

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:
**AHWB/103/2017 Care Act
Funding and Proposals**

Box 1

DIRECTORATE: AHWB **DATE:** 18/09/2017
Contact Name: Karen Johnson **Tel. No.:** 01302 862507
Subject Matter: Care Act Funding and proposals

Box 2

DECISION TAKEN:

To formally approve usage of the Care Act funding and to confirm the establishment of posts that have been funded using this funding stream.

Box 3

REASON FOR THE DECISION:

The Government provided all local authorities with additional funding to pay for the cost of implementing and meeting the duties of the Care Act. Although not directly ring-fenced, in a letter to Directors of Adult Social Services, the Department of Health said that the money should be earmarked for specific duties arising from the Care Act. Local authorities also received funding to help meet their duty to assess and meet the care and support needs of prisoners.

In 2017/18 Doncaster's additional funding relating to Care Act duties was £938,000. Of this, £594,920 was built into base budgets and the remaining £343,080 was passed as the Social Care in Prisons grant.

In the past, there seems to have been little control over the use of the former Care Act funds, with some elements of it being used to contribute to existing posts and in other cases new posts established. Some of the post-holders have left the Authority with no plans to replace them and therefore posts disestablished. The purpose of this ODR is to draw together the various streams of work and posts that should be funded from this programme to ensure a full audit trail and record of what is funded and why.

It is proposed that the current Care Act funding of £938,000 per annum is allocated as per the attached spreadsheet. In summary:

Carers: The Care Act 2014 sets out clear requirements regarding carers and the people they are caring for. In particular, the Care Act outlines the way in which Local Authorities have a statutory obligation to carers and those cared for. This clearly must be implemented in a multi-agency way and in partnership with carers and those cared for. The **Carer's Strategic Lead** post has been established to ensure that we are meeting these statutory obligations and is focussed on developing and ensuring the implementation of a multi-agency, co-produced Carers Strategy. In addition to this, it is

recognised that we need to find new ways of reaching out to carers and therefore a budget has been established for **publications and events** such as Carers Rights Week of **£20,000** per annum.

Well Being: When the Care Act came into force it placed a general duty on the Local Authority to promote the well-being of individuals when carrying out its duties. Much of this is about the person's dignity, control over their daily lives, physical and mental health and emotional well-being. Much of this can only be met within the community in which individuals live. It is proposed therefore that the Care Act funding is used to continue the work previously funded through Better Care Fund to ensure well-being networks are developed and the well-being offer in Doncaster is embedded into social care practice through the **Stronger Communities Manager – Well-Being**. This post will lead one of the communities' localities but will play a crucial role across the Borough in strengthening the well-being offer and working closely with operational social care managers to meet the well-being duty in the Care Act.

Legal: There are significant changes to how people pay for care in the Care Act and this required additional input from Legal Services. A **Legal Officer** post has been established to ensure we address these additional obligations and that we are recovering costs of care. To date, this post has supported the recovery of £400,800 in outstanding care costs.

Prisons: The Care Act brought in a historic change in Local Government's responsibility for adult prisoners, as from April 2015 Local Authorities became responsible for assessing and meeting the social care needs of adult prisoners (not just on discharge from prison but also while they are in custody). The Care Act funding therefore funds **2 dedicated social workers** to carry out Care Act assessments.

In addition to this, the Council contracts with **Care UK Clinical Services** to provide a social care and support service within the four Doncaster prisons (HMP & YOI Doncaster, HMP & YOI Hatfield and the Lakes, HMP Lindholme and HMP & YOI Moorland). The contract is co-commissioned with NHS England as part of existing prison health care provision. The annual budget for the social care and support element is **£142,640** based upon estimated demand.

Finance: The Care Act brings with it additional financial responsibilities and therefore the funding contributes 10% towards both the **Group Finance Manager** and the **Finance Manager** in Adults, Health and Well Being.

Advice, Information and Guidance: The Care Act sets out how the Local Authority must provide comprehensive information, advice and guidance and also must signpost people to this in an appropriate and comprehensive way. A key priority is to ensure that people get access to advice and information in order to prevent issues from escalating. A **Stronger Communities Officer** post was established on a fixed term contract to pull together information and advice about a range of services and to develop the Your Life Doncaster information directory (through Connect2Support). This has been successful and we are now ready to move into the next phase of development in delivering the Advice, Information and Guidance Strategy to ensure Care Act compliance by establishing a **Project Manager** post with the Subject Matter Expertise around Advice, Information and Guidance. This will be part of the Adults Health & Wellbeing Project Management Office based on a generic Project Manager Job Description.

In addition to this a **communication budget of £40,000** has been earmarked to

ensure we are able to get this advice, information and guidance out into the community in an effective and timely manner.

Reviews and Assessments: The Care Act places in law the need to provide an outcome and needs based assessment that puts the individual and their views, needs and wishes at the centre of social work. This strength based approach requires significant culture change as well as a review of processes and practice, moving away from an assessment of what services should be provided to a care system that is built around the individual, their family and community. The Care Act funding, is therefore to help this transition and to ensure that there is capacity to transform the Care Act assessment and review. It is proposed that the funding is used to support this in the following way:

Interim Team Leader – Learning Disability and Working Age Adults. The Care Act strengthened the Local Authorities duties around supporting carers and people with disabilities. Within Doncaster this is primarily supported through the Community Adult Learning Disability Team (CALDT). During a review of social care, it was determined that this team should be dispersed into the social care locality teams. However, there are significant vacancies and backlogs of work within the team and therefore it would not be appropriate to devolve the work until the work and team is more stable. Running alongside this, there are significant expectations around budget savings and efficiencies within working age adult assessments and reviews. Better Care Fund has been secured to fund additional agency staff to carry out the Working Age Adults project but there is a need to create an interim Team Leader post over the next 18 months to provide temporary leadership and professional oversight. The Team Leader will need to lead the team in relation to a whole range of programmes and initiatives that will rely on this team to work in a different way and hence the need for additional management capacity to transition the team including the potential development of the team into the localities. This will be based within Adult Social Care – Community Adult Learning Disabilities Team and be on a generic Team Leader Job Description.

Interim Senior Management - Head of Service. The current establishment only includes one permanent and one temporary Head of Service post within adult social care and safeguarding. Due to the amount of work needed to transform the service, additional senior management and leadership capacity is required.

Outstanding Reviews and Assessments - There are a significant number of outstanding reviews and assessments which is therefore severely hindering the potential to transform the services. It is proposed therefore to use funding from the Care Act budget to clear these backlogs for priority reviews. It is proposed that a procurement exercise is carried out to secure the services of an external company to carry out this work, as evidence shows that these are cheaper than using Agency staff and can be secured against efficiency targets or payment by results. **£250k** per annum will be allocated to this work. This will be time limited and there will be clear outcomes and expectations. Once these reviews have been completed future reviews will become business as usual and will be carried out by the social work and assessment teams.

Box 4**OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:**

Do nothing – this is not an option as we will not be able to fulfil statutory requirements within the Care Act.

Fund from existing resources – there is not the capacity to be able to carry out the above functions from existing resources – meaning that we will not be able to fulfil statutory obligations within the Care Act, plus there is a likelihood of being unable to recover debt effectively and that more people enter the care system due to lack of early intervention and prevention work.

Agree the allocation of the funding as outlined above and in the appendix– this is the preferred option as it brings together all the individually funded proposals and provides a clear audit trail and records the decision about the usage of the funds. Whilst there are individual ODR's to establish some of the posts funded from this funding stream, there is not an overall record of decisions taken. It is therefore considered that this is the only option to ensure a full record is maintained of the use of this funding and the posts or projects established.

Box 5**LEGAL IMPLICATIONS:**

S112 of the Local Government Act 1972 allows a local authority to appoint such officers as are necessary for the proper discharge of its functions, on such reasonable terms and conditions as it thinks fit. Salary grade should be determined by job evaluation.

For the posts already established where only part of their role will be focussed on the Care Act then there are no legal implications. It is, however, recommended that their job descriptions are checked/revised to ensure they are appropriate.

For the posts that are temporary it is advisable to set up temporary contracts for a fixed term. Any employee regardless as to whether or not they are employed for a fixed term, part time or otherwise obtain certain employment protection, which includes protection from unfair dismissal after 2 year's employment service. In order for liability in relation to, inter alia, unfair dismissal, to be limited there must be a legitimate reason for a fixed term contract and the employee must be made aware of this reason and of the anticipated length of the contract at the commencement of the contract. After the 4th year of renewal the Employee may be entitled to the position on a permanent basis. The Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 confirm that employees should not be treated less favourably on the ground they are fixed term unless this is objectively justified. Less favourable treatment means, but is not limited to pay and terms and conditions. If the length of the contract exceeds 1 year upon termination the Employee may be entitled to be placed on the redeployment register and after 2 years may be entitled to a redundancy payment. If the Council terminates the contract early, then there may be some liability for payment of the outstanding salary to the employee unless a suitable break clause is included. Therefore contract terms must be carefully considered to avoid additional liability and/or financial loss.

The Council has policies to deal with recruitment which should be followed.

Name: Scott Fawcus **Signature:** S.R. Fawcus **Date:** 4/10/17

Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6**FINANCIAL IMPLICATIONS:**

As set out in the body of the report there is £938,000 identified to meet the additional needs arising from the implementation of the Care Act in 2017/18. £594,920 of this is now built into the revenue base budget, with the remainder (£343,080) being the Social Care in Prisons grant. It is not clear how long this grant will continue for, and if this does change then some of the measures in this plan will need to be reviewed to ensure the cost is in line with any funding revision.

As detailed in the attached plan summary the 17/18 allocation currently has £125,628 uncommitted and on-going this balance is currently forecast at £64,001. This will be used alongside other AHWB to manage the overall spending position within the directorate, ensuring that all relevant Care Act responsibilities are met.

Name: Paul Williams_____ Signature: _by email_____ Date:17/10/17
Director of Finance & Performance
(or representative)

Box 7**HUMAN RESOURCE IMPLICATIONS:**

Human Resources are aware of and support the decisions contained in the body of the report.

Where new posts are to be created job descriptions and person specifications should be submitted for job evaluation. Any posts to be advertised should follow the Council's Safer Recruitment policy, initially open to redeployees before being advertised on the wider Bulletins and will need to be created on the HR portal.

Current job descriptions should be reviewed to ensure they are fit for purpose prior to posts being advertised.

Where a fixed term contract is utilised it should be noted that fixed-term employees have the right not to be treated less favourably than comparable permanent employees because they are on a fixed-term contract. Consequently, you must follow the Council's recruitment procedures and treat fixed-term employees the same as comparable permanent employees unless there are 'objectively justifiable' circumstances for not doing so (i.e. there is a genuine, necessary and appropriate business reason). This means the same or equivalent (pro-rata) pay and conditions, benefits, pension rights and opportunity to apply for permanent positions within the business.

Under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002, employees who have been on a fixed-term contract for four years or longer will usually be legally classed as permanent if their contract is renewed or if they are re-engaged on a new fixed-term contract. The only exemptions are when employment on a further fixed-term contract is objectively justified to achieve a legitimate business aim or when the period of four years has been lengthened under a collective or workplace agreement.

If a decision is made to appoint an agency worker, the Hiring and Managing Agency Worker policy must be followed and the Council's managed service provider, Reed Specialist Recruitment Ltd must be used to source appropriate candidates (as per contract effective from 10/09/16). There must also be either a vacant post or an approved ODR (for project work) in place to support the use of an agency worker.

Changes to the intermediaries' legislation (commonly referred to as IR35) came into effect on 6th April 2017 and applies to both new and existing workers / roles. The change moves responsibility from the worker's personal service company (PSC) to the organisation paying the worker / PSC to ensure they make appropriate deductions of tax and NI at source. It is the council's responsibility to determine whether a role will fall inside or outside IR35.

It is the hiring manager's responsibility to substantiate if a role falls outside IR35 with a completed IR35 employment status tool and supporting information. This must be carried out before placing an order for the agency worker through the MSP's ordering system (XMS). A copy of the assessment must be sent to the Directorate's HR Business Manager.

Name: D L Dawson Signature: [redaction] **Date: 12.10.17**
Signature of Assistant Director of Human Resources and Communications (or representative)

Box 8
PROCUREMENT IMPLICATIONS:

Any spend related to recruitment and salaries of staff should be directed through the HR department and if an external agency is required make use of the Corporate contract for recruitment and agency staff with Reed.

Any contract spends, for example for the bulk purchasing of reviews and assessments, should be procured in line with the CPR's. Consultation by the Strategic Procurement Team with the AHW Directorate has already begun and a fully compliant route to market will be established to procure this contract.

[redaction]

Name: Holly Wilson Signature: [redaction] **Date: 09/10/17**
Signature of Assistant Director of Finance & Performance
(or representative)

Box 9
ICT IMPLICATIONS:

In implementing the recommended options within this ODR, the recruiting manager should consider the ICT and technology needs of any recruited resources and ensure timely notification is made to ICT via iServe, for the creation of accounts, access to technology and systems.

The recruiting manager must also ensure that all mandatory training in respect to data quality and protection is undertaken by any new recruits as well as

familiarisation with acceptable use policies as set by the Council and its SIRO.

In relation to the outstanding reviews and assessments, although the procurement of an external company is proposed, the technology requirements, implications, costs and timescales/ICT resource availability to facilitate this needs to be fully considered in advance of any procurement exercise. These are likely to include:

- The provision of a secure network link between the external company and the Council (ICT would need to be fully involved in any procurement exercise to ensure that the technical and security standards and requirements are included in the specification and evaluation process).
- The appropriate CareFirst and EDRMS access, security and team structure would need to be agreed and set up
- Data Sharing Agreements need to be in place and a Privacy Impact Assessment completed and approval by the SIRO Board needs to be sought before any access to the system is granted
- All staff will be required to complete the necessary E Learning training followed by classroom training to understand Doncaster's processes

To enable the ICT implications and potential timescales in relation to the above to be fully considered, a business case would need to be submitted and prioritised by the ICT Governance Board, taking into consideration the existing/substantial work previously agreed and currently being delivered as part of the Council's technology forward plan.

Name: Peter Ward (Governance & Support Manager)

Signature: [redaction]

Date: 13/10/17

Signature of Assistant Director of Customers, Digital & ICT (or representative)

Box 10

ASSET IMPLICATIONS:

There are no implications arising from the recommendations of this report that impact on the use of DMBC assets.

Name: Gillian Fairbrother (Assets Manager, Project Co-ordinator)

Signature: By email

Date: 6th October, 2017

**Signature of Assistant Director of Trading Services and Assets
(or representative)**

Box 11**RISK IMPLICATIONS:**

To be completed by the report author

The risk of not taking this decision will be that the Council could be in breach of Care Act compliance. This funding and the proposals in this ODR will ensure that we are able to meet statutory obligations under the Care Act.

Other risks include reputational damage to the council should we fail to meet our duties and potential risk to individuals if they fail to get the service that they need.

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12**EQUALITY IMPLICATIONS:**

The Care Act legislation and funding is aimed at anyone needing a social care assessment or service and their carers. As such, this covers a number of protected groups such as those with disabilities and older people. Therefore implementation of this act is crucial to ensure those with protected characteristics are appropriately supported.

Other equality implications include the need to ensure that any recruitment to posts should be carried out with due regard to equalities legislation and safe recruitment processes.

If any external providers are used as outlined in the ODR then appropriate checks will be made around the organisations equalities standards and policies.

Name: Karen Johnson Signature: by email Date: 18/09/2017
(Report author)

Box 13**CONSULTATION****Officers**

This has been discussed at the Adults, Health and Well-Being Directorate Team meeting and fully supported.

Individual AD's and Heads of Service have been consulted about the posts and allocated spend and agree the above proposal (eg Scott Fawcus AD Legal services has been consulted about the legal officer post and agrees current and future funding for this is essential).

Members

Cabinet Lead Member has been briefed on this and the ODR shared with her for comment. The Cabinet lead was particularly concerned that there needed to be clear outcomes and timeframes for any external agency who may be brought in on a time limited basis to carry out reviews. It was agreed that this would be the case and that future reviews would then be timetabled in as part of business as usual. This one off resource would only be used to clear backlogs and carry out urgent reviews.

Box 14**INFORMATION NOT FOR PUBLICATION:**

In accordance with the Freedom of Information Act 2000, I is in the Public's interests for this decision to be published in full, redacting only the signatures.

Name: Gillian Parker Signature: by email Date: 20/10/2017
Signature of FOI Lead Officer for service area where ODR originates

[redaction]

Box 15

Signed: _____ Date: 07/11/2017
Director of People Damian Allen

Signed: _____ Date: _____
Additional Signature of Chief Financial Officer or nominated representative for Capital decisions (if required)

Signed: _____ Date: _____
Signature of Mayor or relevant Cabinet Member consulted on the above decision (if required).

- This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.
- A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.
- A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.
- A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox

Appendix 1

CARE ACT FUNDING PLAN 2017/18

	Ref	17/18 Plan	Ongoing commitment
Post			
Care Act base budget		938,000	938,000
Projected Spend		812,372	853,020

Ongoing Commitment (costs incurred/identified)	OC	717,638	853,020
Commitment ended/one-off this year	CE	94,734	0
For Consideration (no cost yet identified)	FC	0	0
Contingency	CO	125,628	84,980

Social Worker/ Reviewing Teams		437,236	449,030
Reviewing Manager	CE	23,846	0
2017/18 social care worker / assessment officer	CE	0	0
Reviewing Capacity	OC	266,500	330,000
Interim Team Leader, CALDT	OC	13,950	56,358
Stronger Communities Manager - Well Being lead	OC	62,052	62,672
Care Management Restructure costs	OC	0	0
Interim Head of Service	CE	70,888	0
Support Roles		55,510	83,194
Senior Carers Developer worker (Grade 10) 2017/18 - £37918 - £42,664	OC	24,300	51,672
Legal Officer grade 8 (DPAs and debt recovery)	OC	31,210	31,522
DPA support Officer	CE	0	0
Prisons Service		218,120	218,875
Social Workers (Prisons) x 2 Grade 9 (12 months)	OC	75,480	76,235
Contract with Notts Health Care Trust	OC	142,640	142,640
Care Act Core Team & Support		41,506	41,921
Care Act Strategic Lead 100%	FC	0	0
Group Finance Manager 10%	OC	6,002	6,062
Finance Manager 10%	OC	5,117	5,168
Information Advice and guidance Grade 10	oc	30,388	51,670
Other Costs		60,000	60,000
Communications - email from Rachel Carney 24/10/16	OC	40,000	40,000
Connect to Support license costs	CE	0	0
Carers publications and materials (Carers Week etc)	oc	20,000	20,000
Contingency	CO	125,628	64,001