

CUMBRIA HEALTH AND WELLBEING BOARD

Meeting date: 10 July 2020

From: Executive Director – People

THE CORONAVIRUS ACT AND CARE ACT EASEMENTS

1.0 EXECUTIVE SUMMARY

- 1.1 *The Coronavirus Act became law on 25 March 2020. The Act temporarily amends certain statutory duties of the Local Authority under the Care Act. This report updates the Health and Wellbeing Board on the use of the powers in the Act.*

2.0 LINKS TO THE HEALTH AND WELLBEING STRATEGY

- 2.1 The guidance on the implementation of the easements requires the Health and Wellbeing Board to be informed if any easements are enacted by the local authority.

3.0 RECOMMENDATION

- 3.1 *That the Board note that Cumbria County Council has not enacted the easements and is committed to taking all practicable steps to maintain pre-amendment Care Act provision to Cumbrian residents.*
- 3.2 *That the Board note that a system to keep this position under close review is in place, as is a process for consideration of easement should circumstances require this; detailed below at 4.7.*

4.0 BACKGROUND

- 4.1 Statutory guidance published by the Department of Health and Social Care on 31 March 2020 details the process of 'easement' of certain statutory duties within the Care Act 2014. The Care Act is primary legislation covering all Local Authority duties around the care and support needs of adults and their carers. As well as the duty to meet eligible need, it also requires Local Authorities to promote wellbeing and safeguard vulnerable adults, prevent or delay need, provide information and promote inclusion and integration.
- 4.2 The changes covered by easement are: the Local Authority's duty to carry out detailed assessments of care and support needs; the duty to carry out financial assessments; and the duty to prepare and review support plans. The duty to meet need would be replaced by a power; and the Local Authority

would if necessary, be able to prioritise care to meet the most pressing needs. The Local Authority will remain responsible for meeting need necessary to avoid a breach of human rights.

- 4.3 The easement process details 4 stages of provision of service by the Local Authority as below:

Stage	Decision
Stage 1 – operating under the pre-amendment Care Act	Business as usual
Stage 2 – applying flexibilities under the pre-amendment Care Act	Decision for Individual service type to prioritise short term allocation of care and support using current flexibilities within the Care Act
Stage 3: Streamlining services under Care Act easements	Decision to operate under Care Act easements as laid out by the Coronavirus Act
Stage 4: Prioritisation under Care Act easements	Whole system prioritising care and support

- 4.4 The easement guidance states explicitly that a Local Authority should only take the decision to exercise Care Act easement when the workforce is significantly depleted, or demand on social care increased, to an extent that it is no longer reasonably practicable for it to comply with its Care Act duties (as they stand prior to amendment by the Coronavirus Act) and where to continue to try to do so is likely to result in urgent or acute needs not being met, potentially risking life.
- 4.5 Easement should be enacted only when all other measures have been exhausted, and for the shortest possible time.
- 4.6 Any decision to enact easement can only be in consultation with and on the recommendation of the Director of Adult Social Services and the Principal Social Worker. The Portfolio Holder and Chair of the Health and Wellbeing Board will also be consulted and the local CCGs, MP(s) and DHSC must be informed.
- 4.7 The Local Authority’s position regarding Care Act operations and easement is assessed on a weekly basis by Adult Social Care’s Leadership Team and reported by the Assistant Director to the Executive Director. Any request for consideration of easement will follow the procedure documented below as Appendices 1, 2 and 3
- 4.8 Our Social Work, Safeguarding, Out of Hours and Occupational Therapy Teams all rapidly stepped up to extended working hours over 7 days per week to respond to the Governments request to ensure timely hospital discharges and maintain business as usual duties, supported by our hardworking and committed back office teams. It is this response that has ensured Cumbria has continued to meet its Care Act duties and the needs of the people we serve.

John Readman
Executive Director - People

July 2020

APPENDICES

- Appendix 1 and 2 – Request for Consideration of Easement to Principal Social Worker and Director
- Appendix 3 - Flowchart for Process of Consideration of Easement

BACKGROUND PAPERS

No background papers.

Contact: Becky Squires Email: becky.squires@cumbria.gov.uk Tel: 07393 003724

Request to PSW & Director to Implement Easement:

TO BE COMPLETED BY SENIOR MANAGER (Part 1)				
Name of service manager completing form:				
Service Requesting Easement: <i>Detail what service is requesting the easement, for what cohort of individuals</i>				
What easement is being requested: <i>Tick the relevant box(es)</i>	Easement on duty to assess	Easement in duty to financially assess	Easement in duty to review and support plan	Easement in duty to meet all eligible needs
Reason for request: <i>Include the nature of the changes to demand or the workforce / The expected impact of the measures to be taken / The points at which this decision will be reviewed again</i>				
What are the risks of not implementing the easement? <i>May include risk to current people in service, those waiting for service, provider sustainability, risks to staffing. Consider Human rights breaches e.g. right to life, protection from inhuman or degrading treatment, right to liberty, right to private and family life</i>				
What other options have been considered? <i>Include detail on individuals involved in the decision-making process to date? What steps that have been taken to mitigate against the need for this to happen?</i>				
TO BE COMPLETED BY AD: (Part 2)				
Does the Relevant Assistant Director support this request? <i>Include reasoning for support of this decision</i>				
Name of Assistant Director				
Date sent to Principal Social Worker:				

TO BE COMPLETED BY PRINCIPAL SOCIAL WORKER (Part 1)	
Name of Principal Social Worker:	
What Information has been used to inform these decisions? <i>Consider has all the evidence required been presented?</i>	
What analysis of the information has been conducted?	
Professional judgement on request made: <i>Consider have all other options been explored, including the option to utilise staffing from other areas? What are the risks associated with implementing and not implementing the easements and what will the impact be? How will the changes help to avoid breaches of people’s human rights at a population level</i>	
Recommendation to Director:	
TO BE COMPLETED BY DIRECTOR (Part 2)	
Are the recommendations of the Principal Social Worker Approved?	YES / NO
Has the Lead Member been consulted?	YES / NO
Has the Department of Health and Social Care been informed? (required for easements under stage 3 and 4)	YES / NO
Signature and date:	

Flowchart Process for Consideration of Easement



