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To: Cabinet – 30 September 2021

Subject: **BUILDING BACK BETTER – Our Plan for Health and Social Care**

Classification: Unrestricted

Summary: This paper sets out the Government's announcement to introduce a Health and Social Care Levy for the UK, including specific funding proposals for the health and social care systems in England over the next three years. The paper also pays particular attention to the proposals relating to adult social care, the potential implications for the county council, care providers, and individuals as outlined in the published policy paper.

Recommendation(s):
Cabinet is asked to **consider** the contents of this report and the initial assessment of the implications for Kent, associated with the main proposals of the Plan for Health and Social Care in England.

1. Introduction

The current social care system has been for some time regarded as inadequate, unfair and unsustainable and has been repeatedly reported as under significant financial strain as a result of increasing demand for services and reductions in local authority budgets. The accusation of unfairness has mainly centred around the means testing arrangements, where anyone with assets of more than £23,250 must pay the full cost of their care. This leaves 1 in 10 people over 65 facing costs of more than £100,000.

Successive governments have commissioned reports in order to resolve and improve the social care system, the most famous being the Dilnot report, an independent commission charged with reporting on how to deliver a fair, affordable and sustainable funding system for social care in England. It follows several failed attempts at reform, most notably the report of the Royal Commission established by the Blair government in 1999 and the proposal for a National Care Service, which were aborted before the general election. In 2006 Sir Derek Wanless's report, Securing Good Care for Older People, was published and looked at the challenges facing social care over the next 20 years, the resources that will be needed to meet them and the options for finding those resources.

The report advocated a 'partnership' model of funding (between the individual and the state) as the best, fairest and most cost-effective way of delivering a minimum level of care to people that they could top-up from their own

resources. The Dilnot Commission built on the Wanless Report and made several recommendations aimed at eliminating the care costs faced by some people:

- The contribution any individual makes towards the costs of their care, excluding general living costs, should be capped at between £25,000 and £50,000 with the Commission recommending the cap should be set at £35,000.
- The Asset threshold above which people in residential care are liable for the full cost of their care should be increased from the current level of £23,250 to £100,000.
- Eligibility criteria for services should be set nationally as part of a clear national offer and needs assessments should be 'portable' between local authorities.
- A new information and advice strategy should be developed, a national awareness campaign should be launched to encourage people to plan ahead and the deferred payment scheme should be improved.
- Social care and welfare benefits should be better aligned, Attendance Allowance rebranded and carers' assessments improved.
- Integration between social care and other services, especially the NHS, should be improved and a stronger emphasis placed on prevention.

The Care Act (2014) built on some of these recommendations but did not include all. For example, the Care Act

- Placed a new emphasis on wellbeing.
- Placed a duty on local authorities regarding prevention (and their partners in health, housing, welfare and employment services) to prevent, reduce or delay the need for care and support for all local people.
- Includes a statutory requirement for local authorities to collaborate, cooperate and integrate with other public authorities e.g. health and housing.
- Requires every local authority to apply a national eligibility threshold to determine whether the individual has eligible needs.
- Stated that from April 2015, all councils must offer deferred payments and from April 2016, all people with eligible needs will have a care account to set out the notional cost accumulated to date towards their cap on care costs.

1.1 The Government announcement on 7 September 2021 again attempts to address the overburdened social care system and sets out significant proposed changes about how health and adult social care will be funded by the state. It also points to what individuals may be expected to pay towards their care. The key proposals about the cap on care costs are based on the Commission on Funding Care and Support (Dilnot) core recommendations. The announcement also proposes increased state contributions towards care costs and equalisation of fees between self-funders and those receiving state support. The people who will mainly benefit from the proposed financial changes are those in residential care or those at home who have high care costs. Importantly however, Clause 44 states,

"These reforms will apply to all adults in receipt of Adult Social Care in England, no matter their age. … Everybody will benefit from the certainty and security that if they or their loved ones need personal care, they will no longer face unpredictable and unlimited costs". (Build Back Better 2021).

Implying that where you receive your personal care is not important whether it be residential or in the home, however this is yet to be confirmed.

1.2 To fund these changes the Government has decided to raise taxes through a new UK wide 1.25 per cent Health and Social Care Levy on both employee's and employer's National Insurance Contributions (NICs), ringfenced for health and social care. The new NICs levy will also apply to individuals working above the State Pension age from 2023 subject to necessary legislation being approved. Over the next 3 years the majority of the additional revenue raised is to be used to address backlogs in the NHS.

1.3 The Government proposals on the cap on social care costs, make a distinction between the care costs component and the daily living costs component (such as food and accommodation). There will be an absolute limit (a cap) which, when reached, a person will not be required to contribute towards their care. Importantly, this limit only applies to the care costs component. It does not apply to the daily living costs component. This means that a person will remain responsible for meeting or contributing to their daily living costs and any 'top-up' payments they have chosen to make even after they reach the cap. Also, the capital and savings threshold, at which point a person must contribute towards their care costs, will be set at higher amounts than the current thresholds.

1.4 It should be noted that these reforms come at a time when we are still attempting to assess the long-term impact of Covid on the social care sector. Most noticeably there is a significant and continuing impact on the workforce; the sustainability of the social care market is fragile and pressures on hospital discharge services remain. On top of this, the raft of short-term pump priming funding, attempting to lessen the impact of Covid will be coming to an end which will bring the above mentioned challenges to the forefront.

1.5 The County Councils Network, has released a report, completed in partnership with Rural Services Network that argues that by themselves the reforms and funding announced to date will not be sufficient to fortify the system to address the challenges, especially in the short term. Moreover, while many elements of the reforms in relation to the cap on care and more rights to self-funders are well intended, they present a number of fundamental challenges which could destabilise local care markets unless they are fully understood, risk assessed and funded. A summarised or headlined version of the report is included in the attached Appendix 1.

2. Headlines of the proposed changes for Adult Social Care in England

2.1 The proposals are set out in the publication "Build Back Better – Our Plan for Health and Social Care". This states that sustainable funding for core budgets will be set out in the **Spending Review**. The paper identifies that government expects that demographic and unit cost pressures will have to be met through

Council Tax, social care precept, and long-term efficiencies, thereby suggesting that there may be limited actual additional funding for local government for Adult Social Care.

2.2 **£5.4 billion in adult social care over the next three years**

An investment of £5.4 billion in adult social care over the next three years is proposed from the new NICs levy. Applying an illustrative 2.5% share of this investment for Kent could be in the region of £35million per year (or £135 million over three years of 2022/23, 2023/24 and 2024/25) to begin the transformation. At this stage it is unclear:

- how much of the additional funding for social care over the next 3 years will be needed to fund the cap
- the impact on client contributions towards care;
- how the funding will be allocated
- how much we will receive in the first 3 years to fund the NHS backlog

All of the above points will be subject to further consultation and there is concern that during this time people will have time to run down their finances to be within the cap.

It is expected that the following sums from the National Insurance increase will be made available to the Department for Health and Social Care.

	2022-23	2023-24	2024-25	Total
	£13.3bn	£10.7bn	£12bn	£36.0bn
England NHS/SC	£11.2bn	£9.0bn	£10.1bn	£30.3bn
Scotland/Wales/Northern Ireland	£2.1bn	£1.7bn	£1.9bn	£5.7bn

The publication “Build Back Better – our plan for Health and Social Care” states that of the £36.0bn over the next three years, £5.4bn will be made available for social care authorities leaving £30.6bn available for the NHS.
Please note this is currently a statement of intent which will only be confirmed after the Spending Review announcement on 27 October.

2.3 **Health and Social Care Levy**

The additional funding from the **NICs levy** is intended to cover the cost of implementing the changes set out in the proposals for charging reforms (including the cap), the changes to capital asset limits, moving towards paying a consistent rate for care between self-funders and state funders, and associated implementation costs. We can expect further consultation and review on the distribution of the additional funding.

2.4 **Minimum Income Guarantee (MIG) Personal Expenses Allowance (PEA)**

There are also changes proposed to the means testing arrangements for the income related contribution. The government is proposing to **unfreeze** the Minimum Income Guarantee (MIG) for those receiving Home Care and the Personal Expenses Allowance (PEA) for care home residents. In future these will both rise in line with inflation. This will allow individuals to retain more of

their income in future and thus impact on the income councils receive through client contributions.

2.4 **White Paper for reforming adult social care**

The Government has committed to work with leaders in Local Government, and the social care sector, service users and carers, as well as the NHS Chief Executive and the NHS, to develop and publish a **White Paper for reforming adult social care** later in the year. It is understood that the transformation to adult social care will focus on choice, control and independence; providing outstanding quality of care; and be fair and accessible to all who need it, when they need it. The Government has not set out a firm timetable for the development and publication of the expected White Paper.

2.5 **New means-test and capital thresholds**

One of the key proposals is that the capital threshold, the point at which an individual will have to pay the full cost of their care will change. The **new means-test for adult social care** will come into effect in October 2023, based on a person's income and savings in the following way:

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- The £86,000 cap will only apply to those with assets in excess of £100,000. These people will pay full costs from their income and assets until such time as they reach the £86,000 cap, after which they will pay nothing towards personal care from their income or assets.

  It is currently unclear whether, when a person's assets drop below £100,000 before the cap is reached, if they would then fall into the £20,000 to £100,000 band where they will make a means assessed contribution from their income and up to 20% per annum from their assets and the local authority will then pay any fee in excess of that figure. However, the Plan does say that people in the £20,000 to £100,000 band will continue to pay means tested contribution income in the same way as those with less than £20,000 assets. This is likely to be an area of contention as it would appear that those with over £100,000 of assets will pay no contribution from their income once the cap is reached, whereas people with smaller assets will pay an income-based contribution throughout their lifetime.

  People may choose to "top up" their care costs by paying the difference towards a more expensive service, but this will not count towards the cap. Local authorities will continue to be responsible for carrying out needs and financial assessments.

- If a person's **total assets are less than £20,000**, they will not have to pay anything for their personal care from their assets. However, people may still need to contribute towards their care costs from their income (albeit with MIG and PEA uplifted for inflation).

It is estimated that about 150,000 people will directly benefit at any one time when these reforms are implemented. Looking at the national number of people

who are said to benefit from these changes and applying an illustrative 3% of that number to the local area, it could mean about an additional 4,500 people in Kent could be helped at any one time. Currently Kent Adult Social Care are working with/for 39,000 number of individuals

2.6 **Cap lifetime care costs**

The Government plan confirms the policy intention to introduce a new cap of £86,000 on the amount anyone will need to spend on their personal care over their lifetime. This is planned to start from October 2023, using the existing provision in the Care Act 2014. The **cap on care costs** will operate alongside the existing deferred payment of care home fees. Significantly, the cap on care cost does not extend to daily living costs such as accommodation, food and heating. This proposal will apply to all adults in receipt of adult social care support in England, no matter their age. However, it is not clear if the cap on lifetime care costs applies in all care settings.

2.7 **Self-funders to have a right to ask a local authority to arrange their care**

Under this plan, people who pay their own care (self-funders) will for the first time, be able to ask their local authority to arrange their care for them. This provision will force a set of issues regarding **self-funders to come under scrutiny**. One such issue, is the fee differential between the amount local authorities pay for care homes, relative to the fees paid by people who pay their own care. One analysis puts the so-called self-funder **'cross subsidy'** issue at 40% (this is further expanded in 3.8), inferring that self-funders pay 40% more than people who do not self-fund. The implications and mechanisms for us to arrange care for self funders will have to be developed and thought through but potentially there will be an additional number of people seeking assistance with arranging residential placement that Adult Social Care will have to accept. As a consequence of self-funders placements being sourced by the council it is also likely the fees the council pays for current clients will rise as the market attempts to recover the cross subsidy.

2.8 **Wider support to the social care system**

The Government states in the plan that it wants care work to be a more rewarding vocation, offering a career where people can develop new skills and take on new challenges as they become more experienced. This will include developing a **plan to support professional development** and the long-term wellbeing of the workforce. The Government will also invest at least £500 million in new measures over three years to provide training places and certifications for care workers; fund mental health wellbeing resources such as, counselling, peer-to-peer coaching and workplace improvements; alongside further reforms to improve recruitment and support for the social care workforce.

A plan to support professional development is welcomed but many workers in the care sector will find it a little perverse that their pay will be equally impacted by the NI social care levy and an already poorly financially rewarded vocation will face further taxes. We need to encourage people into the care profession and an exemption from such a levy may have been considered a positive step forward.

2.9 The Plan acknowledges that there are a wider set of issues that the adult social care sector faces beyond those relating to costs to users and workforce. Therefore, the Government states it will take steps and introduce measures that will support improvement and ensure Local Authorities are delivering on their obligations for users. These measures include:

- Ensuring **unpaid carers** have support, advice and respite they need.
- Investing in the **Disabled Facility Grant** and supported housing.
- Improving information for service users to help them navigate the system.
- Introducing **a new assurance framework.**

2.10 **Improving the integration of health and social care**
The Plan emphasises that the development of Integrated Care Systems (ICSs), which will be placed on a statutory basis has shown what is possible by bringing together hospitals, primary care and Local Authorities. But there is a need to go further to ensure that people using health and social care services experience well-coordinated care. This means that health and care organisations should work seamlessly together within systems to improve the standard of services in local places. This new approach will mean that people can expect **convenience** (single digital health and social care records), **choice** (decisions about care and how they are accessed) and **flexibility** (right place, right time).

2.11 The Government will work with citizens, the NHS, Local Governments and other key stakeholders to co-produce **a comprehensive national plan** for supporting and enabling integration between health and social care. The development of the strategy will include a renewed focus on **outcomes**, **empowering local leaders** and **wider system reforms**.

2.12 The Government will work with systems to identify **a single set of system-based health and care outcomes** that local systems (including ICSs and Local Authorities) will be asked to deliver. Local leaders will be given the freedom to align incentives and structures in order to deliver these outcomes in the way that is best for their communities. The Government will keep current regulatory requirements under review to ensure they are focussed on outcomes.

2.13 There will be Care Quality Commission (CQC) **oversight of Local Authorities' commissioning of adult social care**, which will be introduced through the Health and Care Bill, and a role for the CQC in assessing the overall **quality of ICSs.** In addition, the Government have stated they will improve workforce planning across health and social care and consider a new training curriculum for health and social care staff.

3. Financial, demand, system and provider market implications

3.1 Local authorities have long called for sustainable long-term funding and reform of the adult social system. The checklist of challenges facing the sector include workforce issues, increasing demand because of population changes, quality of care and market viability factors and a responsive regulatory framework. The proposed narrow changes to the social care system in England in the Plan, raise a wider set of potential implications for local authorities. The likely consequences will impact on individuals, councils, providers, the integration policy agenda, and the wider local government system.

3.2 As already stated the funding for core budgets will be set out in the Spending Review. The government expects that **demographic and unit cost pressures will have to be met through Council Tax, social care precept, and long-term efficiencies.** The additional funding from the NICs levy is intended to cover the cost of implementing the changes set out in the proposals.

The implications for the reputation of Kent County Council are considerable. Residents are unlikely to understand the different funding streams or the changes that will have to be absorbed by different services and funded from other budgets. Whilst these changes may be applauded and welcomed by many, residents are unlikely to appreciate the different distinctions, definitions, and changes unless it applies directly to them and even then, the room for misunderstanding is plain to see and covered in 3.3 below.

3.3 **Individuals** – The media coverage of the changes to the capital thresholds and the introduction of the cap on care costs, may leave some individuals with the impression that they may not be asked to meet or contribute to the totality of their care, once they reach the cap. We know from the details set out in the Plan that the separation of care costs and daily living costs means that individuals will continue to be responsible for the daily living costs component whatever the care setting, even after reaching the cap. Also, the charging rules are such that some people may not spend enough to reach the cap before they leave the system. Assuming a total cost of care of £500 per week, it may take up to 172 weeks to reach the cap or 3.3 years. It should be noted that the average length of stay for older people in residential and nursing care homes are 2 years and 3 years respectively. The higher the total costs of care the faster an individual will reach the cap. Unless Government communication campaigns send out the right and consistent messaging, it will fall to local authorities to carefully manage communications on this to ensure residents are fully informed.

3.4 **Demand for care** – The Government estimates that about 150,000 people in England may benefit from the planned changes at any given time. In part, this is because of the increases in the capital threshold and enabling self-funders to exercise their legal right to ask local authorities to arrange their care, thus benefiting from the purchasing power of local authorities. If all self-funders choose to rely on the council for their care, the increase in demand will require a significant injection of additional resources to help manage the high workload. Even if technology was exploited to the maximum, KCC will need to prepare for, and to undertake needs assessment and financial assessment of thousands of people. At the time of writing KCC was supporting 4609 people living long-term in care homes. This number will be equalled or dwarfed by demand related to these changes if all self-funders consider it in their best interests to approach the council.

It is also likely that there may be an increase in the number of deferred payment requests the Council receives but this would need to be quantified.

3.5 **Systems** - The introduction of the cap on care costs means the existing social care IT systems which hold client information will need to be upgraded to manage the **care account**. The related new activities:

- the rate at which someone progresses towards the cap.
- recording how much someone has accrued towards the cap.
- contribution towards daily living costs.
- annual adjustment in line with the regulations.
- annual statement.
- when requested notify people before they reach the cap.
- make provision for an appeals system.

3.6 It may be necessary to develop an online care account, accessible by individuals and their families. The implementation of the changes would fall to several corporate functions such as IT, Finance, and Strategic Commissioning, alongside those that would rest with Adult Social Care and Health. For instance, the Client Financial Assessment Team will be in the forefront to undertake new assessments of self-funders and people newly entitled because of the changes to the capital threshold and re-assessment of known clients. A similar needs assessment demand will be unfolding for which Adult Social Care teams will have to respond, possibly within Government defined timescale.

The features of the cap on care costs will require KCC, in its role as a commissioner to recast its **contract and specifications** to make a distinction between the care costs and daily living costs components. This is because the existing structure of the framework contract does not include this distinction.

3.7 KCC must also plan for and ensure it has appropriate arrangements in place to effectively respond to the new Assurance Framework requirements. It is understood that the Government will develop the Assurance Framework with the involvement of the relevant networks in the social care sector, including the Local Government Association, the Association of Directors of Adult Social Services, and the County Council Network. As well as local authority functions and the extent to which these are delivered well coming under scrutiny, the Council's involvement in the Integrated Care System (ICS) will also come under scrutiny as the Care Quality Commission remit will be extended to assess ICSs.

The breadth of the different elements that must be undertaken to prepare for, and ensure effective implementation, along with the obvious wide-ranging implications are such that the most sensible approach is for KCC to manage the assessment, the response to the implications and the implementation of the changes as a unified **Strategic Reset Programme workstream**.

It is important to note that existing pressures on social care (demand, prices, market sustainability etc) will not be funded out of the new funding from increased NICs. These pressures will need to be funded from core budgets set out in spending reviews, which could include further increases in adult social care council tax precepts. However, this may not be enough to fully fund pressures leaving the need for balancing efficiency savings, not necessarily ring-fenced for social care.

3.8 **Provider market** - It is known that the current market structure has built-in cross-subsidies by those who pay for their own long-term care in care homes. As a result, almost all self-funders pay higher fees relative to the fees negotiated by the local authority. The issue that must be investigated is whether

the changes would lead to the elimination or substantial reduction of the **fee differential** and whether the financial risk will be borne by providers in the form of lesser fee rates, or that the council budget will come under severe pressures because fees paid by the local authority may rise substantially. Therefore, it is imperative for KCC to assess, understand and fully recognise the sustainability or market equalisation issues and the accompanying potential financial risks.

The nature of **incentives or disincentives** that would be in play it is not clear at this stage because of the introduction of the cap on care cost and related changes. One such incentive which some providers may opt for, is to offer a premium service to self-funders only.

4. Conclusions

4.1 The additional funding that was confirmed when the Plan was announced has been welcomed, although at this stage it is unclear how much of the additional funding for social care over the next 3 years will be needed to fund the cap and impact on client contributions towards care. However, set against the long -term challenges that the social care sector faces, the call for sustainable funding and lasting reform has increased following the Plan's announcement. This is because the demand pressures continue to increase, and about half of the adult social care budget is spent on people of working age with disabilities.

4.2 The implementation of the changes would fall to several corporate functions such as IT, Finance, and Strategic Commissioning, as well as Adult Social Care and Health. It is suggested that KCC should revisit and update the County Care Markets report of July 2015 which outlined and detailed the overall cost implementations of the cap on care costs.

4.3 The multiple elements involved, and the far-reaching implications are such that the programme of work should be managed as part of the Strategic Reset Programme governance arrangements.

5. Recommendation(s):

Cabinet is asked to **consider** the contents of this report and the initial assessment of the implications for Kent associated with the main proposals of the Plan for Health and Social Care in England.

6. Background Documents

Build Back Better – Our Plan for Health and Social Care

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