

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**16<sup>th</sup> October 2012**

**Report of the Strategic Director of Adult Care**

**WHITE PAPER – CARING FOR OUR FUTURE:  
REFORMING CARE AND SUPPORT**

**DRAFT CARE AND SUPPORT BILL**

**CARING FOR OUR FUTURE: PROGRESS REPORT ON FUNDING  
REFORM**

**1. Purpose of the Report**

- 1.1 To inform Cabinet of the main content and proposals contained in these Government documents which will shape and provide the legislative framework for Adult Social Care in the years ahead.
- 1.2 To propose comments from Derbyshire County Council on the Draft Bill which the Government has published for consultation and pre-legislative scrutiny.

**2. Information and Analysis**

**2.1 The White Paper, Caring for Our Future: Reforming Care and Support. Core Principles:**

Two core **principles** lie at the heart of the White Paper.

- The first is that everything should be done to prevent, postpone and minimise people's need for formal care and support. The system should be built around promoting people's independence and wellbeing.
- The second is that people should be in control of their own care and support. Measures such as personal budgets and direct payments, backed by clear information and advice will empower individuals and their carers to make choices that are right for them. Local authorities will also have a more significant leadership role to play, shaping the local market and working with the NHS and others to integrate local services.

The measures in the White Paper are categorised using outcome statements from people who use services and carers and are summarised below:

**‘I am supported to maintain my independence for as long as possible’**

***Supporting communities to be active and inclusive***

The government will support the role of communities by encouraging approaches such as asset-based community development, and supporting the voluntary and community sectors.

The Public Health and Adult Social Care Outcomes Frameworks for 2013-14, published in the autumn, will have shared measures relating to wellbeing. The government will also work with the care sector to establish measures for loneliness to help identify isolation. An atlas of variation in wellbeing to allow local authorities identify areas for improvement will be published by April 2013.

Prevention and early intervention will be a core local authority role. The draft Care and Support Bill gives local authorities a duty to incorporate preventative practice and early intervention into care commissioning and planning.

Communities will be involved in decisions about health and care through the involvement of local Healthwatch in health and wellbeing boards. The government expects local commissioners to identify the skills and capacities of communities in their Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy and to consider how to support these. The Think Local Act Personal (TLAP) partnership and Public Health England will establish a collaborative network to support the spread of community-based approaches.

The government will build on evidence from Social Work Practice Pilots and will work with the Social Work Colleges to ensure that community development approaches are built into future practice.

The White Paper refers to existing plans to train 5000 community organisers and to promote the growth of user-led organisations. It will expect councils (including parish councils) to use spaces and buildings for community activity. It will support My Home Life and national care providers to develop ‘open care homes’ that build links with local communities. Healthwatch visitors will help connect care home residents with communities.

The government will work to stimulate the development of time banks, time credits and other approaches that help people share time and skills. It will provide start-up funding through the Health and Social Care Volunteering Fund and will work with Community Service Volunteers and others to lead a 'call to care'.

The government will set up a number of trailblazer areas to develop new ways of investing in care and support such as Social Impact Bonds which balance financial reward with social benefits. These are a type of 'payment by results' tool in which taxpayer funding is only used if services are successful. Further details will be published in the autumn.

A national care and support evidence library will be established to be a bank of best practice to assist commissioners.

### ***Housing***

The draft Care and Support Bill will give new duties to local authorities to ensure that adult social care and housing departments work together with the aim of joining up adaptations and home repair services with care and support. A new toolkit *Planning ahead: effective planning for housing and care in later life* is due shortly.

A new care and support housing fund will provide £200 million capital funding over five years to support the development of specialist housing for older and disabled people. Extra care housing is seen as a particularly good model. The NHS and local authorities should give particular attention to the use of surplus NHS land for specialised housing.

The White Paper points to investment the government is already making in the Disabled Facilities Grant and handypersons services. It will work with the national body for Home Improvement Agencies to extend services to people who fund their own adaptations. The government will help accelerate the roll out of assistive technology through a range of incentives and support.

**'I understand how care and support works and what my entitlements and responsibilities are'**

### ***Information and advice***

The White Paper points to the new national information portal for health and care advice [www.nhs.uk](http://www.nhs.uk) which will have a directory of care providers including provider quality profiles. Local authorities will have information on local service options linked to the national directory. The government will legislate to ensure that people get information on how the care and support system works locally. It expects local authorities to 'radically improve' online information; start-up funding of £32.5 million over two years from 2014-15 will be provided.

### ***Assessment, eligibility and portability***

To achieve greater national consistency in access to care, the government will set a national minimum eligibility threshold from 2015. Councils will not be able to raise the threshold, though they could lower it. The White Paper suggests that most council's will be setting their threshold at 'substantial' by 2015. It will review the position nearer the time to determine where the national threshold should lie. It states that there is no need for local authorities to tighten current thresholds in the meantime.

The government will work with partners on options for a new assessment and eligibility framework which will take into account the skills and goals of people seeking to access support; it will also be streamlined, easier to understand and will encourage more self-assessment.

To enable people to move more easily around the country, the government will legislate for portability – councils will be required to meet existing assessed needs until they have carried out their own assessment. The draft Care and Support Bill also sets out new duties for councils to share information.

The government is keen for new providers (social enterprises and the independent sector) to offer assessment and care management services and will test options for the new framework. The Right to Provide initiative in which frontline staff can set up organisations will be supported by the Social Enterprise Investment Fund.

The new assessment framework will make it clear where responsibility for support and help in prison lies. From October 2012 members of the armed forces injured on active service will not be required to use Guaranteed Income Payments for social care.

### ***Carers' support***

From April 2013 the NHS Commissioning Board and clinical commissioning groups will be responsible for working with local authorities and carers organisations to agree plans and budgets for identifying and supporting carers. The government will work with the Employers for Carers forum to produce a roadmap for action to support carers in the workforce. The draft Care and Support Bill extends carers' rights to an assessment and for the first time entitles them to have assessed eligible needs met to maintain health and wellbeing. The national minimum eligibility threshold will apply to carers.

**'I am happy with the quality of my care and support'**

### ***High quality care –principles and standards***

The White Paper indicates it is vital that everyone understands what good care and support looks like and is clear on roles and responsibilities. It sets out a model with three components – safety, effectiveness and positive experience. The government has commissioned TLAP to develop work on increasing public understanding of care and support. A final version of a framework will be published by the end of 2012 taking into account TLAP's work. The caring for our future website provides models of care.

The White Paper points to the ban on age discrimination in health and care coming into effect in October 2012. It also describes the government's review of the Care Quality Commission (CQC) and work the CQC has done to improve its work, including a new action plan and regulatory model.

### ***Improving quality***

From 11th July 2012 every registered residential or home care provider will have a provider quality profile on the NHS and social care information website. Provider quality profiles will be developed so that by April 2013 there will be a range of information online, such as Healthwatch reports when available and information about complaints. The profiles will continue to be developed, and the government will support the production of independent quality ratings from a range of care comparison websites; direct user and carer feedback will also be encouraged.

The Local Government Ombudsman is committed to publishing data by 2013 on complaints and how they are resolved– these will include data on named local authorities or providers against which complaints have been upheld.

The government will provide training for local Healthwatch to take on it's responsibilities including a good understanding of human rights in care homes. They will also support work led by voluntary organisations and the care home sector to help local Healthwatch make best use of lay people and undertake a programme of connecting care homes with communities. This will be tested later this year in specific areas.

The role of the National Institute for Health and Clinical Excellence (NICE) will extend into adults' and children's social care; two standards are being piloted – dementia care and the health and wellbeing of looked after children. Home care has been referred to NICE as a topic for a quality standard. A comprehensive library of standards will be developed from April 2013. A new care audit based on the NICE dementia standards will be piloted in residential care in 2013, and if successful the method will be rolled out.

Legislation will give clearer duties for local authorities, the police and the NHS to work together to prevent and address abuse, with local authorities convening statutory Safeguarding Adults Board with core membership. Boards will work with the community (including local Healthwatch) to publish a plan of their priorities and produce an annual report. The government is consulting on whether a new power should be created for local authority access to a person who may be at risk of abuse or neglect, in cases where the local authority may not otherwise be able to carry out a safeguarding enquiry.

### ***A better local care market***

The government will introduce a duty on local authorities to promote diversity and quality in the provision of care, and will offer support to local authorities to create or further develop market position statements.

The government will build on dialogue that has started between the Association of Directors of Adult Social Services (ADASS) and care providers about fee levels and commissioning practices. It will encourage commissioning on the basis of quality, outcomes, value for money and payment by results. It believes that tight 'time and task' contracting involving ten or fifteen minute home care visits are unacceptable. It points to the responsibility of employers to ensure that home care staff are not paid below the minimum wage and will work with the Low Pay Commission on this.

The government will continue to work with ADASS and care providers on market intelligence to avoid chaotic closures of care provision as in Southern Cross. It is forming proposals for continuity of care should a provider go out of business and will consult on these in the autumn. For instance, the government will not support ailing businesses with tax payers funding, it will clarify and strengthen local authorities' lead role to ensure appropriate care is available, and it will seek views on what further targeted action is needed, and how to collect better market and provider intelligence.

**'I know the person giving me care and support will treat me with dignity and respect'**

### ***Workforce***

The government will ensure dignity and respect are fundamental to the new code of conduct and national minimum training standards for care workers which should be published by September 2012. The Care Quality Commission should use these standards and information about staffing levels and skill mix in its inspection and registration processes.

Personal assistants (PA's) and their employers will be offered greater support and training through the Workforce Development Fund. The government will also explore the development of a PA index and promote better understanding of the role of PAs.

The government remains committed to the social work reform programme and intends that the role of social workers will be more focused on interpersonal support, and promoting choice and control. A Chief Social Worker will be appointed by the end of 2012 to provide a leadership role for the profession, drive reform and advise government. The government intends to make jobs in social care more attractive and better skilled by training more care workers, with an ambition to double the number of care apprenticeships to 100,000 by 2017.

The government will establish a new Leadership Forum to develop leadership skills at all levels of the workforce. The Forum will work with the National Skills Academy for Social Care to help the government explore how to strengthen the status of registered managers as critical leaders and advocates of quality.

### **'I am in control of my care and support'**

#### ***Personalised care and support***

The government will legislate to give people control over their care through an entitlement to a personal budget. It continues to expect local authorities to meet the objective of all eligible people having a personal budget by April 2013. The draft Bill sets out a duty to inform people about any rights to direct payments, and the government will continue to encourage the sector to increase their use. The government intends to test the costs and benefits of direct payments for residential care in some areas. The draft Bill sets out an overarching principle for care and support, which must promote the wellbeing of the individual.

Local authorities will be required to develop and commission a range of independent advice and support options, and the government will encourage new models such as peer networks and other models such as advocacy. The draft Bill sets out plans to enable people who self-fund their care to request the assistance of their local authority with the development of a care and support plan for their eligible needs – subject to a reasonable charge for people who can afford this.

To encourage more people living in residential care into employment, from April 2013, the government will exempt income from employment for residential care charges.

### ***Integration and joined-up care***

In addition to the NHS Mandate and the Outcomes Frameworks, the draft Bill will set a duty for local authorities to promote the integration of services and will provide for further duties of co-operation for local partners. A further £100 million in 2013-14 and £200 million in 2014-15 over and above the Spending Review funding of £2.7 billion will be invested in joint funding between the NHS and social care for integrated provision. Health and wellbeing boards should determine how the investment is best used. The funding will also cover the costs to local authorities of the reforms in the White Paper.

Subject to evaluation of personal health budgets, the government intends to make it straightforward for people to combine these with personal social care budgets.

The government wants to improve care coordination so that people are assisted to navigate the care system so this becomes standard practice across hospital, community health and social care with universal care plans and named coordinators.

Later this year the government will publish a co-produced framework to support removing barriers to integrated care, including proposals for measuring peoples' experience, sharing tools and innovation and developing coordinated care models for older people. There will be a focus on better integration at key transition points such as hospital discharge and in residential care.

The government supports the Palliative Care Funding Review approach and will introduce a new funding system from 2015. It will use the eight palliative care funding pilots to consider the costs and benefits of proposals such as free end of life social care. It will also be asking some of the pilots to look at new models of service design and will increase their funding to do this. In the meantime guidance for local authorities and the NHS will be updated to encourage better transitions.

## **2.2 Draft Care and Support Bill**

The Bill, which in large part accepts the recommendations of the recent Law Commission review, aims to bring together all the underlying rights, powers and duties that underpin the national legislative framework for social care. It introduces into legislation, principles of wellbeing, integration, prevention and early intervention. It also gives new rights to carers and new duties to local authorities to provide a universal information and advice service and to promote a local diverse market in social care. The Bill retains the principles of means testing and eligibility thresholds. Regulations will permit the setting by the Secretary of State of a national eligibility threshold, although local authorities will be able to lower this threshold if they wish (but not raise it).



## 2.3 The Draft Bill is broken down into three parts:

### **PART 1: Adult Care and Support**

Part 1 aims to bring together the whole national legislative framework for social care, both for those who can and for those who cannot afford to pay for their own care. The main vehicle for ensuring that this support is provided remains the duties on local authorities relating to care and support both for adults who need care and carers who need support. Most clauses cover both those who need care and carers. In some cases, there are separate provisions, and the terms “adult needing care” and “carer” are used to distinguish these.

### **General responsibilities of local authorities**

The Bill would enshrine in law a number of overarching duties which local authorities must fulfil when carrying out their social care functions.

#### ***1. Promoting individual well-being***

Clause 1 provides for a set of legal principles which frame how local authorities are to carry out their care and support functions. A “well-being principle” is introduced to underlie all the provisions of this part of the Bill. Well-being is not defined precisely but there is a list of outcomes which develop the concept.

#### ***2. Promoting information and advice***

A duty is placed on local authorities to provide an information and advice service in relation to care and support. Information and advice is to be made available to all people whether or not they meet eligibility criteria and whether or not they live in the authority’s area. It is for the local authority to determine the precise scope of the information and advice it will offer, subject to the basic requirements in the clause.

#### ***3. Promoting diversity and quality in provision of services***

This clause places a duty on local authorities to promote diversity and quality in the market of care and support providers in the local area, including private sector organisations, not-for-profit and social enterprises and mutuals. Local authorities are required to consider this duty when commissioning services.

#### ***4. Co-operating generally***

Clause 4 requires each local authority to co-operate with “relevant partners” in the exercise of its social care functions. It does not create any new functions or require the local authority to undertake any particular activities. Relevant partners include district councils, the NHS in the area, the police in the area, the prisons Minister, and the probation service. The local authority must also ensure co-operation between adult social care, housing and children’s services. Explanatory notes indicate that the intention is to promote the use of Section 75 of the NHS Act

2006, e.g. to create pooled budgets, and other forms of existing partnership arrangements. In relation to housing, the intention is to use the legislation to ensure that adaptations and home repair services are appropriately joined up with care and support.

### ***5. Co-operating in specific cases***

This clause places a duty on “relevant partners” as defined in clause 4 to co-operate with local authorities. Explanatory notes indicate that it is intended to be used to promote co-operation in relation to individual care issues, but also in broader matters such as, for example in relation to adult safeguarding enquiries; when an adult requires an assessment for NHS Continuing Healthcare; or when an adult moves between local authority areas.

### ***6. Promoting integration of care and support with health services etc***

Clause 6 requires local authorities to carry out their care and support functions with the aim of integrating services with NHS or other health-related services (e.g. housing). This clause is intended to reflect the duty to be placed on clinical commissioning groups in section 26 of the Health and Social Care Act 2012).

### ***7. Preventing needs for care and support***

This clause creates a legal duty for local authorities to take measures to prevent, delay or reduce people’s need for care. Explanatory notes indicate that this duty may be discharged in part through the requirement to undertake Joint Strategic Needs Assessments and Joint Health and Well-being Strategies. The clause also permits regulations to allow local authorities to charge for “service, facilities or resources, or for taking other steps” in discharging this duty. Local authorities may join together to carry out this duty.

### **Meeting needs for care**

Clause 8 provides an indication of the range of what a local authority can do to meet care needs by listing some general examples which include residential care, home care and respite care.

### **Assessment**

Clauses 9 - 13 deal with assessment of needs, replacing a number of existing powers and duties with a single duty to assess both those in need of care and support and also carers. The Secretary of State is required to make regulations about how assessments are carried out. He/she is also required to make regulations setting out an eligibility framework which may include setting a single threshold for defining eligible needs. These regulations will replace existing statutory guidance on eligibility (i.e. the Fair Access to Care provisions).

### **Imposing charges and assessing financial resources**

This issue is covered in clauses 14 – 16. They give local authorities a general power to charge for certain types of care and support, at their discretion, replacing the existing duty on local authorities to charge for care home accommodation and powers to charge for other types of care and support. Where someone is not eligible for free care from the local authority, they may request the local authority to arrange their care and charge for so doing. There is provision for regulations to set out how financial assessments are done and how local authorities must treat people's income and capital in calculating their resources and assessing whether they will be charged for care.

Clause 16 provides for regulations to govern deferred payment agreements which enable individuals to put up their homes as security against having to pay charges to the local authority – i.e. an individual receiving care which would normally be charged for would not pay, but their home would have to be sold or mortgaged at a later date. The clause enables regulations to permit deferred payments for all types of care, not just care home charges as at present, and to allow local authorities to charge interest on the deferred sum.

### **Who can have their needs met**

Clauses 17 – 22 set out who (both which people who need care and which carers) may be entitled to care and support and in what circumstances. For example, people must be resident in the local authority's area and must have been assessed as eligible, except in certain circumstances which are defined. The boundary between personal care and healthcare is also outlined, ensuring that local authorities cannot provide health care, except in very exceptional, defined circumstances. There is also provision for regulations governing local authorities' role in assessing whether a person is entitled to continuing healthcare. The boundary between local authorities' personal care and housing functions are also set out.

### **Role of the local authority following assessment**

This is covered by clauses 23 – 27. There are provisions relating to care and support plans for those with care needs and for carers and requirements for personal budgets, reviews of care and support plans and an extension of the power to choose accommodation beyond care homes to other forms of accommodation. There is also provision for individuals to top up their care home fees beyond what the local authority would normally pay.

### **Who can receive direct payments**

Clauses 28 – 30 define eligibility for direct payments making it clear that everyone receiving services, including carers will have a right for their personal budget to be paid as a direct payment.

### **Continuity of care**

Clauses 31 – 33 cover issues of residency, defining people's 'ordinary residency' and dealing with disputes about ordinary residency and continuity of care. Clause 31 introduces new requirements for local authorities to provide assessments for people intending to move to their area or to continue providing care based on the original care plan in their previous authority's area. This is intended to provide greater continuity and consistency of care when people move home.

### **Safeguarding adults at risk of abuse or neglect**

A statutory framework for adult safeguarding is set out in clauses 34 – 38, defining the responsibilities of local authorities and their partners and creating Safeguarding Adults Boards in every area with specific duties.

### **Transition for children to adult care and support**

Clauses 39 – 44 set out local authorities' duties in relation to children and young people in the transition from children's to adults' services. They provide for young people to request an assessment in advance of their 18th birthday. This section also provides for assessments of the support needs of carers of children and of young carers on similar terms as for adult assessments and for support to carers of children to supplement support under the Children Act 1989. Clause 43 requires transition arrangements for young people moving to adult services to ensure continuity of care.

### **Additional provisions**

Clauses 45 and 46 deal with recovery of charges and enforcement of debts.

Clause 47 deals with delayed discharges ensuring that existing provisions will apply.

Clause 48 brings together provisions for after-care under the Mental Health Act 1983, removing certain anomalies and providing for direct payments.

Clause 49 requires local authorities to keep registers of blind and sight impaired residents and enables them to keep registers of people with other disabilities.

Clause 50 confers on guidance issued by the Secretary of State the same legal status as it currently has.

Clause 51 provides a power for local authorities delegate their functions to a "third party" and a power for the Secretary of State to decide to which functions this delegating power applies.

## **PART 2**

This establishes Health Education England (HEE) and the Health Research Authority as non-departmental public bodies and allows for the abolition of the Human Fertilisation and Embryology Authority (HFEA) and Human Tissue Authority (HTA) by amending the Public Bodies Act 2011. This last provision is subject to a public consultation.

## **PART 3**

Clauses in this part of the Bill cover technical issues such as regulations, orders and commencement of parts of the Bill (without as yet giving any dates).

### **2.4 Caring for Our Future: Progress Report on Funding Reform**

The introduction and summary of the paper focusses on the work of The Commission on Funding of Care and Support, chaired by Andrew Dilnot, established by the current government.

The Commission published its recommendations on how to share costs between the state and individuals in July 2011.

The Commission made three key proposals for reforming the way in which people pay for their care and support:

- The Government should put a cap on the lifetime care costs that people face - or a lower level for people who develop a care need before the age of 65.
- The current means-tested system should be retained and extended, to ensure that those who are less able to afford to fund their own care receive additional support. The current means test (for residential and nursing care) offers support to people with assets of less than £23,250; the Commission recommended that this should be extended to £100,000.
- People in residential care would continue (subject to a means test) to make a contribution towards their living costs (between £7,000 and £10,000). This principle is important to create a level playing field between care settings and prevent people who reach the cap having a financial incentive to go into residential care.
- The Commission provided estimates that its proposals, based on a cap of £35k and contribution towards living costs of £10k, would cost £2.2 billion in 2015/16 and that demographic pressure would mean that this would increase to £3.6 billion by 2025/26 (2010/11 prices).

The paper indicates that the Government agrees that the principles of the Commission's model would be the right basis for any new funding model – financial protection through capped costs and an extended means test. It goes on to state however *“whilst we support the principles of the approach recommended by the Commission, and it is our intention to base a new funding model on them if a way to pay for it can be found, there remain a number of important questions and trade-offs to be considered about how those principles could be applied to any reformed system. Given the size of the structural deficit and the economic situation we face, we are unable to commit to introducing the new system at this stage. The Government will work with stakeholders and the Official Opposition to consider the various options for what shape a reformed system, based on the principles of the Commission's model, could take before coming to a final view in the next Spending Review. Taking a decision in the Spending Review will allow the Government to take a broad view of all priorities and spending pressures.”*

### **3. Response to the Government's Proposals**

#### **3.1 National**

There has been a substantial engagement nationally with the Government's proposals across a wide range of stakeholders and interested parties.

The Local Government Association and the Association of Directors of Adult Social Services (ADASS) have with others made initial pronouncements on the papers and their comments are summarised in the paragraphs below.

- With regard to the Draft Bill ADASS has acknowledged the huge achievement in instigating a completely new legislative framework for Adult Social Care which will simplify and bring together a patchwork of legislation built up incrementally since 1948.
- There is much in the White Paper which ADASS has looked forward to, been involved in shaping and are keen to co-produce with Government and key partners. These include promoting wellbeing and independent living, choice and control, quality, accessible and reliable information, carers, safeguarding and portability.
- On funding ADASS has voiced concerns that the case for resourcing has not been accepted and that Local Authorities face an uncertain funding picture until 2015. As Local Authority budgets are squeezed further, the preventative services the Bill seeks to promote may be some of the first casualties of Council savings plans. ADASS has expressed deep concern that the issue of Adult Care funding has

been placed at the back of the funding queue, even while funding can be found for other priorities.

- The Local Government Association (LGA) has acknowledged that the White Paper provides a good platform for a reformed social care system which builds on the sector-wide consensus about the recommendations of the Law Commission and the Dilnot Commission.
- The LGA has welcomed the government's commitment to adopt the principles of the Dilnot Commission (that an individual's lifetime contribution should be capped) but the Government's unwillingness to provide funding indications until at least the Spending Review of 2015 is disappointing and seriously compromises the ability of Local Authorities to make sensible financial plans.
- The LGA has expressed considerable disappointment that the White Paper does not address the reality of the funding pressures Councils face. Small packages of additional funding are welcomed but LGA have stated that an essential precondition of serious progress must be an honest appraisal of what a modern social care system costs and how it is to be funded. On the funding paper the LGA has opined that it takes us no further forward in how a modern, stable and predictable social care system can be properly resourced. On this timetable users and carers could face at least a further five years of uncertainty and hardship.

The LGA has predicted that, without urgent reform of how Adult Social Care is paid for a £16.5, billion shortfall between service costs and funding will exist by 2020. Sir Merrick Cockell, the Chairman of the LGA, has issued a statement in which he asserts "By the end of the decade councils may be forced to wind down some of the most popular services they provide unless urgent action is taken to address the crisis in adult social care funding. Efficiency savings won't go close to solving this problem. We need an immediate injection of money into the adult social care system to meet rising demand in the short term, alongside a major revision of the way it is paid for and delivered in the future". Sir Merrick also suggested that money should be transferred from the NHS to be spent on preventative services that help the older people and the disabled people live independently at home for longer. The proposal to transfer resources from the NHS to Adult Care has also been suggested by The Association of Directors of Adult Social Services.

#### **4. Implications for the Adult Care Offer in Derbyshire**

- 4.1 The re-organisation of the Adult Care Service, agreed by Cabinet in October 2010 has been carried out in tandem with the consolidation and further development of services consistent with “A vision for Adult Social Care, Capable Communities and Active Citizens” published by the Department of Health in November 2010.

Key elements of the strategy in Derbyshire to deliver the vision include:

- Health and Wellbeing Zones / Information kiosks with local and national websites.
- Befriending / First Contact / Handyvan / Housing Related Support / Telecare.
- Generic Social Work teams focused on developing supportive communities.
- Carers Personal Budgets
- Five mile offer of Extra Care linked to specialist care in £200m partnership.
- Widespread adoption of dignity in care across Health and Care (public and private sectors).
- Implementation of dementia strategy and pathway within our specialist care centres.

These have put Derbyshire in a solid position to comply with the legislative framework as set down in the Draft Bill and the outcome statements and action points in the White Paper which will establish the foundations of a reformed system of care and support.

The major issue in Derbyshire, as the case in all local authorities with adult social care responsibility, is how the new offer is going to be funded within the context of demographic pressures and reductions in funding settlements.

Adult Care has achieved £25 million in efficiency savings over the last 4 years and has an efficiency target of £9.075 million for 2012/13. Our demographic pressures are now rising well above £6 million per annum. The budget already has an underlying deficit of £5.6 million and the department had total budget pressures of £16.283 million at the start of the current financial year. The projected overspend at 31st July reported to Cabinet on 26 September was £8.5 million. The Adult Care budget as a percentage of the Council budget was 39.59% in 2011/12.

In order to cope with the demographic pressures and deliver the projected efficiency savings over the next 2 to 3 years the Council will have to consider reducing or removing the non-statutory elements of the adult care offer, e.g. information, prevention and housing related support,



a number of which, paradoxically, will become statutory duties if and when this draft bill passes into legislation.

In addition to the general concerns about short term and longer term funding there is a specific concern around the funding implications of the proposed rights of carers and the responsibilities on local government to assess carers on an equal footing with those in need of care and support. There will also be a duty to provide support to carers within a national minimum eligibility framework on the same basis as those who require care. It is the firm view of the Cabinet Member and Strategic Director for Adult Care in Derbyshire (and elsewhere) that the cost implications of these proposals require more detailed exploration.

## **5. Derbyshire's response to the consultation on the Draft Bill**

- 5.1 The response website hosted by the Department of Health is structured around topics and clauses, and comments received up until 19<sup>th</sup> October will feed directly into the process of parliamentary scrutiny.

There is also provision to send comments by email to the draft care and support bill team.

- 5.2 It is proposed that the Cabinet Member and Strategic Director should be authorised by Cabinet to submit comments in line with the contents and views expressed in this report, along with any additional comments which Cabinet would wish to have submitted on behalf of Derbyshire County Council.

## **6. Other Considerations**

- 6.1 In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality of opportunity, human rights, personnel, environmental, health, property and transport considerations.

## **7. Key Decision**

No

- 8.1 Is it required that call-in be waived in respect of the decisions proposed in the report?**

Yes

## **9. Background Papers**

- 9.1 HMGovernment - Caring for our future: reforming care and support.  
HMGovernment - Care and Support Bill

HMGovernment - Caring for our future: progress report on funding reform.

Department of Health – A Vision for Adult Social Care: Capable Communities and Active Citizens.

## **10. OFFICER’S RECOMMENDATION**

10.1 That Cabinet note the contents of this report.

10.2 That Cabinet authorise the Cabinet Member and Strategic Director to submit comments to the Draft Bill Consultation in line with the content and views set down in this report.

10.3 That Cabinet determine any additional comments which it would wish to have submitted.

**Bill Robertson**  
**Strategic Director – Adult Care**

**County Hall**  
**Matlock**