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Name/Job Title(s)		Name/Job Title	
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## 1. Background

### 1.1 Title:

An Impact assessment on the Implementation of the Care Act in Devon.

### 1.2 Description:

The Care Act received Royal Assent in May. Part 1 of the Act goes live in April 2015. It puts in place the most significant changes to adult social care legislation in 40 years. It simplifies much of the previous legislation. It reinforces the personalisation agenda and, for the first time, establishes an equal footing in relation to carers and those cared for. It also establishes new duties on the Local Authority – most significantly in relation to prevention, to carers and to ensuring there is a thriving provider market. In April 2016 the final stage of the Care Act come into force when new funding reforms are implemented. These will establish a new charging framework, new financial thresholds for people's contributions towards their care and places a cap on the contribution that individuals will make towards their lifetime care cost.

The Care Act has major significance across the whole council and impacting on large parts of the NHS: Not just a social care issue.

NHS and public health representatives sit on the programme board alongside the leads for each work stream. Other stakeholders are being invited to be involved throughout the programme, these stakeholders include: carers, users, staff, other local authorities, providers and voluntary sector organisations.

In Devon, the implementation of the Care Act falls within 9 work streams:

1. Operational Delivery
2. Safeguarding
3. Supporting Carers
4. Prevention
5. External Markets

6. Care Accounts and Charging
7. Communication, Engagement, Information and Advice
8. Finance Support
9. IT Systems

**N.B. Only some aspects of these work streams will affect the support that people actually receive, so this impact assessment takes each work stream in turn and assess the impact of the relevant parts of that project which involve making public-facing changes...**

### **1. Operational Delivery**

This work package is responsible for delivering the new eligibility framework and ensuring that anyone who is entitled to a needs assessment, including self funders, can have one.

In addition to this, the work package will prepare DCC for the new legal responsibility to provide a care and support plan. Along side this the work package will ensure processes are in place to support continuity of care for people moving into the area and also implement the transition framework.

A key deliverable will be to ensure that operational practices are aligned to national and local policies

Operational Delivery Duties include:

- Duty to promote wellbeing
- Duty to assess, support plan and review all individuals including adults in custodial settings
- Duty to promote integration of care and support with health services
- New national minimum threshold
- Duties to ensure continuity of care where individuals move local authority areas
- Extension of direct payments to residential care
- Duty to provide advocacy for those that need it.

Areas of focus include:

- Review of the care pathway
- Increase in care management staff - skills mix and recruitment plan and campaign
- Options for initial contact, assessment and review and support planning.
- Assessments process for prisoners
- Advocacy throughout the care pathway
- Early intervention services (tertiary prevention)
- Workforce development

Most of this work stream concerns re-organising social care operational structures and processes to ensure effective delivery of Care Act changes within available resources. When changes have been identified which have a public-facing impact then they will be discussed with the Care Act Service User & Carer Reference Group which has been established for us by Healthwatch Devon. Membership of that group comes from the 5 user-led networks representing: older people; people with mental health issues; people

with learning disabilities; people with physical & sensory disabilities; and carers. That focus group will be able to offer critical challenge through detailed debate and questioning, and may identify issues which require wider public consultation.

## **2. Safeguarding**

The Care Act formalises many existing practices such as placing a duty on local authorities to establish a Safeguarding Adults Boards with prescribed membership. This work package will ensure that existing arrangements and functions are amended if necessary to reflect guidance and regulation relating to Safeguarding Adults Boards.

The Safeguarding work stream will ensure that the Safeguarding Adults Board (SAB) will:

- include the local authority, the NHS and the police, who should meet regularly to discuss and act upon local safeguarding issues;
- develop shared plans for safeguarding, working with local people to decide how best to protect adults in vulnerable situations;

Publish this safeguarding plan and report to the public annually on its progress, so that different organisations can make sure they are working together in the best way.

There is a Safeguarding Adults Board Service User Reference group which already scrutinises safeguarding work, but any public-facing changes which arise from this Care Act work stream will also be discussed at the Care Act Service User & Carer Reference Group. Our analysis of the way in which Devon's existing Safeguarding Adults Board has been established and functions means that very few changes to the Board's public-facing role.

## **3. Supporting Carers**

This work package will ensure that processes and infrastructure are in place to identify carers. In addition to this, the work package will put in place systems to ensure carers are assessed and provided with support plans.

The work package will be closely linked to DCC's work in implementing the Children and Families Act that provides provision for young carers to be given similar rights to assessment as other carers have under the Care Act.

Areas of focus include:

- Expanded duty to identify, assess and provide support for carers - Carers rights to assessments as carers in their own right
- Understanding the impact in terms of how many assessments and reviews will be needed
- A new right for young people, parents, carers to request a care and support assessment before they reach 18
- Review of the relevant trigger points on the carers' pathway.
- A new 'core offer' for Carers.

### **Number of Carers in Devon**

There are estimated to be 84,700 carers in the County of Devon; of which 18,000 carers are known to the Devon Carers provider consortium and the Devon Carers Partnership of commissioners (Devon County Council, NEW Devon CCG, South Devon and Torbay

CCG).

## **Carer Definition**

The Care Act 2014 defines a carer as: “an adult who provides or intends to provide care for another adult (an “adult needing care”)”.

This means that carers are people of all ages who provide unpaid support to a family member or friend who could not manage without this support – they may be supporting someone who is ill, has a disability, is frail, or is a substance misuser (e.g. drugs or alcohol).

In Devon we have a Strategic Partnership for Carers whose vision for carers is that:

“Carers will be universally recognised and valued as being fundamental to strong families and stable communities, and respected as expert partners in care. We will support carers to maintain their own health and wellbeing and to achieve a balance between their caring responsibilities and a life outside caring, while enabling the person they support to be a full and equal citizen”.

## **The Care Act 2014 and Changes for Carers**

The Care Act 2014 represents a major change to the law in relation to carers. The Act requires local authorities to ensure that assessed eligible needs of carers, in their own right, are assessed and met (i.e. separate from the assessed needs of the cared-for person).

The Act also covers Young Carers who are approaching the age of 18, and Parent/Adult Carers of children with additional needs who are approaching the age of 18.

Currently services for carers are arranged through the Devon Carers provider consortium across the Devon County area (not including Torbay or Plymouth). Services include approximately 90,000 hours of breaks per year, about 7,000 hours of one-to-one support with a Support Worker, and up to 150 training courses (e.g. computer training) a year. Some services are on “open access”, particularly breaks services.

There will be a change to the way that services are delivered. This will now require an assessment and check of eligibility; eligible carers may receive a Personal Budget. This is known as ‘personalisation’ and will mostly be delivered via a Direct Payment (a sum of money given directly to a person to allow them to arrange services how and when they want), but with some commissioned support via Devon County Council when needed.

These changes being made in response to the Act, and are the subject of a public consultation which took place from 24 November 2014 and ran until 12 January 2015. The proposals in the consultation are based on guidance issued by the Department of Health on 23 October 2014 and have been developed with staff and carers.

It covers the main ways Devon County Council and its partners will do things with and for carers in particular.

- The “new offer” for Carers in Devon County Council
- Charging for services

- Personalisation
- Equality for Carers

The consultation is available online at <https://new.devon.gov.uk/careactdevon/for-carers>

### **Consultation and Stakeholders**

Consultation with carers themselves has been undertaken using the Devon Carers Voice network which has organised a series of workshops for in-depth discussion of the proposals and a survey to enable all members of the network to have their say. The survey is also available to the general public on the Devon County Council web site.

As well as specifically consulting on the Care Act proposals for carers support with carers, the carers' proposals are part of the Care Act overview shared with relevant partner agencies.

### **Protected Characteristics**

In our consultation we specifically asked about improving equality for carers with a protected characteristic. We received a number of replies which can be summarised as follows:-

- Advertising in appropriate places used by particular groups with protected characteristics
- Outreach where the communities are
- Timing (e.g. winter for travellers)
- Use existing contacts and agencies- for example Travellers Liaison and LGBT group's own organisations
- Develop appropriate materials and messages
- Special events (e.g. pamper events for Travellers have been successful in encouraging some to take up a Carer Health and Wellbeing Check)
- Diversity in carer support workers – for example the opportunity for male carers talk to a man

Telephone mentoring/buddying

Age: by definition the number of people who are carers' increases with age; there is a risk that a change to eligibility could disproportionately affect older people. The advice and information given to the general public by Devon County Council and partner agencies; and to carers specifically by Devon Carers must encourage older people to take up their right to assessment just as they would currently. The Care Act is concerned with adult carers of adults; therefore the changes are not directly concerned with Young Carers, whose needs are mainly addressed by the Children and Families Act 2014. However, in making changes for adult carers it would be possible to inadvertently discriminate against Young Carers and care is being taken to ensure that opportunities and funding for young carers are preserved.

Disability: there is a risk that a change from "open access" support to a system of assessment, eligibility, and support planning may negatively impact on those carers with a Learning Disability or cognitive impairment. Examples of this might be where a younger

person with a Learning Disability is caring for an older relative; or, where an elderly man with dementia is the carer for his wife who has a physical disability. In our consultation some saw the move to personalisation and the use of Direct Payments as disadvantaging these groups. We will retain choice for people who are not or who do not feel able to manage a cash budget, and offer the opportunity for a cash budget to be managed on their behalf by an appropriate person trusted by the carer.

Devon County Council will promote, encourage, and support access to representation (whether formal or informal) for those with disabilities. We will achieve this by making sure our staff have the training and skills that they need to recognise and take action to support carers with disabilities. We will make sure that the systems we use will be able to “talk” to one another and allow communication across organisations. We will support the local care and support market in making available services to support carers. We will ensure that the information, advice, and guidance that we make available for carers is accessible and available in alternative formats.

Gender reassignment: under the current system, information regarding gender reassignment will be seen by the staff of Devon Carers and/or those undertaking a Carers Health and Wellbeing Check such as Pharmacists or GP Surgery Staff; this includes Support Workers and administrative staff. Under the new system this information will potentially be seen by a wider set of staff in order to receive an assessment and the support a carer needs. Staff who might see this information are Social Workers, Occupational Therapists, care managers, Carer Support Officers/Workers, Helpline staff, Brokers, and social care administrative staff. We will continue in discussions with the LGBT communities to identify any additional impact.

Marriage and civil partnership: neutral impact.

Race: there is a risk that a change to a system of assessment, eligibility, and support planning may negatively impact on those from Black and Minority Ethnic communities, particularly the Gypsy/Traveller communities.

Comments were made in the consultation which are reflected above, including how and where messages are promoted and diversity in the workforce,

In respect of Gypsies and Travellers this may be also include a particular cultural reluctance to engage in assessment activity which involves official records and an increase in the number of staff who potentially may see information. Some comments were received in the consultation that will help us mitigate these impacts which are reflected above.

We will continue in discussions with these communities via groups such as Hikmat and the Devon County Council Liaison Service to identify any additional impact.

Religion or belief: in our discussions with community groups in regards to Race we are also checking if there are any implications that may impact on belief; at the current time and in our consultation we have identified no specific impacts.

Sex: We are aware that male carers currently access carers services to a lesser extent than female carers and we are seeking to address this. In our consultation some suggestions were made to assist with improving this, for example images of carers used in publicity, where advertising is undertaken, having male workers for male carers to

Speak to.

Sexual orientation: as with gender reassignment, under the current system, information regarding gender reassignment will be seen by the staff of Devon Carers and/or those undertaking a Carers Health and Wellbeing Check such as Pharmacists or GP Surgery Staff; this includes Support Workers and administrative staff. Under the new system this information will potentially be seen by a wider set of staff in order to receive an assessment and the support a carer needs. Staff who might see this information are Social Workers, Occupational Therapists, care managers, Brokers, and social care administrative staff. We are in discussions with the LGBT community to identify any additional impact.

Carers as people with a close association with (a) person(s) with protected characteristics, (for example age or disability).

It is possible to discriminate against someone on the basis of their association with someone with a protected characteristic. Many carers would fall into the category of being closely associated with a person with one or more protected characteristics. To assist in ensuring that our proposals did not do this, we specifically consulted on improving equality for carers in general and considered all responses to the consultation in this light.

Some respondents to the consultation felt that these proposals would disadvantage carers:

1. the shift from open access to an approach based on assessment and eligibility
2. the proposal to charge carers
3. the personalisation approach where it involved Direct Payments which some say as too difficult and the use of the Devon Card which some saw as stigmatising.

Our response to these representations is as follows:

1. The services currently on open access are easy for some carers to use but are not suitable for all carers, and to invest so heavily in this way disadvantages other carers for whom the current services are not useful. We cannot sustain both the previous open access services and the new personalised offer for carers which will give them much more control over the resources allocated to them. Additionally, the sitting type service provided by Take a Break is defined by the Care Act Statutory Guidance as a service for the person with social care needs for whom the carer is caring, not for the carer, although it is recognised that it can give the carer support.

The impact of the change in respect of Flexible Breaks Grants is different to that of Take a Break. Most or all (and more) of what is covered now in FBG's will be covered by Carers' Personal Budgets for those who have eligible needs.

In contrast to the position now where the amount of an FBG is determined by a formula and can be significantly less than needed, the Care Act provides that the Authority is responsible for providing for the whole of assessed eligible need. Thus, support to eligible carers will be significantly improved. However, those carers whose needs are not eligible may be adversely impacted.

Those adversely impacted may include groups who are disproportionately unwilling to having formal assessments (and/or to having data on Council systems) - these are

thought to be Gypsies and Travellers, some LGBT communities, and men. Mitigations will be planned as far as possible in relation to the equalities considerations (see above)

We are able to mitigate the adverse impact of the requirement for assessment by maximising the role of Devon Carers and of GP Practices and Pharmacies in delivering the Carer Health and Wellbeing Check – a particular form of Carer Assessment which carers have told us previously that they prefer to a traditional carer assessment, and which focussed on improving their wellbeing.

In the consultation no viable alternative to the proposal was identified and we are therefore continuing with it.

2. The proposal to charge carers for meeting their eligible needs for support using Fairer Charging.

There were strong representations by carers in the consultation against charging and against particular aspects of the Fairer Charging Rules which they regarded as unfair in principle and in practice in the particular circumstances of carers (and indeed it is recognised that the Fairer Charging Rules were not drawn up with carers in mind).

At this point no decision has been made on charging, but the impacts of both potential decisions have been considered as follows:-

If a decision is made not to charge carers this may be seen as discriminatory by service users who are required to pay. Any decision not to charge will be based on the business case, the Statutory Guidance – which appears to discourage charging carers – and the health economics arguments of inhibiting people from taking up caring, and thus costing the State more in the longer term. The latter is difficult to demonstrate in the absence of a trial or academically rigorous study, but the responses to the consultation indicate a range of circumstances where systematic charging would inhibit caring to make this a serious concern. However, ultimately inhibiting the take up of informal caring is likely to disadvantage those who may not then have an informal carer and need to pay more for their formal care, or to remove to a care home.

If a decision is made to charge carers, they, as a group whose equal treatment is of importance as people who may be subject to discrimination by their association with a disabled person or disabled people, may view this as discriminatory. This may be especially the case if they have given up or reduced work in order to care (as income from work is ignored) or have given up assets which would be ignored by the process to do so. Charging in this way may also be especially discriminatory for some groups – for example unrelated carers. Yet the Fairer Charging Rules do not allow for mitigations or changes to allow for this. Inhibiting the taking up of caring, or of support by carers, will ultimately disadvantage cared-for people who lose informal care as a result.

3. the personalisation approach where it involved Direct Payments which some say as too difficult and the use of the Devon Card which some saw as stigmatising.

It is considered that as long as choice is offered there should be no detriment to any group from personalisation

**Positive Impact overall**



The changes to the system has the potential to deliver significant positive impact across all protected characteristics as there is a greater opportunity, through personalisation, to develop tailored support packages relevant to individual needs and aspiration.

There is also positive impact for those carers with underrepresented protected characteristics by introducing a system that will enable a fair and equitable method of assessment and allocation of resources.

### **Monitoring**

Direct delivery of support for carers by care providers will continue with the same providers available in the community.

The assessment and support planning for that carer support will be carried out by Devon Carers.

The key change being made is that rather than “open access”, Devon Carers from 01 April 2015 will be contracted to undertake carer assessments.

Their performance in undertaking functions delegated to them under the Care Act 2014 by Devon County Council will be judged by a quarterly contract monitoring process.

This will include the effects of the impacts and mitigations in this document as part of that normal contact monitoring process.

### **4. Prevention**

This work package will deliver capabilities to ensure that Devon County Council is able to discharge its responsibilities under clause 2 of the Care Act (Preventing needs for care and support).

To provide or arrange for the provision of services, facilities or resources, or take other steps, which will:

- (a) contribute towards preventing and reducing the development by adults in Devon of needs for care and support;
- (b) contribute towards preventing and reducing the development by carers in Devon of needs for support;

While recognising the importance of identifying relevant resources already available in the authority’s area and of identifying adults and carers in the area with unmet needs.

Areas of focus include:

- ‘Asset Based Approach’ –a focus on what people can do, not what they can’t do.
- New duties to support people to prevent, reduce or delay needs from developing– this means more than signposting to other sources of support.
- Also applies to people who do not yet have eligible needs.
- Focus on integrating with partners
- Demand trigger analysis

- Identify effective prevention pathways
- Assessment and validation of community capacity / resilience
- Principles for preventative self-assessment and signposting
- Commissioning intentions for preventative action.

The findings of the ‘Demand Trigger Analysis’ and our proposed response to that in terms of how prevention can be delivered by communities with the capacity to be resilient will be discussed with the Care Act Service User & Carer Reference Group, and if any issues are identified for wider consultation that will be undertaken using Devon County Council and Healthwatch Devon’s relevant web sites.

## **5. External Markets**

This work package is responsible for ensuring that DCC meets its responsibilities to ensure a sufficient and diverse care market and, crucially, that plans are developed in case of provider failure. Local authorities will have a responsibility towards all people receiving care. This is regardless of whether they pay for it themselves or whether the local authority pays for it.

The Act makes it clear that local authorities have a temporary duty to ensure that the needs of people in either residential care or receiving care in their own home continue to be met if a provider fails.

The 4 parts of this work stream are:

- Market Position Statement to help providers plan for future business development
- Market Facilitation Strategy covering how commissioners will influence the market
- Market Sufficiency Plan to ensure adequate provision to meet needs throughout the county
- Addressing Provider Failure Plan to ensure the local authority can fulfil its legal duties when a care provider fails.

The focus of this work stream is to ensure there is a range of independent provision in place which can meet the social care needs of Devon’s population, including all Care Act requirements, both for services which are commissioned by the local authority and for support which is self-funded by individuals. This means that the majority of engagement on this work stream is with service providers rather than service users and carers, but any public-facing changes arising from this work stream will be discussed with the Care Act Service User & Carer Reference Group.

An issue which potentially falls into this category is DCC’s strategy for dealing with provider failure, where the local authority’s planned response may be one which service users can influence.

Likewise, service users and carers may be able to influence the exemplars of good practice published for providers in the Market Position Statement, by supplying appropriate case studies of services which promote independence and choice.

## **6. Care Accounts and Charging**

The Care Act (implemented across April 2015 and April 2016), introduces many changes to client and carer charging for services provided by the Authority. The Act introduces new rules around self-funders and Deferred Payment Agreements, along with a care cap limiting the amount adults are required to pay towards the costs of meeting their eligible needs over their lifetime. This care cap is to be monitored by the introduction of a care account, which has a portability requirement. It is anticipated that all these changes combined will substantially impact the workload of the current Charging for Care Services team.

The aim of this project work stream is to examine and document the current processes and systems, including issues arising, used for charging adult clients receiving residential and non-residential care services and to develop and deliver all changes required relating to Charging and Care Accounts arising from the Act's reforms.

A key deliverable will be to ensure that operational practices are aligned to national and local policies.

Duties include:

- Duty to maintain a Care Account for all individuals, recording accrual against personal cap
- Introduction of a cap on lifetime costs from April 2016 (for eligible care needs) – including free lifetime care for people with eligible needs whose needs arose before their 18th birthday
- Powers to charge/not charge for services
- Right to a Deferred Payment Agreement

Areas of focus include:

- A re-described Charging Pathway and review process.
- Staff training package
- New and updated Policy Documentation
- Updated information and advice relating to Charging (incl. Care Accounts)
- Revised workforce structure
- Setting up and administration of care accounts.

Most of the activities in this work stream will not be public-facing as they are about ensuring the local authority's internal financial processes are able to cope with the increased Care Act responsibilities.

The Act does, however, give the local authority the right to charge for some administrative processes which currently provides free to a relatively small number of people but which will be offered to many more people. Any new proposed charges will therefore be discussed by the Care Act Service User & Carer Reference Group and, if appropriate, may be the subject of wider public consultation via Healthwatch or wider older people's consultation via Devon Senior Voice.

## **7. Communication, engagement and information and advice**

This work package will respond to the responsibilities of local authorities under clause 4 (Providing an information and advice service) of the Care Act 2014, and will ensure

appropriate, reasonable and proportionate communication and engagement with the people of Devon on all elements of the Care Act and its implementation.

The advice and information service, covers both 'passive' information, advice and access provision – such as web information, factsheets, e-bulletins and publications as well as 'mediated' and assisted information, advice and access provision, such as the Customer Service Centre (CSC), in particular Care Direct, as well as Care Direct Plus.

There is an explicit requirement to provide universal but personalised information and advice service, including access to independent financial advice, Information and advice on preventative services, Information and advice required to make informed choices. The emphasis in Devon is that this should be more than just an online resource.

Areas of focus for this work stream include:

- Public Information and Advice (PI&A) Strategy
- Engagement, service user involvement and consultation.
- Care Act 2014: communication, promotion and awareness raising
- Advocacy review and recommendations report

One output from this work stream is the consultation on the other work streams which is informing the ongoing development of this impact assessment.

The public advice and information strategy is the most public-facing work area of all within the overall Care Act programme. The Care Act Service User and Carer Reference Group will have a vital role to play in testing the user-friendliness and effectiveness of the local authority's information provision and evaluating how well the County Council has ensured the voluntary sector and partner agencies play their part in information and advice provision.

An early start to this process was by development of an impact assessment of the County Council's 'Digital by Design' approach to public information which will apply to all DCC public information of which social care information is a major component. This impact assessment was shared with the Equality Reference Group and prompted a Healthwatch Devon survey of online access and capability amongst health and social care service users and carers. The findings of that survey and the Care Act information and advice strategy will be among the first topics for discussion at the Care Act Service User and Carer Reference Group.

## **8. Finance support**

The Care Act, which will be implemented in April 2015, introduces major reforms to the legal framework for adult social care, to the funding system and to the duties of DCC and rights of those in need of social care. The potential impact on DCC's finances and on our working practices is enormous. The changes will substantially increase the costs to the council of complying with the new legislation.

This work stream will assess the impact of the immediate changes of the Act's reforms and new costs falling to DCC in the short term, i.e. 2015/16 and 2016/17 plus the longer term costs of implementation, i.e. to inform our MTFP. It will compare these cost projections of what's required (staffing, ICT) against the anticipated financial support from Government.

Areas of focus include:

- Plan to cover financial implications arising from the Act and the resources needed to be fully compliant. Plan will estimate the expected / projected costs across the other work streams (recurrent and non-recurrent)

This is not a public-facing work stream, but one which will ensure the County Council is able to properly fund implementation of all the other Care ACT work streams.

## 9. IT Systems

ICT systems will be required to underpin and enable the changes required to deliver the Care Act 2014. This work package will need to align closely with others to ensure the requirements are fully understood.

Areas of focus include:

- Requirements Specification
- Portability of Records Review of and automation of Financial Assessment and Billing Processes
- Automation of Deferred Payment Agreements (DPAs)
- Care Portal
- Delivery of mechanism to calculate Care Account
- CareFirst Configuration Changes
- Delivery of Carers Assessment system
- Portability of Records

The IT systems required for implementation of the Car Act will mainly be internal ones, but where there is a public-facing aspect of the It system, such as online self-assessment, then we are committed to testing it's user-friendliness with service users and carers. This will be carried out using the Car Act Service User and Carer Reference Group, or by setting up specific user-testing focus groups if required.

### 1.3 **Service users:**

The Act sets out a broader care and support role for councils towards the whole of its resident population, including those people in secure accommodation and/or prisons. It establishes an entitlement to public care and support for all adults with needs for care and support. It also creates the first ever entitlement to support for carers, on a similar basis to those they care for. So it will affect those who the council is already engaged with, i.e. people who are prioritised as eligible for social care support through the Fair Access to Care (FACs) system, as well as significant numbers of their carers who receive council funded support packages and those people who are presently meeting their own care and support needs (known as self-funders\*) who are currently unknown to the council.

So this means:

- anyone who uses health and or social care services
- unpaid carers
- people of all ages, ethnicity, religion and belief, sex, sexual orientation, physical and or sensory disability, learning disability and mental health
- vulnerable and seldom heard groups
- People yet to use services

\*What do we mean by self-funders?

If a person is paying for the full cost of the services they receive to live independently at home or in a care home, they are known as a self-funder.

This means that either:

- they have chosen not to approach adult social care for help
- they have chosen not to be financially assessed
- they have been assessed but not currently eligible for adult social care services
- they have approached adult social care and although their needs show that they are eligible for social care support, their savings or assets are above £23,250.

It is estimated that between 5000 and 7500 self funders could contact the council as a result of the care act.

#### **1.4 Describe any reasons for change and intended aims and benefits:**

The Act changes the emphasis of the council's approach to social care in order to make sure that all residents who live in Devon will receive services that prevent their care needs from becoming more serious, get the information they need to make good decisions about care and support and have a good range of providers to choose from. The Act will help improve people's independence and wellbeing. The council must arrange services that will help prevent or delay people deteriorating such that they would need on-going care and support. From April 2015 the council will have to consider:

- What services, facilities and resources are already available in Devon (e.g. VCS groups) and how these might help local people
- Identify people in Devon who might have care and support needs that are not being met
- Identify carers in Devon who might have support needs that are not being met

#### **1.5 Overlap with other policies, services etc:**

The following documents can be sourced on the DCC website:

1. Joint Strategic Needs Assessment
2. Joint Health and Wellbeing Strategy
3. Market Position Statement

#### **1.6 The following stakeholders have been involved in this assessment:**

A draft engagement plan has been produced which starts to outline the requirements for consultation and engagement for each work stream, and sets out a plan to establish reference groups for all stakeholders.

The following stakeholder groups have been engaged to date:

1. DCC Staff:
  - a. Cross departmental participation in a care pathway workshop (July 2014)
  - b. Adults Way We Work Group (monthly meetings from January 2014)
  - c. Staff reference group
    - Update and feedback session on care pathway in August 2014.
    - Session planned to obtain feedback on all areas of the care act on 18<sup>th</sup> November.
2. Partner agencies – NHS representatives are invited to all board meetings.
3. Providers via the Provider Engagement Network
  - a. Devon Care Training conference in September 2014
4. Service user groups:
  - a. Healthwatch and subcontracted networks session in September 2014
  - b. Equality Reference Group session in September 2014
  - c. Planned session at the Devon Senior Voice AGM – November 2014
5. Regional Care Act group –Monthly local authorities meeting involving Plymouth, Cornwall, Torbay, Devon and Isles of Scilly.
6. Other regional and national meetings.

The Carers consultation for the care act began in 28<sup>th</sup> October. This consultation focuses on the triage tool and assessment process for carers.

From January 2015 there will be a Care Act Service User & Carer Reference group facilitated by Healthwatch Devon with representatives from user networks covering: older people; people with mental health issues; people with physical & sensory disabilities; people with mental health issues; people with learning disabilities; and carers. This will meet monthly to enable project managers to discuss public-facing issues with people who have lived experience of receiving health and social care support.

## 1.7 **The following research or guidance has been referred to, or advice sought, in order to inform the assessment:**

The Department of Health have produced the suite of materials to inform the council's implementation plan for the reforms.

These include

- fact sheets on the Act <https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>
- the DH consultation site on the regulations and guidance, with direct links through to full document <http://careandsupportregs.dh.gov.uk/>

The Local Government Association (LGA) and Association of Directors of Adult Social Services have produced guidance and information to support local authorities as they work up their plans to implement the legislation. Go to <http://www.local.gov.uk/care-support-reform>

## 2. Analysis

### 2.1 Social impacts

#### Giving Due Regard to Equality and Human Rights

The local authority must consider how people will be affected by the service, policy or practice. In so doing we must give due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity and
- Foster good relations.

We must take into account the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, sexual orientation, race, and religion and belief (where relevant).

This means considering how people with different needs get the different services they require and are not disadvantaged, and facilities are available to them on an equal basis in order to meet their needs; advancing equality of opportunity by recognising the disadvantages to which protected groups are subject and considering how they can be overcome.

We also need to ensure that human rights are protected. In particular, that people have:

- A reasonable level of choice in where and how they live their life and interact with others (this is an aspect of the human right to 'private and family life').
- An appropriate level of care which results in dignity and respect (the protection to a private and family life, protection from torture and the freedom of thought, belief and religion within the Human Rights Act and elimination of discrimination and the promotion of good relations under the Equality Act 2010).
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/unavoidable death).

The Equality Act 2010 and other relevant legislation does not prevent the Council from taking difficult decisions which result in service reductions or closures for example, it does however require the Council to ensure that such decisions are:

- Informed and properly considered with a rigorous, conscious approach and open mind, taking due regard of the effects on the protected characteristics and the general duty to eliminate discrimination, advance equality and foster good relations.
- Proportionate (negative impacts are proportionate to the aims of the policy decision)
- Fair
- Necessary
- Reasonable, and
- Those affected have been adequately consulted.

	<b>In what way is this characteristic relevant, or not</b>
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	<b>relevant, to the service, policy or practice?</b>
Age:	<p>Age is particularly relevant to the Care Act implementation as:</p> <ul style="list-style-type: none"> <li>• it introduces a cap on care costs which anyone over state pension age will be liable to pay</li> <li>• young people who already have care needs when they turn 18 will now receive free adult care and support when they reach that age</li> <li>• it provides a new legal entitlement to a personal care budget for eligible individuals, regardless of their age</li> </ul>
Disability:	Disability is relevant to the Care Act to ensure appropriate support is noted and costs limited as stated under the Act.
Gender/Sex (men and women):	DCC's response to the Care Act must ensure gender equality and not discriminate against male or female carers.
Marriage and civil partnership:	<p>Many carers who come forward as a result of the act will be married or in a civil partnership.</p> <p>The supporting carers work streams will need to ensure these protected characteristics are not discriminated against and are considered throughout the carers pathway.</p> <p>Similarly, the operational delivery work stream will need to ensure these protected characteristics are not discriminated against and are considered throughout the care pathway as a whole, the prevention work stream look at services that meet the needs of married couples and those in a civil partnership as well as other groups and that information and advice on these preventative services is readily available.</p>
Pregnancy and maternity:	DCC must not discriminate against anyone who is pregnant and must engage with the NHS on any changes that may impact on this protected characteristic.
Race/ethnicity:	<p>DCC's response to the Care Act must ensure equality and not discriminate against any individual because of their race/ethnicity, sexual orientation, trans-gender/gender identity or religion or belief. Providers will be required to implement anti-discriminatory policies and practice and assessments of need must respect diverse needs.</p>
Religion/belief:	
Sexual orientation:	
Trans-gender/gender identity:	

Other (e.g. socio-economic, general health and wellbeing, geographic communities, human rights, safeguarding):	
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**2.1.1 Positive impacts:**

<p>The Act has been widely welcomed in Devon as providing a coherent legal framework for adult social care, replacing over 65 years of piecemeal legislation. The following points highlight the potential improvements arising from the Act:</p> <ul style="list-style-type: none"> <li>• The emphasis on prevention and wellbeing will have a positive impact on Devon residents as will the introduction of national eligibility standards.</li> <li>• In future there will be a more consistent approach in Devon and across the country to make it easier for people to move or relocate, with greater certainty that their care packages will remain constant.</li> <li>• The Act will give improved rights for Devon carers.</li> <li>• The approach the council adopts to comply with the reforms will have a significant impact on the services DCC provides and commission and it will continue the drive towards ever closer integration with the NHS in Devon.</li> <li>• It puts in place arrangements for the council to enter into ‘deferred payment agreements’ with certain groups of people which means they can meet their care costs without having to sell their homes during their lifetime.</li> <li>• It supports the transition for young people between children’s and adult care by giving local authorities powers to assess the needs and entitlements of children, young carers and parent carers</li> <li>• The focus on prevention, with the requirement that the council provides people and communities with ready access to advice and information and early help to meet their own needs will reduce a reliance on services and contribute to people’s greater independence and resilience.</li> </ul> <p>Taken all together, the reforms are likely to reduce or minimise disadvantage between different groups of people with social care needs, i.e. it will serve to meet all Devon’s citizens needs, whether they buy and arrange their own care, whether their care is commissioned by the Council or where they are a carer with currently unmet needs.</p>
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**2.1.2 Negative impacts and mitigations or justification:**

<p>Negative impacts might include:</p> <ul style="list-style-type: none"> <li>• Charging policies could be introduced as part of the act, agreement will be needed by the local authority on whether we should charge for carers, self funders, and other services.</li> </ul>
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**2.3.4 Neutral impacts:**

Devon County Council already meets elements of the care act so there are areas where
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individuals will see no positive or negative impacts. Examples include: being able to have an assessment over the phone, areas of safeguarding will see no change also as the requirements are in the main already met.

## 2.2 Economic impacts

	<b>In what way is this factor relevant, or not relevant, to the service, policy or practice?</b>
Impact on knowledge and skills:	The market sufficiency requirements should result in increase in local knowledge and skills amongst independent providers
Impact on employment levels:	Potentially positive depending on market response
Impact on local business:	Positive impact on growth of local social care market if done properly

### 2.2.1 Positive impacts:

<ul style="list-style-type: none"> <li>• The Act will have a positive impact on the economy with more care management jobs being introduced to cover demand.</li> <li>• There will be a positive impact on care markets in terms of their sustainability and support and also in terms of having a more stable workforce.</li> <li>• The market sufficiency requirements should result in increase in local knowledge and skills amongst independent providers</li> <li>• Positive impact on growth of local social care market if done properly</li> </ul>
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### 2.2.2 Negative impacts and mitigations or justification:

<ul style="list-style-type: none"> <li>• If the council cannot cope with the increase demand there could be negative impacts on individuals who are trying to access care and support.</li> </ul>
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## 2.3 Environmental impacts

2.3.1 The policy or practice does not require the identification of environmental impacts using this Impact Assessment process because it is subject to (please select and proceed to Section 2.3, otherwise complete table below):

	Devon County Council's Environmental Review Process for permitted development highway schemes.
	Planning Permission under the Town and Country Planning Act (1990).
	Strategic Environmental Assessment under European Directive 2001/42/EC "on the assessment of the effects of certain plans and programmes on the environment".

	<b>In what way is this factor relevant, or not relevant, to the service, policy or practice?</b>

Reduce waste, and send less waste to landfill:	Some changes may result in changes relating to the accommodation of staff to meet the increased workforce which may mean that there will be an increase in waste.
Conserve and enhance biodiversity (the variety of living species):	There care act will not impact on biodiversity in any way.
Safeguard the distinctive characteristics, features and special qualities of Devon's landscape:	There care act will not impact on biodiversity in any distinctive characteristics, features and special qualities of Devon's landscape.
Conserve and enhance the quality and character of our built environment and public spaces:	This is not relevant for that care act as there are no duties linked to our built environment and public spaces.
Conserve and enhance Devon's cultural and historic heritage:	There care act will not impact on cultural and historic heritage in any way
Minimise greenhouse gas emissions:	Some changes may result in changes relating to the accommodation of staff to meet the increased workforce which may mean that there will be an increase in greenhouse gas emissions:
Minimise pollution (including air, land, water, light and noise):	This is not relevant for that care act as there are no duties linked to pollution.
Contribute to reducing water consumption:	This is not relevant for that care act as there are no duties linked to reducing water consumption
Ensure resilience to the future effects of climate change (warmer, wetter winters; drier, hotter summers; more intense storms; and rising sea level):	This is not relevant for that care act as there are no duties linked to climate change.
Other (please state below):	

### 2.3.2 Positive impacts:

N/A

### 2.3.3 Negative impacts and mitigations or justification:

Potential increase in waste and greenhouse emissions as a result of considerably increasing the care management staff and the potential need to review the accommodation for these members of staff.

## 2.4 Combined Impacts

#### 2.4.1 Linkages or conflicts between social, environmental and economic impacts:

N/A

#### 2.4.2 'Social Value' of planned commissioned/procured services:

Local authorities are under a duty to consider added social value when letting contracts through the Public Services (Social Value) Act 2012 and are required to consider how the services they procure, above relevant financial thresholds, might improve the economic, social and environmental well-being of the area.

Local authorities should consider using this duty to promote added value in care and support both when letting contracts to deliver care and support, and for wider goods and services. This should include considering whether integrated services, voluntary and community services and 'community capital' could be enhanced, recognising that these community assets provide the bedrock of care and support that commissioned and bought services supplement. Local authorities should consider the range of funding mechanisms that are available to support market interventions to support community based organisations such as seed funding and grants.

The Care acts focus on preventative services and wellbeing means that there is added social value with every positive impact identified as part of this impact assessment.

There will be Increased social value if the market is engaged properly and the duties of the act in terms of market sufficiency and increased choice are met. If any and when any procurement activity is taken forward as a result of the act, social value will be considered.

Areas for consideration include:

- Changes to the care pathway
- The core offer for carers
- Early intervention services
- Commissioned/procured Preventative services including information and advice services.

### 3. Actions and risk management

#### 3.1 Actions:

- Mitigations of any negative impacts identified above
  - Undertake further modelling to identify the number of self funders and carers expected to contact the council as a result of the act and consider the demographics and geography of Devon.
  - Engagement with stakeholders to test thinking on key aspects of the implementation, (through the Stakeholder reference groups)
  - Review of the care pathway to test the current processes and practices in line with the duties in the act and the mitigation of any negative impacts

identified.

- Ensure that efforts are made to address the demand expected as a result of the care act. e.g. recruitment campaign and ensuring the right skills mix.
- Update the Risk register with any risks identified as a result of this impact assessment
- Regularly engagements with the Equalities reference group (ERG) to ensure all protected characteristics are being considered appropriately during the implementation of the programme.

**3.2 How will you monitor the actual impacts of recommendations/decisions (consider what service user monitoring and consultation is necessary)?:**

- Highlight reports relating to each work stream will be sent to the programme manager each month
- A programme highlight report will be produced and will be presented to senior managers.
- Any risks or issues identified that impact negatively on the areas outlined in this impact assessment will be escalated and dealt with to ensure the risk is reduced.

**3.3 Risk assessment**

**Inherent risk (mark an X in one box).**

The risk **without** mitigating actions in place/prior to any changes.

<b>Severity</b>	Catastrophic	5					
	Major	4			x		
	Moderate	3					
	Minor	2					
	Negligible	1					
				1	2	3	4
			Rare	Unlikely	Possible	Likely	Almost certain

**Likelihood (in a 5 year timeframe)**

**Current risk (mark an X in one box).**

The risk **with** mitigating actions/changes in place.

<b>Severity</b>	Catastrophic	5					
	Major	4					
	Moderate	3					
	Minor	2			x		
	Negligible	1					
				1	2	3	4
			Rare	Unlikely	Possible	Likely	Almost certain

**Likelihood** (in a 5 year timeframe)