

The Care Act 2014

How it will affect frontline practice

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SURREY

Purpose of today

1. Help staff to understand what the Care Act 2014 is
2. Identify what's new and what's different, and what that means for frontline social care practice
3. Describe how you will be supported to implement the changes, and explain how our response to the Act links to the other major change programmes in the Adult Social Care Directorate
4. Understand what you are most concerned about
5. Focus on the 2015/16 changes (i.e. not the 2016/17 funding reforms)

Surrey Information Summit

- The summits will provide an update on health and social care support, services and information.
- Tailored for staff in Surrey organisations who have a substantial role in providing information across the care pathway.
- A range of presentations and workshops will explain the new legislation and approaches influencing health and social care practice, including the Care Act 2014.
- Please hold one of the below two summit dates if you are interested.
Booking forms to follow in January 2015
 - 17February, Dorking Halls
 - 4 March, Dorking Halls
- For further details, please contact Vineeta.Bali@surreycc.gov.uk

What's on your mind?

- What have you heard about the Care Act?
- What questions do you have about it?

What is the purpose of the Care Act 2014?

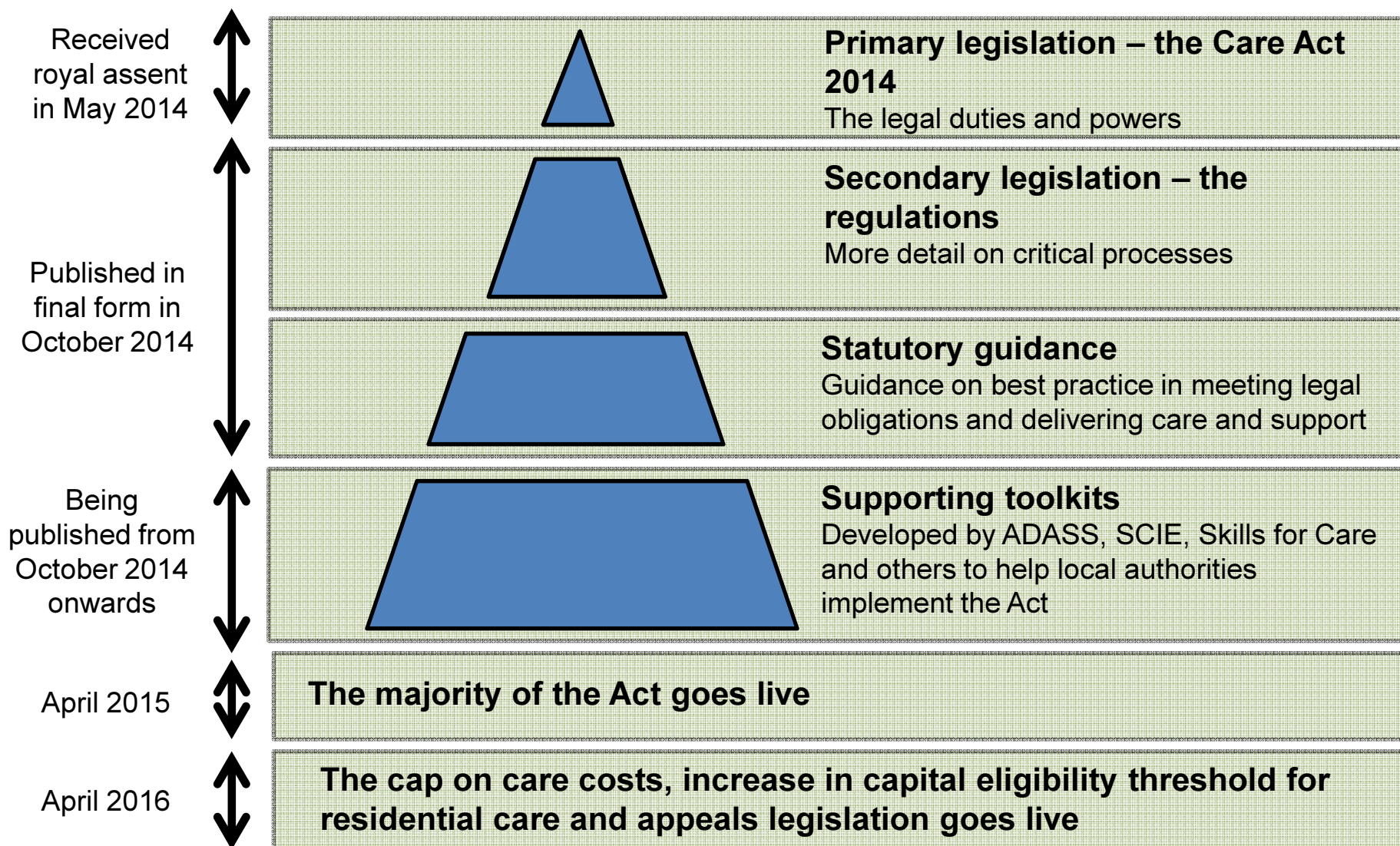
Part 1 of the Care Act 2014 reforms adult care and support in England:

1. Simplifies and clarifies over 60 years of legislation, following the recommendations of a three-year review by the Law Commission.
2. Delivers many of the commitments in the *Caring for our Future* White Paper.
3. Provides for a new capped costs system for funding care and support, based on the recommendations of the Dilnot Commission.

Other parts of the Care Act 2014

- **Part 2: Care Standards**
 - Duty of candour in NHS trusts
 - Role of CQC
- **Part 3: Health**
 - Health Education England
 - Health Research Authority
- **Part 4: Health and Social Care**
 - Integration funds
- **Part 5: General**
 - Miscellaneous

Care Act 2014 implementation timescales

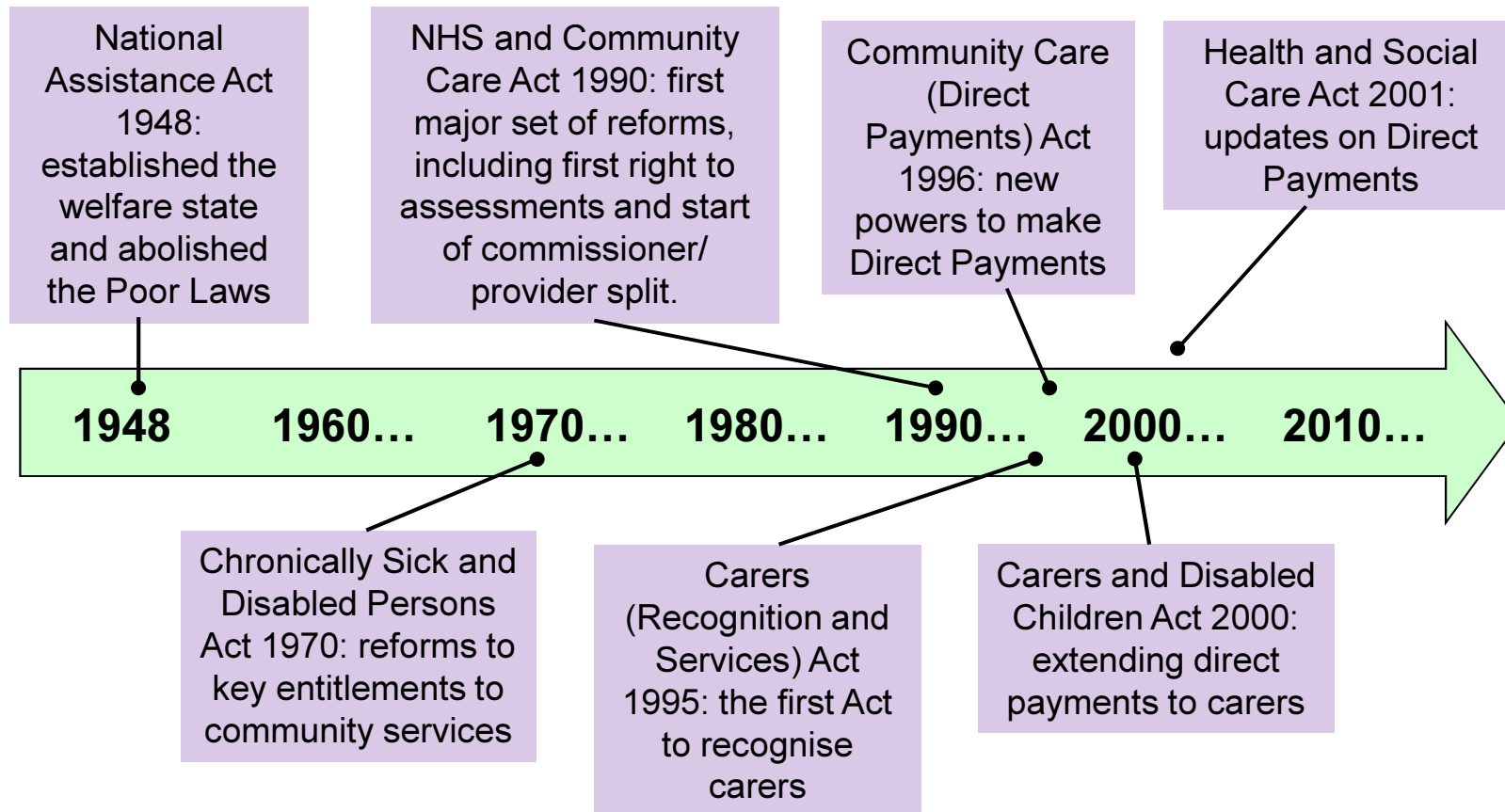


Implications of the Care Act in Surrey

- The majority of the Act is not “new”, but consolidates current legislation and guidance into one coherent Act.
- It builds on and strengthens our current practice to embed Personalisation and Family, Friends and Community into our routine frontline practice.
- Where there is no change, it is an opportunity to reinforce best practice and ensure consistency across the service.
- Some parts of the Act introduce extensions or variations to current policy and practice.
- In some parts of the Act, there are new statutory duties which we must comply with and which practitioners will need to be familiar with.

Community Care Legislation - Timeline

Social care law and policy has evolved over more than 65 years, incorporating around 30 Acts of Parliament, but reform has usually been piecemeal.



Key Legislation and Guidance - not changing

- Mental Capacity Act 2005
- Mental Health Act 1983
- Children and Families Act 2014 (SEND code of practice)
- National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (November 2012) (Revised).
- Human Rights Act 1998

Key complementary projects - not changing

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

Care Act 2014: Key legal concepts

- **Must**- means the LA has a legal **duty** to follow it
- **Should**- means the LA **should** adhere to it - unless there is very good reason not to
- **May**- means the LA **can** adhere to it but does not have to
- **May Not**- means the LA **does not** have the power to do it.

What's staying the same/small changes, what's different and what's new for frontline practice? (1)

Section	Topic
1	Promoting individual wellbeing
2	Preventing needs for care and support
3	Promoting integration with health
4	Providing information and advice
5	Promoting diversity and quality in provision of services
6	Co-operating generally
7	Co-operating in specific cases
8	How to meet needs
9, 11-12	Assessing needs
13	Eligibility criteria
10, 63	Carers' and young carers' assessments
14, 17	Charging and assessing finances (parts from April 2016/17)
15-16, 28-29	Cap on care costs (from April 2016/17)
22	Exception for provision of health services
18-19; 23	Duties and powers to meet needs
24-27, 30	Next steps after assessments
31-33	Direct payments
34-36	Deferred payments

What's staying the same/small changes, what's different and what's new for frontline practice? (2)

Section	Topic
37-38	Continuity of care
39-41	Ordinary Residence
42-47	Safeguarding
48-52	Provider failure
53-57	Market oversight
58-66	Transition for children to adult care and support
67-68	Independent advocacy
69-70	Enforcement of debts
72	Appeals (from April 2016/17)
74	Hospital discharge
75	After-care under the Mental Health Act
76	Prisons
77	Registers of sight-impaired and disabled adults
71, 73, 78-79	Miscellaneous
Cross-cutting	Topic
-	Mental capacity
-	Self-funders

Different: Promoting 'wellbeing'

Section 1

What's different?

- *A new legal principle to promote wellbeing when carrying out any care and support functions in respect of an individual.*
- *The wellbeing principle applies equally to carers, self-funders and those who do not have eligible needs.*

What does that mean for frontline practice?

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

How will you be supported?

- *'Confident and enabling conversations' training; 'Acting out' training*
- *Considering wellbeing embedded into new core Care Act training*
- *Considering wellbeing embedded into refreshed procedures and practice guidance*

Care Act 2014: Definition of wellbeing

Section 1 (2)

“Well-being”, in relation to an individual, means that individual’s wellbeing so far as relating to any of the following:

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

Key matters to take account of

Section 1 (3)

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

Different: Preventing needs for care and support

Section 2

What's different?

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

What does that mean for frontline practice?

- We may see an increase in people presenting for adult social care support.
- We will need to have a clear understanding of the timetable of the implementation of the Act, particularly in relation to funding reform.
- We'll need to work closer with other agencies, particularly voluntary and constituent-led organisations

How will you be supported?

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

Different: Self-funders

What's different?

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

What does that mean for frontline practice?

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

How will you be supported?

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

Different: Co-operating

Sections 6 and 7

What's different?

- *A local authority **must** co-operate with each of its relevant partners*
- *Each relevant partner **must** co-operate with the authority*

What does that mean for frontline practice?

- *Relevant partners are: all councils; NHS bodies; Department of Work and Pensions; police; prisons; probation services*
- *Staff will need to co-operate in relation to adults with care and support needs and with their carers.*

How will you be supported?

- *Information sharing protocol*
- *The Information Governance team can advise when necessary*

Small changes: Assessing needs

Sections 9, 11 and 12

What's changed?

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

Small changes: Assessing needs (continued)

Sections 9, 11 and 12

What does that mean for frontline practice?

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

How will you be supported?

- *Assessment forms, procedures and practice guidance to be updated.*
- *Will be some changes to AIS.*
- *Core Care Act training will be delivered to staff on the changes.*
- *Support from your local management team*

New: Eligibility criteria

Section 13

What's new?

- *New national eligibility criteria based on 3 key requirements:*
 - *Needs*
 - *Outcomes*
 - *Wellbeing*
- *No critical or substantial risk bandings*
- *Focus on wellbeing and outcomes*
- *Local authorities **must** consider an individual's need over an appropriate period of time to ensure that all of their needs have been accounted for when the eligibility is being determined*
- *Where the person is found to have no eligible needs, local authorities **must** provide information and advice on what can be done to meet or reduce the needs (for example what support might be available in the community to help the adult or carer) and what can be done to prevent or delay the development of needs in the future.*

New: Eligibility criteria (continued)

Section 13

What does that mean for frontline practice?

- *Local authorities **must** provide the person to whom the determination relates (whether that is an adult with care and support needs, or a carer with support needs) with a copy of their decision.*
- *Eligibility determinations **must** be made on the basis of an assessment, and cannot be made without having first carried out an assessment*
- *Local authorities **must** inform individuals that a financial assessment will determine whether or not they pay towards their care and support, but this **must** have no bearing on the assessment process itself.*

How will you be supported?

- *Assessment forms, procedures and practice guidance to be updated.*
- *May be some changes to AIS.*
- *Core Care Act training will be provided.*
- *Support from your local management team.*

Different: Carers' and young carers' assessments

Sections 10, 63

What's different?

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

What does that mean for frontline practice?

- *Carers' assessments should continue to be completed as part of a whole family approach*
- *Frontline staff should continue to identify and, if appropriate, assess young carers*

How will you be supported?

- *Rollout of young carer assessment tools and training*
- *Changes to carers' eligibility and assessment to be included in revised procedures, practice guidance and training*

New: Independent advocacy

Sections 67, 68

What's new?

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

- *Conditions for Independent Advocacy:*
 - 1 *Were an independent advocate not provided the individual would experience **substantial difficulty** in doing one or more of the following:*
 - *Understanding relevant information*
 - *Retaining that information*
 - *Using or weighing that information as part of the process of being involved*
 - *Communicating the individuals views, wishes or feelings*
 - 2 ***AND** there is no appropriate (unpaid) person available to represent and support the persons wishes*

New: Independent advocacy (continued)

Sections 67, 68

What does that mean for frontline practice?

- *Assessors will have to identify the potential need for a care act advocate early in the assessment process*
- *Where the need is established the assessment can't be completed without care act advocate involvement unless it is an emergency*
- *Assessors will need to have applied knowledge of the Mental Capacity Act 2005*

How will you be supported?

- *Review of current general advocacy and Independent Mental Capacity Advocacy provision*
- *New procedures and guidance to be developed*
- *Core Care Act training will be delivered to staff on the changes*

Different: Exception for the provision of health services

Section 22

What's different?

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

How will this affect frontline practice?

- *Staff will need to work collaboratively with NHS colleagues to ensure that a seamless service is provided to those with health and social care needs. This includes joint funded packages of care.*
- *If a need for a CHC checklist is indicated during the assessment staff have a duty to inform the CCG.*

How will you be supported?

- *Core Care Act training.*
- *New practice guidance on assessments will be developed.*

Different: Next steps after assessments

Sections 24, 25, 26 and 30

What's different?

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

What does that mean for frontline practice?

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

How will you be supported?

- *Assessment forms, procedures and practice guidance to be updated.*
- *Will be some changes to AIS.*
- *Core Care Act training will be delivered to staff on the changes.*
- *Support from your local management team*

Different: Charging and assessing finances

Sections 14, 17

What's different?

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

What does that mean for frontline practice?

- *Frontline staff will need to familiarise themselves with any changes to our charging policy.*
- *We anticipate that some people will be confused about charging and the cap on care costs which does not come in until 2016 - frontline staff will need to know the details*

How will you be supported?

- *Factsheets will be available to help frontline staff understand the changes*

Different: Direct payments

Sections 31-33

What's different?

- *All eligible people should be informed about their entitlement to a Direct Payment (DP).*
- *Family members can administer the DP with a small fee incentive.*
- *Monitoring DP accounts will be lighter touch if all is well initially.*
- *Payment accounts and DP in care homes are currently being piloted.*

What does that mean for frontline practice?

- *Staff will need to understand direct payment legislative provisions and be able to provide information on DPs at the assessment stages*

How will you be supported?

- *Surrey Independent Living Council, the Financial Assessment and Benefits Team and Finance staff will be able to assist frontline staff as necessary*
- *New information leaflets for residents*
- *Core Care Act training will be delivered to staff on the changes and procedures revised and updated*
- *Direct payments in care homes and pre-paid accounts projects*

Different: Deferred payments

Sections 34-36

What's different?

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

What does that mean for frontline practice?

- *We are currently consulting on proposed changes to our deferred payments scheme.*
- *We must be able to inform people about the proposed changes from January 2015, i.e. during the 12 week property disregard period before 1 April 2015.*
- *Frontline staff will need to familiarise themselves with the details of the new scheme as soon as it becomes available.*

How will you be supported?

- *Factsheets will be available to help frontline staff understand the changes*

New: Continuity of care

Sections 37 and 38

What's new?

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

What does that mean for frontline practice?

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

How will you be supported?

- *Core Care Act training will be delivered to staff on the changes and new practice guidance will be developed*
- *Support from your local management team.*

Different: Ordinary Residence

Sections 39, 40 and 41

What's different?

- *Extension of the deeming provisions to include specified accommodation*
- *New rules around specified accommodation mean those 'placed' by Surrey in Supported Living or Shared Lives will remain ordinarily resident in Surrey and therefore Surrey County Council will continue to have funding responsibility even if they are placed out of county.*

What does that mean for frontline practice?

- *People in Supported Living or Shared Lives will need their care and support arrangements to be put in place by Surrey County Council even if they are out of county.*
- *Choice of accommodation guidance now includes specified accommodation.*

How will you be supported?

- *Core Care Act training will be delivered to staff on the changes and practice guidance will be developed.*
- *Support from your local management team.*

Different: Safeguarding

Sections 42 to 48

What's different?

- *The local authority **must** make enquiries (investigate) where it is inappropriate for a provider to do so.*
- *Each local authority **must** establish a Safeguarding Adults Board.*
- *Serious case reviews will be called 'safeguarding adults reviews'*
- *Making safeguarding personal (MSP)*

What does that mean for frontline practice?

- *Making safeguarding personal will become the basis of the way we work with safeguarding issues*
- *Staff will need to undertake enquiries where necessary*
- *We will always find out what the person wants to happen and place the person at the centre of the safeguarding and focuses on their personal outcomes*
- *Staff will need to understand and follow new safeguarding procedures*

How will you be supported?

- *Core Care Act training as well as specific training on MSP.*
- *Procedures and practice guidance are being updated / reviewed*
- *Safeguarding Advisors will be recruited in each locality team*
- *SSAB reviewing its policies, procedures, training etc*

Different: Transition

Sections 58 to 66

What's different?

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

What does that mean for frontline practice?

- *Staff will need to be aware of the changes and adjust their practice accordingly*
- *New duties relating to young carers will mean proactive identification of them as a part of the whole family assessment*

How will you be supported?

- *Core Care Act training will be delivered to staff on the changes.*
- *Procedures and practice guidance will be updated.*
- *As part of the 0-25 agenda there will be engagement with all key stakeholders about how best to support young people through their transition to adult life.*

Different: Aftercare

(Section 117 of the Mental Health Act 1983)

Section 75

What's different?

- *New regulations allow for a person under Section 117 of the MHA 1983 to have a choice of accommodation and pay a top up if it is more expensive than the LA rate will provide*
- *All individuals under S117 will be able to receive direct payments*
- *New provisions for determining Ordinary Residence for S117*

How will this affect frontline practice?

- *People subject to S117 aftercare, and their carers / families will need to be given information and guidance about top up fees and direct payments on discharge*

How will you be supported?

- *Core Care Act training will be delivered to staff on the changes.*
- *Procedures and practice guidance will be updated.*

New: Prisons

Section 76

What's new?

- *Each local authority responsible for the assessment of all prisoners in custodial settings in its area who appear to be in need of care and support regardless of which area the individual came from or where they will be released to.*
- *Principle of **equivalence** with those in the community, however complicated in some areas, e.g. aids & adaptations*
- *Initial assessment key as prisoners move often*
- *Prisons can be invited to sit on Safeguarding Adults Boards*

What does that mean for frontline practice?

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

How will you be supported?

- *If changes to frontline working arrangements and practice are made, training will be put in place*

What's on your mind now?

- What aspect of the Care Act do you think is likely to have the most impact on your practice?
- What questions do you have now?

Further information

- The Care Act guidance and regulations are available at:
<https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>
- Department of Health factsheets on the Act are available at:
<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>
- We have a Surrey Care Act webpage:
www.surreycc.gov.uk/careact
- If you would like to know more regarding Surrey's response, contact:
 - Email: careact@surreycc.gov.uk
 - Post: The Care Act Project Team, Room G34, Surrey County Council, County Hall, Penhryn Road, Kingston-upon-Thames, KT1 2DN