Briefing: Care and support for people in prisons and approved premises

Introduction

The introduction of the Care Act means that from April 2015 local authorities in England will be responsible for assessment and meeting eligible care and support needs for prisoners located in their area. Similar legislation will cover provision in Wales but will not come into force until April 2016.

This new duty for local authorities covers people in prison. In this paper, ‘prisoners’ should also be taken to include:

- those aged over 18 in Young Offender Institutions
- residents of approved premises
- people who may have been required to move from their usual home as a condition of bail in criminal proceedings.

All adults within those prisons and approved premises will be treated as if they are resident in that local authority’s area for purposes of the Care Act for as long as they reside in that establishment. If they transfer to a new prison in another area responsibility for their care and support will also transfer to the new area.

This change in legislation is to be welcomed as to date it has been unclear who is responsible for meeting the social care needs of prisoners. This sometimes created difficulty in ensuring people’s eligible needs were met with the result that such needs have often gone unrecognised or have not been met effectively.

The greatest impact will be on the 58 local authorities in England that have prisons within their boundaries. It may also impact, on occasions, on those local authorities hosting approved premises. However all local authorities will need to be aware of their duties in relation to ex-offenders who return or chose to re-settle in the area when they are released into the community. They will have to fulfil the portability responsibilities under the Care Act in the same way as for anyone in the community seeking to move into their area.
What the Care Act says

The Care Act applies to all adults. Section 76 sets out the parts of the Act that work differently in terms of the provision of care and support for adult prisoners.

Prisoners will enjoy most of the rights and responsibilities of people living in the community but with four notable exceptions:

1. prisoners cannot receive direct payments and choices about how their eligible care needs are met will be more constrained
2. adult social care departments will not be responsible for investigating safeguarding incidents in prisons
3. prisoners will not be able to express a preference for particular accommodation except when this is being arranged for after their release
4. local authorities will not have to protect the property of adults in prison or approved premises with care and support needs

Adults in prison or approved premises who appear to have needs for care and support should have their needs assessed by local authorities. Where they meet eligibility criteria, they should have services provided by that local authority.

For more information, chapter 17 of the Care and Support Statutory Guidance includes sections on information sharing, assessments, direct payments, continuity of care and support when a prisoner moves or is released, safeguarding and independent advocacy support, amongst others.

The numbers of prisoners that each local authority will have to respond to will vary according to the number of prisons in the area, their size and function. For example prisons receiving individuals directly from court may have a higher turnover of assessments but a smaller proportion of people requiring care and support whereas a prison providing longer term custody and treatment may have many fewer initial assessments, but a greater proportion of the prisoner population are likely to be eligible for ongoing care and support.

The numbers of prisoners who will be eligible for care and support has been estimated in order to calculate the financial allocations to individual councils but it is assumed that the majority of those who will be assessed and may be eligible for care and support will be from the over 50s (of which those over 60 are the fastest growing segment of the prisoner population).

Some younger prisoners may also be eligible as a consequence of their disabilities and long term health conditions but these are expected to be in much smaller numbers.
What needs to change?

Local authorities will need to ensure that prisoners and those in approved premises are able to access all their rights under the Care Act and therefore will need to consider how they provide advice and information to make prisoners aware of their possible entitlements. Local authorities should be aware that prisoners do not have access to the internet and many have low levels of literacy.

Local authorities will also need to consider how, through working with custody services and prison healthcare providers, they identify individuals who may be in need of care and support.

In making their assessments and preparing care and support plans professionals will need to consider both the physical environment and regime that operates within the prison.

As in the community, local authorities will not just be assessing for eligibility for care and support but also looking at how the prisoner’s general wellbeing can be improved (to prevent, delay or reduce deterioration). This again means working closely with custody services, education services and prison healthcare providers as well as voluntary sector organisations that may be operating within the establishment.

Local authorities will need to consider how they arrange for services to be delivered to prisoners with eligible care and support needs. It is generally expected that many Local authorities will look to work with NHS England to commission the existing prison healthcare provider to provide care and support services. Some local authorities however may choose to provide services either through a separate care provider or from their in-house resources.

Who will need to make these changes?

This information is relevant for local authorities, care and support providers, prison healthcare staff, health commissioners, prison custody staff and the National Offender Management Service (NOMS).
Who needs to be involved in delivering changes?

It is probable that most local authorities will want to explore joint commissioning arrangements for an integrated health and social care service. It is also likely that prison healthcare providers will be asked to consider how they could deliver such a service.

Issues to consider

Because in most respects the Care Act applies to prisoners as it does for others in the community, the issues to be considered are often the same as elsewhere. However a consistent understanding of what personal choice means in a custodial setting may take some time to emerge.

The status of wellbeing advice may also be tested, especially if it requires a change to the day to day prison regime or physical environment. Local authorities will need to work closely with prison managers in this regard.

Local authorities should note that services in prisons may require a longer lead time from planning to delivery as there will be a need to comply with security clearance requirements.

Links to other sources of information

The LGA/ADASS Care and Reform website will shortly be posting copies of briefings that have been prepared for directors of adult social services and their teams along with emerging examples of good practice as local authorities make progress in their preparations.

http://www.local.gov.uk/care-support-reform