this mechanism, they should notify the other in writing, making clear the relevant Care Act provisions. If the local authority or the relevant partner decide not to co-operate with a request, then they **must** write to the other, setting out reasons for not doing so. Local authorities and their relevant partners **must** respond to requests to cooperate under their general public law duties to act reasonably, and failure to respond within a reasonable time frame could be subject to judicial review.

Working with the NHS

The boundary between care and support and the NHS

15.29. Local authorities **must** carry out an assessment where someone appears to have needs for care and support. It has a duty to meet those needs for care and support that meet the eligibility criteria. Similarly, in the case of carers, the local authority must carry out an assessment if a carer appears to have, or is likely to have, needs for support and it has a duty to meet those needs for support that meet the eligibility criteria. However, local authorities cannot lawfully meet needs in either case by providing or arranging services that are clearly the responsibility of the NHS.

15.30. In order to support joint working, it is important that all partners involved are clear about their own responsibilities, and how they fit together. Section 22 of the Care Act sets out the limits on what a local authority may provide by way of healthcare and so, in effect, sets the boundary between the responsibilities of local authorities for the provision of care and support, and those of the NHS for the provision of health care.

15.31. Where the NHS has a clear legal responsibility to provide a particular service, then the local authority may not do so. This general rule is intended to provide clarity and avoid overlaps, and to maintain the existing legal boundary. However, there is an exception to this general rule, in that the local authority may provide some limited healthcare services as part of a package of care and support, but only where the services provided are "incidental or ancillary" (that is, relatively minor, and part of a broader package), and where the services are the type of support that an authority could be expected to provide.

15.32. The two most obvious relevant examples of healthcare that are clearly the responsibility of the NHS (and thus not something a local authority may provide) are nursing care provided by registered nurses, and services that the NHS has to provide because the individual is eligible for NHS Continuing Healthcare.

15.33. NHS Continuing Healthcare is a package of ongoing care that is arranged

and funded solely by the health service for individuals outside a hospital setting who have complex ongoing healthcare needs, and who have been found to have a 'primary health need'. Such care is provided to people aged 18 or over, to meet needs that have arisen as a result of disability, accident or illness. NHS Continuing Healthcare is not dependent on a person's condition or diagnosis, but is based on their specific care needs.

15.34. Where the person has a 'primary health need' as set out in regulations[121] and as determined following an assessment of need under national guidance (the *National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care*[122] ('the National Framework'), it is the responsibility of the health service to meet all assessed health and associated care and support needs, including suitable accommodation, if that is part of the overall need.

15.35. The National Framework sets out a process for the NHS, working together with its local authority partners wherever practicable, to assess health needs, decide on eligibility for NHS Continuing Healthcare, and provide that assessed care. 'NHS-funded Nursing Care', is the funding provided by the NHS to care homes providing nursing, to support the provision of nursing care by a registered nurse. If an individual does not qualify for NHS Continuing Healthcare, the need for care from a registered nurse must be determined. If the person has such a need and it is determined that their overall needs would be most appropriately met in a care home providing nursing care, then this would lead to eligibility for NHS-funded Nursing Care. Once the need for such care is agreed, a CCGs (or in some case NHS England) must pay a flat-rate contribution to the care home towards registered nursing care costs.

15.36. The regulations and guidance referred to above, set out how the 'primary health need' test takes account of the limits of local authority responsibility. Although the regulations and guidance pre-date the coming into force of the Care Act 2014, the limits of local authority responsibility have not been changed by the Care Act 2014.

Supporting discharge of hospital patients with care and support needs

15.37. The provisions on the discharge of hospital patients with care and support needs are contained in Schedule 3 to the Care Act 2014 and the Care and Support (Discharge of Hospital Patients) Regulations 2014 ("the Regulations"). These provisions aim to ensure that the NHS and local authorities work together effectively and efficiently to plan the safe and timely discharge of NHS hospital patients from NHS acute medical care facilities to local authority care and support. The purpose of these provisions is to update existing provisions to reflect the current NHS and care and support landscape; in particular, the drive to improve integration between health and social care provision for those people whose needs span both areas.

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121 See regulations under the National Health Service Act 2006 and the Health and Social Care Act 2012 (see Part 6 of *The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012,* as amended by *The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) Regulations 2013)* ('the Standing Rules'),

122 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213137/National-Framework-for-NHS-CHC-NHS-FNC-Nov-2012.pdf

15.38. Schedule 3 to the Care Act covers:

- the scope of the hospital discharge regime and the definition of the patients to whom it applies;
- the notifications which an NHS body must give a local authority where the NHS considers that it is not likely to be safe to discharge the patient unless arrangements for meeting the patient's needs for care and support are in place;
- the period for which an NHS body can consider seeking reimbursement from a local authority, where that local authority has not fulfilled its requirements to assess or put in place care and support to meet needs, or (where applicable) to meet carer's needs for support, within the time periods set such that the patient's discharge from hospital is delayed.

15.39. The Regulations and guidance both set out further details of the form and content of what the various types of NHS notification notices must and should contain to ensure the local authority has relevant information to comply with its requirements to undertake assessments, and to put in place any arrangements necessary for meeting any of the patient's care and support needs, or where applicable, carer's needs for support. They set out the circumstances when assessment notices and discharge notices must be withdrawn, and determine the period and amount of any reimbursement liability which a local authority may be required to pay the NHS for any delay in the transfer of care.

Definitions of delayed transfers of care

15.40. Delayed Transfers of Care (DTOC) mean that individuals are in a setting that is recognised as not being appropriate for the care they need. This potentially contributes to worse outcomes for the individual, particularly in the context of their quality of life, as well as placing additional and sometimes costly burdens on the NHS and local government.

15.41. The definition of a DTOC is when a patient is ready for transfer after being in receipt of acute care, when:

- A clinical decision has been made that a patient is ready for transfer; **AND**
- A multi-disciplinary team decision (involving the NHS body and the local authority) has been made that a patient is ready for transfer; **AND**
- The patient is safe to discharge/transfer; **YET**
- The patient is still occupying a bed.

15.42. NHS and local authorities **should** work together in order to reduce the number of delayed days where a patient is ready to be transferred from NHS acute medical care to other settings but where arrangements for care and support needs are not in place in order to ensure a safe discharge from hospital. The NHS **may** seek reimbursement from local authorities for a delayed transfer of care in certain circumstances. The potential for reimbursement liability is intended to act as an incentive to improve joint working between the NHS and local government. However, the use of these reimbursements is discretionary.

15.43. The potential for NHS seeking reimbursement from local authorities is not to be seen to operate in isolation, but to be considered as part of the bigger picture in terms of promoting joint working between the NHS and local government. For example, the Better Care Fund, which aims through the establishment of £3.8 billion of joint funding between the NHS and local authorities to

promote joint working, includes performance on delayed discharge as one of the national indicators against which progress will be assessed and resources released. This, with the significant resources available will therefore be a powerful driver to improving performance on delayed discharge.

15.44. Also, even if a particular case falls outside the scope of the provisions so that no reimbursement could be sought, this **should not** prevent the NHS and local authority still working together to plan the safe and timely discharge of all its patients. Both the NHS and local authorities are under a common law duty of care to people with care and support needs, and the good practice guidance on safe discharge planning and duties to co-operate and promote integration will apply.

15.45. As around 70% of delayed discharge days are attributable to the NHS and because the issues behind them are within their gift to address, it is important that NHS organisations in particular review this guidance alongside other guidance such as the updated April 2013 SitRep Guidance,[123] which provides clear advice on the steps the NHS needs to take in relation to undertaking NHS Continuing Health Care and the way that data should be collected and reported, irrespective of whether delays are reimbursable days or not.

To whom do the delayed transfers of care provisions apply

15.46. The delayed transfers of care regime only applies to NHS hospital patients in England who are receiving acute care, and who the NHS considers are likely to have care and support needs after discharge from hospital.

15.47. No notification notices can be issued, and accordingly no reimbursement liability could arise, in respect of any patient who falls outside scope of the regime. However, notwithstanding that a patient's case falls outside the reimbursement regime, this does not mean that the NHS and local authorities should not be working together to deliver the safe and timely discharges of all hospital patients with care and support needs for the reasons set out at paragraph 15.42 above.

15.48. NHS Hospital Patient in England: A hospital patient is a person who is ordinarily resident in England who is accommodated in an NHS hospital in England, or in an independent hospital in the United Kingdom under arrangements made by an English NHS body.

15.49. Adult Care and Support Needs: In terms of age, the discharge of hospital patient provisions do not apply in respect of patients who will be under the age of 18 at the proposed date of discharge, as they will have their relevant care and support needs met by children's social services provided under other provisions (e.g. the Children's Act 1989).

15.50. Acute Care: The provisions only apply to patients who are receiving, have received or can reasonably be expected to receive, acute care. Acute care means intensive medical treatment provided by or under the supervision of a consultant that lasts for a limited period after which the person receiving the treatment no longer benefits from it.

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123 *Monthly Delayed Transfers of Care Sitreps Definitions and Guidance Version 1.07,* www.england.nhs.uk/.../Monthly-**Sitreps**-Definitions-DTOC-**v1.07**.doc,

NHS hospital patients to whom the provisions do not apply

15.51. The following cases are excluded from the discharge provisions in the Care Act:

(a) **Mental health care –** Mental health care means psychiatric services, or other services provided for the purpose of preventing, diagnosing or treating illness, the arrangements for which are the primary responsibility of a consultant psychiatrist. However, if the patient is receiving treatment in an acute setting for a physical condition and is under the care of an acute medical consultant but has post-care needs that relate, for example, to their dementia, the case could fall within the scope of the discharge of hospital patient provisions. If a person is admitted with a physical condition but during their stay is subsequently transferred to the care of a consultant psychiatrist, then delays to that person's discharge would not count towards any potential reimbursement. However delayed discharges for patients under the care of a consultant psychiatrist should be recorded as is expected under the DTOC Sitrep reporting requirements and the duties to co-operate in improving discharge arrangements clearly apply.

(b) **Palliative care –** Patients with palliative care needs are excluded.

(c) **Private patients –** As the regime only applies to NHS patients, the Discharge of Hospital provisions do not apply to patients who have given an undertaking to pay for their care in an NHS hospital or who are accommodated at an independent hospital under private arrangements. However, patients who are admitted to NHS hospitals as private patients but who subsequently elect to change their status and become NHS patients while still receiving acute medical treatment fall within the scope of the Act from the point at which they start to be treated as NHS patients.

(d) **Other –** In addition, maternity care, intermediate care (this is where patients, their families and carers are provided with support to help them manage illness and avoid becoming dependent on long-term care), and care provided for recuperation or rehabilitation are excluded from the definition of acute care.

Patients in independent hospitals receiving NHS-commissioned acute care

15.52. NHS patients can receive acute treatment which is arranged and funded by an NHS body, but which takes place in an independent sector hospital. As they are NHS patients, they are covered by the Discharge of Hospital Patient provisions and as such the requirements to plan and provide services in order to facilitate a safe discharge **must** be implemented.

15.53. As such, the duty to issue notices will apply in respect of these cases, as may the potential for the NHS to seek reimbursement from the local authority for any delayed transfers of care. The Act allows an NHS body which has commissioned acute treatment at an independent hospital within the UK to make arrangements for the independent provider to issue assessment or discharge notifications on its behalf. This means that independent providers can take decisions such as whether the patient is likely to need care and support services, when the patient is to be discharged, what follow-up health needs they may have, etc. However, the NHS body will retain ultimate responsibility for the functions, including

any claim for reimbursement that might be appropriate.

Working with housing authorities and providers

15.54. Housing or suitable living accommodation is a place which is safe, healthy and suitable for the needs of a person, so as to contribute to promoting physical and emotional health and wellbeing and social connections. For example, a healthy home would be dry, warm and insulated and a safe home would meet particular needs, e.g. of an older person. Housing refers to the home and the neighbourhood where people live, and to the wider housing sector including staff and services around these homes.

15.55. Suitable living accommodation includes all places where people live; for example a house, flat, other general dwelling or an adult placement or other specialist housing.

15.56. Housing and the provision of suitable accommodation is an integral element of care and support. The setting in which a person lives, and its suitability to their specific needs, has a major impact on the extent to which their needs can be met, or prevented, over time. Housing is therefore a crucial component of care and support, as well as a key health-related service.

15.57. Local authorities have broad powers to provide different types of accommodation in order to meet people's needs for care and support. The Care Act is clear that suitable accommodation can be one way of meeting needs. However, the Act is also clear on the limits of responsibilities and relationship between care and support and housing legislation, to ensure that there is no overlap or confusion. Section 23 of the Care Act clarifies the existing boundary in law between care and support and general housing. Where housing legislation requires housing services to be provided, then a local authority must provide those services under that housing legislation. Where housing forms part of a person's need for care and support and is not required to be provided under housing legislation, then a local authority may provide those types of support as part of the care and support package under this Act.

15.58. This provision is to clarify the boundary in law between a local authority's care and support function and its housing function. It does not prevent joint working, and it does not prevent local authorities in the care and support role from providing more specific services such as housing adaptations, or from working jointly with housing authorities.

15.59. Housing plays a critical role in enabling people to live independently and in helping carers to support others more effectively. Poor or inappropriate housing can put the health and wellbeing of people at risk, where as a suitable home can reduce the needs for care and support and contribute to preventing or delaying the development of such needs. Housing services should be used to help promote an individual's wellbeing, by providing a safe and secure place in which people in need of care and support and carers can build a full and active life. That is why suitability of living accommodation is one of the matters local authorities must take into account as part of their duty to promote an individual's wellbeing.

15.60. Housing is an integral part of the health and care system and a local authority's responsibility for care and support. This could be in relation to a local authority's duty on prevention (see chapter 2) or through the duty to assess an adult or carer's needs for care

and support (see chapter 6), or in providing advice and information (see chapter 3).

15.61. Enabling individuals to recognise their own skills, ambitions and priorities and developing personal and community connections in relation to housing needs can help promote an individual's wellbeing. By way of example, providing good quality information and advice can help people make early choices about housing options and avoid leaving these until they are in crisis or decisions have to be taken by relatives or carers. Adaptations, modifications or extra support can help people stay independent for longer.

15.62. Health, care and support and housing services **should** centre on the individual and where appropriate their family and should support them in meeting the outcomes they want to achieve. By putting individuals and families at the centre and helping them to articulate the outcomes they want to achieve a local authority may be able to provide some support in or through the home.

Considering accommodation within the wellbeing principle

15.63. Local authorities have a general duty to promote an individual's wellbeing when carrying out their care and support functions. The Act is clear that one specific component of wellbeing is the suitability of living accommodation. Wherever relevant, a local authority **should** consider suitable living accommodation in looking at a person's needs and desired outcomes.

15.64. Housing has a vital role to play in other areas relating to a person's wellbeing. For example access to a safe settled home underpins personal dignity. A safe suitable home can contribute to physical and mental wellbeing and can provide protection. A home or suitable living accommodation can enable participation in work or education, social interactions and family relationships.

15.65. In relation to housing, a local authority can make an important contribution to an individual's wellbeing, for example by providing and signposting information that allows people to address care and support needs through specific housing related support services, or through joint planning and commissioning that enables local authorities to provide (or arrange for the provision of) housing and care services or housing adaptations to meet the needs of the local population.

Housing to support prevention of needs

15.66. In many cases, the best way to promote someone's wellbeing will be through preventative measures that allow people to live as independently as possible for as long as possible.

15.67. A local authority **must** provide or arrange for the provision of services that contribute towards preventing, reducing or delaying the needs for care and support (see chapter 2). The provision of suitable living accommodation can be a way to prevent needs for care and support, or to delay deterioration over time. Getting housing right and helping people to choose the right housing options for them can help to prevent falls, prevent hospital admissions and readmissions, reduce the need for care and support, improve wellbeing, and help maintain independence at home.

15.68. Housing and housing services can play a significant part in prevention, for example, from a design/physical perspective, accessibility, having adequate heating and

lighting, identifying and removing hazards or by identifying a person who needs to be on the housing register. In addition, community equipment, along with telecare, aids and adaptations can support reablement, promote independence contributing to preventing the needs for care and support.

15.69. A local authority may wish to draw on the assistance of the housing authority and local housing services. Housing-related support staff and scheme managers can contribute to prevention, for example by being alert to early signs of ill health, e.g. dementia, and signposting or supporting individuals to access community resources which may prevent, reduce or delay the need for care and support or a move into residential care.

15.70. The links between living in cold and damp homes and poor health and wellbeing are well-evidenced.[124] Local authorities may wish to consider the opportunities to prevent the escalation of health and care and support needs through the delivery or facilitation of affordable warmth measures to help achieve health and wellbeing outcomes.[125,126]

Integrating information and advice on housing

15.71. A local authority **must** establish and maintain a service for providing information and advice relating to care and support, and this **must** include advice on relevant housing and housing services which meet care and support needs. The authority is not required to provide all elements of this service, rather, they are expected under this duty to understand, co-ordinate and make effective use of other statutory, voluntary and or private sector information and advice resources within their area in order to deliver more integrated information and advice.

15.72. A person-centred approach to information and advice will consider the person's strengths and capabilities and the information or advice that will help them to achieve their ambitions. Information and advice **should** include services in the home that bring health, care and housing services together. This means that information and advice on housing, on adaptations to the current home, or alternative housing options services should be included. This will enable a person to choose how best they can meet or prevent their needs for care and support. (See chapter 3 on information and advice).

15.73. A person using care and support or carer **should** be supported to make fully informed decisions about how to prevent or meet their needs for care and support. A local authority **should** make use of information and advice that is already available at local and national levels. Examples of some national resources are;

www.firststopcareadvice.org.uk

www.moneyadviceservice.org.uk

www.nhs.uk/CarersDirect/Pages/CarersDirectHome.aspx

www.foundations.uk.com

15.74. People's care and support needs, their housing circumstances and financial resources are closely interconnected. It is only with full knowledge of the care and

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124 (http://www.instituteofhealthequity.org/projects/the-health-impacts-of-cold-homes-and-fuel-poverty, www.gov.uk/government/collections/housing-health-and-safety-rating-system-hhsrs-guidance).

125 The Energy Companies Obligation: https://www.gov.uk/government/policies/helping-households-to-cut-their-energy-bills/supporting-pages/energy-companies-obligation-eco

126 Energy Saving Advice Service: http://www.energysavingtrust.org.uk/Organisations/Government-and-local-programmes/Programmes-we-deliver/Energy-Saving-Advice-Service

Case Study: Putting health back into housing

The Gloucestershire Affordable Housing Landlords' Forum (GAHLF), comprising of the seven leading local housing providers in the county, have set out an 'offer' to the Health and Wellbeing Board that demonstrates how each is working to improve the quality of life of their residents, the neighbourhoods and wider communities, by investing in new homes, supporting independent living, developing the community and supporting older and vulnerable people.

£12 million is being invested, by Stroud District Council, over five years, to improve the quality of housing stock and reduce fuel poverty for tenants. Stroud has been upgrading the heating supply in properties not currently served by mains gas. Many properties have electric storage heating which does not give the same level of control and is more expensive than gas or renewable energy. Dryleaze Court is a Supported Housing unit where 53 properties have had mains gas installed this year. At the same time, the team has also installed uPVC privacy panels, replaced porches with insulated cavity brick walls and fitted new double-glazed windows. The works have improved tenants' quality of life, helping them to live more comfortably and reduce their fuel bills.

All in all, over the three years ending March 2013, GAHLF has improved over 14,900 homes, with an estimated savings to the NHS of around £1.4 million per annum.

http://www.housinglin.org.uk/_library/Resources/Housing/Regions/South_West/GAHLF_Health_and_Wellbeing_V.II1.pdf

support options open to them, including possible housing options and the related financial implications that people will be able to exercise informed choice. For example, some people with their families have made early decisions about moving into residential care possibly sooner than is necessary. Information and advice about the full range of accommodation/housing options and how these might be funded can contribute to more informed decision making for individuals and can extend independent living.

Link to further Case Study - Commissioning Advice Services in Portsmouth

http://www.adviceuk.org.uk/wp-content/uploads/2013/06/Breaking-the-Mould-Portsmouth.pdf

Working with employment and welfare services

15.75. Local authorities and local offices of the Department for Work and Pensions (i.e. the JobCentre Plus) **must** co-operate when exercising functions which are relevant to care and support. "Co-operation" and integration can be achieved in a number of ways and will depend on local circumstances as outlined above. When considering opportunities for fuller integration of commissioning, planning and delivery of local services local authorities **should** consider the links between care and support, employment and welfare (see chapter 4 on market shaping and commissioning).

15.76. In particular, when working to promote a diverse market under section 5, local authorities **must** consider the importance of enabling people to undertake work, education and training. Local authorities **should** also recognise the importance of identifying the needs of those

carers in their local population when drawing up Joint Strategic Needs Assessments, including their need to participate in paid employment alongside caring responsibilities.

15.77. The Disability and Health Employment Strategy[127] identified that many disabled people and people with health conditions, particularly those with more **complex needs**, receive a range of different services at local level, for example, care and support, primary and secondary health services, as well as support offered by Jobcentre Plus and contracted providers. It highlighted feedback from stakeholders that the support on offer at a local level to disabled people and people with health conditions can be confusing and inconsistent and often results in them having to give the same information to different services.

15.78. Local authorities **must** establish and maintain an information and advice service, but they are not required to provide all elements of this service. Rather, local authorities are expected to understand, co-ordinate and make effective use of other statutory, voluntary and/or private sector information and advice resources available to people within their areas. The information and advice available to the local population should include information and advice on eligibility and applying for disability benefits and other types of benefits and, on the availability of employment support for disabled adults.

15.79. Different people will need different levels of support from the local authority and other providers of financial information and advice depending on their capability, their care needs and their financial circumstances. People may just need some basic information and support to help them rebalance their finances in light of their changing circumstances. Topics may include welfare benefits, advice on good money management, help with basic budgeting and possibly on debt management. The local authority may be able to provide some of this information itself, for example of welfare benefits, but where it cannot, it should work with partner organisations to help people access it.

15.80. Local authorities, working with their partners, **must** also use the wider opportunities to provide targeted information and advice at key points in people's contact with the care and support, health and other local services. This **should** include application for disability benefits such as Attendance Allowance and Personal Independence Payments, and for Carers Allowance and access to work interviews.

Considering individual employment, training and education needs

15.81. In addition to considering how to join up care and support at a local level local authorities **must** consider education, training and employment when working with individuals. In particular:

- local authorities **must** promote wellbeing when carrying out care and support functions, or making a decision in relation to a person. This applies equally to people with care and support needs and their carers. In some specific circumstances, it also applies to children, their carers and to young carers (when they are subject to the transition assessments discussed in chapter 16). The definition of wellbeing includes participation in work education and training. As such local authorities **must** consider whether participation in work, education or training is a relevant

[127] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266373/disability-and-health-employment-strategy.pdf

consideration when they are promoting wellbeing.

- local authorities, when carrying out a needs assessment, carer's assessment or child's carer's assessment **must** have regard to whether the carer works or wishes to do so, and whether the carer is participating in or wishes to participate in education, training or recreation and this should be reflected, as appropriate in the way their needs are met. Local authorities and the Department for Work and Pensions should cooperate to ensure people are given appropriate employment support and opportunities – in particular where this is a person's preferred outcome. This should include consideration of how direct payments may be used for employment support.[128]
- sections 37 and 38 of the Act support people to move, including to pursue employment opportunities or move closer to family members. Local authorities **must** ensure continuity of care and support when people move between areas so that they can move without the fear that they will be left without the care and support they need (see chapter 20).

Sources of information

15.82. The integration clauses mirrors similar duties placed on Clinical Commissioning Groups and NHS England. There are a number of relevant documents that local authorities may find of interest:

- The Functions of Clinical Commissioning Groups, NHS England March 2013 http://www.england.nhs.uk/wp-content/uploads/2013/03/a-functions-ccgs.pdf
- Statutory Guidance on Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies, Department of Health, April 2012. See part 4: Promoting integration between services. http://www.wakefield.gov.uk/NR/rdonlyres/37D0E9D1-C438-4388-B270-A527139D9F37/0/StatutoryGuidanceonJSNAsandJHWSs_DH2013.pdf
- National Voices, a national coalition of health and social care charities, have produced a narrative for person-centred co-ordinated care and support, showing what this would look like from the perspective of people with care and support needs: http://www.england.nhs.uk/wp-content/uploads/2013/05/nv-narrative-cc.pdf

The following links provide further sources of information in relation to housing service and practical examples which support integration with care and support on a local level:

- http://www.housinglin.org.uk/Topics/browse/Housing/hwb/?parent=3691&child=8169
- http://www.cih.org/publication-free/display/vpathDCR/templatedata/cih/publication-free/data/Developing_your_local_housing_offer_for_health_and_care
- https://www.gov.uk/government/collections/housing-health-and-safety-rating-system-hhsrs-guidance
- http://www.housinglin.org.uk/hospital2home_pack/

[128] An example of personal budgets being used as a way to support and enterprise and employment can be found at: http://www.serendipity-chic.co.uk/