

**From:** Clair Bell, Cabinet Member for Adult Social Care and Public Health  
Richard Smith, Corporate Director Adult Social Care and Health

**To:** Adult Social Care Cabinet Committee – 28 September 2022

**Subject:** **UPDATE ON ADULT SOCIAL CARE REFORM**

**Classification:** Unrestricted

**Past Pathway of report:** N/A

**Future Pathway of report:** N/A

**Electoral Division:** All

**Summary:** This report provides an update on the programme of work being taken forward in response to the Government’s Adult Social Care Reform policy commitments. This includes the Fair Cost of Care, the cap on personal care cost, extension to the means test and self-funders right to request support and the new assurance framework.

The paper also describes the key challenges for Kent County Council as they relate to the implementation of the national reform programme.

**Recommendation(s):** The Adult Social Care Cabinet Committee is asked to **CONSIDER** the content of the report.

## 1. Introduction

- 1.1 The Adult Social Care Cabinet Committee considered a presentation on the ‘Adult Social Care Reform’ at its meeting on 31 March 2022. The presentation provided Members with an overview of the main policy proposals set out in the ‘People at the Heart of Care, Adult Social Care Reform White Paper’, published in December 2021 (the White Paper).
- 1.2 It was outlined then, that the policy proposals will have two important effects. Firstly, the changes will lead to some major changes to the operational and system processes and secondly, they will lead to some significant increase in the workload of the service and have an effect on the overall financial envelope. The likelihood that the financial impact associated with the ‘Fair Cost of Care’ and the potential reduction or elimination of self-funders cross subsidies were highlighted then as these could have huge impact and add to the pressures on Council’s budget, if adequate central government funding was not forthcoming.

- 1.3 This report is intended to inform Members about the different pieces of work being undertaken which will ensure that Kent County Council (KCC) fulfil its statutory duties and the meet policy requirements. The update report focuses on the Fair Cost of Care, the Adult Social Care Charging Reform with the implementation of the cap on personal care costs, extended means-test, and preparations for the new Care Quality Commission national assurance framework.

## **2. Background**

- 2.1 On 7 September 2021, the government set out its new plan for [Adult Social Care Reform](#) in England. This covers a 10-year national programme which includes the following key changes:
- Reform Adult Social Care charging with the introduction of a cap on personal care cost and extended means-test.
  - Fair Cost of Care and market sustainability plan.
  - Implementation of Section 18(3) of the Care Act which gives self-funders a right to ask a local authority to arrange their care, which has since been revised.
  - New national assurance framework under which the Care Quality Commission (CQC) inspects local authorities and the Integrated Care Systems (Integrated Commissioning Boards and Integrated Commissioning Partnerships).
  - Professional development plan for the social care workforce.
  - More supported housing and reform of the Disabled Facilities Grant.
  - Integration of health and social care.
  - Accelerate the digitisation of social care.
  - Innovative Models of Care Programme - new ways of delivering care in the community.
  - Change in services to support unpaid carers.
- 2.2 The following section of the report describes the steps taken to date to assess and understand the policy requirements and muster the necessary resources to manage the programme of work to meet the expectations placed on the Council.

## **3. Fair Cost of Care Exercise and Market Sustainability Plan**

- 3.1 The Fair Cost of Care exercise is one of the first policy objectives of the Social Care Reform, which Councils are required to fulfil. The policy objective is to ensure that local authorities commission social care services in a sustainable way and are not paying less than it costs to provide the care. Councils are required to survey a range of providers (representative of the local market) as part of the cost of care exercise, to improve the understanding of the actual costs of delivering care in the area. Local authorities are required to use the exercise to determine and report the median actual operating costs for the following categories, plus evidence and values for return on capital and return on operations. Together these make up the Fair Cost of Care. The categories are:

- 65+ care homes.
- Standard residential care.
- Residential care for enhanced needs.
- Standard nursing care.
- Nursing care for enhanced needs.
- 18+ domiciliary care.

3.2 KCC is in the process of completing the analysis of the Fair Cost of Care exercise, which will feed into the Market Sustainability Plan. KCC has taken all reasonable steps and engaged all care providers to participate in the cost of care survey during May and July 2022. Different means of communications were used to engage with the provider market to support them in completing these survey tools. The engagement took the form of direct e-mails; a dedicated mailbox to answer any queries; newsletter articles; engagement with the representative Trade Associations; virtual drop-in sessions; a set of frequently asked questions; telephone follow up to offer support and presentations at provider forums. The analysis work on the data collected as part of the cost of care exercise is progressing and it is expected that KCC should be able to meet the deadline of 14 October 2022 set by the Department of Health and Social Care (DHSC), however if it proves necessary the Council may seek an extension to the deadline.

3.3 It is expected that the Market Sustainability Plan will refer to the Fair Cost of Care exercise and must address the following three key areas which are:

- An assessment of the current sustainability of local care markets
- An assessment of the impact of future market changes (including funding reform) over the next 1-3 years, for each of the service markets and
- Plans for each market to address sustainability issues identified, including how Fair Cost of Care funding will be used to address these areas over the next 1 to 3 years.

#### **4. Preparations for the implementation of the reformed Adult Social Care charging with the introduction of a cap on personal care cost and extended means-test**

4.1 The White Paper details the introduction of a cap of a maximum of £86,000 that individuals will have to pay towards their personal care cost and a new means-test threshold. The lower capital threshold will change from £14,250 to £20,000 and the upper capital threshold will increase from £23,250 to £100,000. These revised capital thresholds will come into effect in October 2023 and will apply to everyone newly assessed as being eligible for care and support as well as those people who are already in receipt of and who continue to receive care and support. The upper threshold of £100,000 will become the limit above which people will fund their own care.

4.2 Anyone assessed by the local authority as having eligible care and support needs, whether a new entrant or an existing social care recipient, can begin to progress towards the cap from October 2023 onwards. This is based on what the local authority charges the person to meet their eligible care and support

needs, or in the case of self-funders who arrange their care themselves, what the cost would be to the local authority of meeting those needs. There is ongoing work to confirm the likely additional demand for care and support needs assessment and financial assessment because of the implementation of the cap on personal care costs. The operational analysis of the impact on Kent carried out by the County Council Network (CCN) projected that:

- An estimated care assessment of 4,600 per year will arise
- 182 additional workers required to manage demand from the reform
- An estimated increase of 4,190 financial assessment will be required to be completed each year
- 32 additional financial assessment officers required to manage demand from the reform.

4.3 Analysis is at an advanced stage to confirm the result of our modelling of the additional demand that will have to be managed because of this aspect of the reform. Early indications predict significantly increased numbers for Kent than those projected by the CCN. The ongoing modelling work will also factor in, to the best of our knowledge, the impact of the extension of the means-test which will bring in more people who will rely on publicly funded support.

4.4 The government launched a consultation which closed on 23 September 2022, on introducing a new Adult Social Care Charging Framework from October 2023. The consultation was on proposals for distributing funding to support the first year of delivery of Adult Social Care Charging Reforms in 2023 to 2024. There were proposals on the distribution of funding for needs and financial assessments, the extension to the means-test and the cap on personal care costs. KCC used the opportunity to make its voice heard through its response to the consultation. Our main concerns were centred on the funding formulae used to allocate the available resources between individual authorities and the quantum of the funding to be made available for the reform.

4.5 The Government's stated objectives in the consultation are to provide authorities with funding certainty, transparency, robustness, and fairness. Inevitably, the funding options in the consultation represent a compromise between these objectives. Most of the options either allocate resources based on population adjusted for relative needs or a simpler approach based purely on population. However, the relative needs are based on a presumption of building on the existing formula (which has been in place for many years and has been criticised for being out of date/not fit for purpose) to reflect the new responsibilities. The largest estimated costs are for the changes to the means test and the implementation/additional assessments

4.6 The analysis work carried out to date, which is informed by government guidance and our understanding of the overall policy changes, has identified that there may be:

- Significant changes to the operational and financial systems which will affect both Adult Social Care and Corporate functions
- The creation of a new Care Account that must be set up for every person who comes forward and is entitled to the cap on personal care costs
- The potential increase in the number of appeals by individuals (or others on their behalf) against decisions about care packages along with the outcome of the Financial Assessment
- The commissioning and contractual framework will need to reflect the separation of care costs from daily living cost (costs such as rent, food and utility bills)
- Transparency of cost of care information and market sustainability plan.
- Any changes will affect policy and practice
- The necessity for training staff and provide public education information
- Requirement for additional resources in several impacted areas indicated above
- The need to put in place a robust communication plan.

4.7 Further strategic analysis continues to fully establish the potential financial implications of the reforms relating to the cap on care, extension of the thresholds and arranging the care of self-funders.

4.8 The changes outlined in the reforms will significantly alter some of the processes within Adult Social Care and the systems and technology that support them. The DHSC has been working with providers of social care case management systems which includes the Access Group who provide KCC Adult Social Care and Health with Mosaic (our social care case management system) to specify the changes required. In turn, officers from KCC are meeting with the Access Group to ensure all required changes will be successfully implemented in Kent. Although it is agreed in principle that the DHSC will pay for these changes to the case management system, the details of how the funding will be administered have not yet been shared.

## **5. Self-funders right to ask the local authority to arrange their care**

5.1 The Government, as part of the reforms, announced the extension of Section 18 (3) of the Care Act 2014 to now include the arrangement of residential and nursing care placements for self-funders through the local authority (previously only available to those requiring domiciliary care). This will allow individuals to benefit from local authority provider commissioned contracts and the assisted support of arranging care. Concerns have been raised about the sustainability of the social care market and the difficulty in understanding the demand from self-funders.

5.2 KCC will be required to make self-funders who want to progress towards the cap on personal care aware that they can ask the local authority to meet their

needs at any time. KCC, therefore, will have a duty to meet the self-funder's needs, if all of the following conditions are satisfied:

- The person asks KCC
- KCC finds (through an assessment) that the person has eligible care and support needs
- The person is not, and has not been, in residential care in the 6 months preceding October 2023 (unless this residential care was paid for by the NHS, or purchased by the individual on a temporary basis, for example respite care).

5.3 The effect of the last condition in the above paragraph, means that individuals who are already in residential care in October 2023 will not initially be able to use section 18(3). The Government has committed to review this after 12 months (in October 2024) and this condition will be removed after no more than 18 months (by April 2025). This is a change of policy by the government in response to the consultation on the implementation of the cap on personal care cost.

## **6. New national assurance framework under which the Care Quality Commission inspects local authorities and the Integrated Care Systems (Integrated Commissioning Boards and Integrated Care Partnerships)**

6.1 Through the Health and Care Act 2022, the Government has confirmed the introduction of a new Assurance Framework whereby the Care Quality Commission (CQC) will independently review and assess local authority performance in delivering Adult Social Care duties under the Care Act 2014 and assure the performance of the Integrated Care Board (ICB) and Integrated Partnership Board (IPB).

6.2 KCC's preparation for the new assurance process has been to adopt the "Best We Can Be" approach which looks to tell our story through the voice of the people we support, our staff and our partners within KCC, our health partners and the wider community. Peer Review Groups, have been established, to support the implementation and Kent has been buddied with West Sussex and Hampshire councils in reviewing the regional self-assessment.

6.3 The progress to date in Kent has been focused on completing the regional self-assessment tool, which provides KCC with the key source of evidencing achievements in improving outcomes for people. KCC will need to effectively demonstrate how successful we are in meeting our duties and listening to the people we support.

6.4 A review of the Ofsted process for Children, Young People and Education was undertaken to establish learning that can shape what we do in Adult Social Care, and this has been informative in the following areas:

- Use the different ways of working as an opportunity to create a robust team who will drive practice and improvement.
- Tell a story, a team approach "the best we can be" and demonstrate continuous improvement.

- What are our systems telling us? Why do we write the things we do?
- Regular systematic reviews and improvement.
- People being at the heart of what we do. Hear lots of people stories.
- Each team to understand “what good looks like for them.”
- A Practice Framework and Quality Assurance Framework is the work plan for being, the “Best We Can Be.”

6.5 The next steps in our CQC inspection readiness are as follows:

- Receive RAG ratings from our Buddy Local Authorities and take forward learnings from our Peer Review.
- Engage in the CQC Consultation process.
- Practice Development Officer’s to continue to work within localities to support the development of the Quality Assurance Audit Tool from Aug 2022.
- Launch the Quality Assurance Framework from October 2022.

6.6 It is notable that the main risk considered for the CQC inspections remains the current state of the social care market, the workforce issues and front-line practitioners’ management of risks.

## **7. Financial Implications**

7.1 In 2022 to 2023, £162 million was allocated to local authorities through the Market Sustainability and Fair Cost of Care Fund. KCC was allocated £ £4.6m for the Fair Cost of Care and £98k for the Implementation Support Funding which has been factored into the 2022-2023 budget. Local authorities are expected to use at least 75% of the allocated funding in 2022 to 2023 to increase fee rates paid to providers in scope, where necessary, and beyond pressures funded by the Local Government Finance Settlement 2022 to 2023. Up to 25% of allocated funding in 2022 to 2023 can be used to fund implementation activities associated with meeting the fund purpose.

7.2 Further tranches of an additional £600m through the Market Sustainability and Fair Cost of Care Fund are anticipated in 2023-24 and 2024-25. The 2022-23 allocations were based on the existing adult social care Relative Needs Formula (RNF) used for other grants e.g., social care support grant and the Improved Better Care Fund. This formula takes no account of the changes under the reforms. The Government intend to review allocations for 2023-24 and 2024-25.

7.3 The Market Sustainability and Fair Cost of Care Fund will amount to £1.36 billion (out of the £3.6 billion to deliver the charging reform programme). The consultation on the allocation of additional funding to implement the reforms in 2023-24 outlined in paragraphs 4.4 and 4.5 is in addition to the Market Sustainability and Fair Cost of Care Fund.

7.4 As a condition of receiving future funding, local authorities will need to evidence the work they are doing to prepare their markets and submit the following to DHSC by 14 October 2022:

- Cost of care exercises for 65+ care homes and 18+ domiciliary care.
- A provisional market sustainability plan, using the cost of care exercise as a key input to identify risks in the local market, with consideration given to the further commencement of Section 18(3) of the Care Act 2014 (which is currently in force only for domiciliary care) – a final plan will be submitted in February 2023.
- A spend report detailing how funding allocated for 2022 to 2023 is being spent in line with the fund's purpose.

## **8. Legal implications**

8.1 It is understood that local authorities will continue to fulfil their statutory duties of the Care Act 2014 on the understanding that the Social Care Reforms are consistent with the responsibilities enshrined in the relevant legislation including the Care Act 2014, the Mental Capacity Act 2005, and the Mental Health Act 1983.

## **9. Equalities implications**

9.1 Depending on the nature of the work to be done in respect of the Adult Social Care Charging Reform and the new National Assurance Framework, related impact assessments may need to be completed.

## **10. Data Protection Implications**

10.1 A Data Protection Impact Assessment Screening (DPIA) had been completed for scrutiny by the Data Protection Office. The DPIA will be updated throughout the exercise to reflect all relevant changes.

10.2 It has not been determined that a DPIA is required at this stage for the other elements of the reform (cap on personal care cost and extended means-test, self-funders right to ask the local to arrange their care and implementation of the new assurance framework), however this will be kept under review.

## **11. Other corporate implications**

11.1 Whilst the Social Care Reforms are centred on the Adult Social Care responsibilities, key components of the reform activity impact on corporate functions such as Finance including Client Financial Services, Strategic Commissioning, Human Resources, and Legal Services.

## **12. Conclusions**

12.1 The Adult Social Care Reform has set in train several policy changes with far reaching implications for KCC, care providers, adults with care and support needs and carers. The Fair Cost of Care exercise, the first of the policy objectives to be delivered, is associated with clear budget implications for KCC. The work undertaken means that KCC can submit the required outputs from the Fair Cost of Care exercise and the related initial Market Sustainability Plan by deadline of 14 October 2022.



12.2 Work is progressing to finalise the estimation of the additional demand arising from the implementation of the cap on personal care cost and extended means-test and self-funders right to ask the local to arrange their care.

12.3 It is planned to continue to update Members periodically as the reform work progresses including making available information in the routine performance monitoring reports to this Cabinet Committee.

### 13. Recommendations

13.1 Recommendation(s): The Adult Social Care Cabinet Committee is asked to <b>CONSIDER</b> the content of the report.
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### 14. Background Documents

People at the Heart of Care- Adult Social Care Reform White Paper Adult Social Care Charging Reform Guidance- [Adult social care charging reform: further details - GOV.UK \(www.gov.uk\)](#)

### 15. Report Author

Michael Thomas-Sam  
Strategic Business Adviser Social Care  
03000 417238  
[Michael.thomas-sam@kent.gov.uk](mailto:Michael.thomas-sam@kent.gov.uk)

#### Relevant Director

Richard Smith  
Corporate Director Adult Social Care and Health  
03000 416838  
[richard.smith3@kent.gov.uk](mailto:richard.smith3@kent.gov.uk)