



# EXECUTIVE BOARD DECISION

<b>REPORT OF:</b>	Executive Member for Adults Social Care & Health
<b>LEAD OFFICERS:</b>	Strategic Director of Adults and Health
<b>DATE:</b>	Thursday, 11 August 2022

<b>PORTFOLIO/S AFFECTED:</b>	Adults Social Care & Health
<b>WARD/S AFFECTED:</b>	(All Wards);
<b>KEY DECISION:</b>	Y

**SUBJECT: Social Care Reforms**

## 1. EXECUTIVE SUMMARY

The purpose of this report is to provide Executive Board with an update on the key issues in relation to Adult Social Care Reforms following publication of the Governments Building Back Better Plan and White Paper for reforming the delivery of Adults Social Care ('People at the Heart of Care').

## 2. RECOMMENDATIONS

That the Executive Board:

- Note the update provided in relation to the Social Care Reforms and in particular the Council's progress on the Fair Cost of Care exercise and development of our Care Market Sustainability Plans

## 3. BACKGROUND

In September 2021, the government published its Building Back Better plan for reforming the funding of Health and Social Care. This was followed in December 2021 by the publication of the White Paper for reforming the delivery of Adult Social Care ('People at the Heart of Care').

The Government White paper sets out a 10 year vision for adult social care and ambitious reforms to provide individuals with choice and control, access to outstanding quality and tailored care and support, and Adult Social Care Services that are fair and accessible.

The white paper includes four key aspects of significant reform which will impact on people receiving care, providers in the care market and local authorities. These reforms are to be implemented by Local Authorities from April 2023 onwards and they represent some of the most significant change to

Adult Social Care within the last decade. For the purposes and focus of this report the four key financially related reform changes include:

- **Charging Reforms** – Introduction of a Care Cap which limits the amount that any individual will have to pay towards the cost of their care in their lifetime.
- **Charging Reforms** – Change in the existing means test for chargeable care services.
- **Fair Cost of Care** – establishment of a fair cost of care across local authority care providers
- **Care Brokerage** – enactment of responsibilities for the Local Authority under the Care Act - Section 18(3)

In addition it is important to note a raft of other legislative changes impacting on adult social care all of which will link and require a system approach to implementation. These have been presented in separate reports. These changes include the;

- Implementation of the Health and Care Act 2022 which for example will impact on the CQC regulation of the Local Authority, development of the Integrated care Boards and changes around discharge to assess programmes.
- Changes to the Mental Capacity Act and the introduction of Liberty protection safeguards.
- The implementation of the refreshed Autism Act strategies.
- The reformed Mental Health Act requirements.

All of these reforms will impact on the whole Health and Social care system and those organisations who operate within the system, including a change;

- in the cost of support funded by the local authority
- in the demand for local authority assessment and support for care services
- in the requirements placed on the local authority and
- in the requirements placed on care providers.

There is an expectation that new funding will be provided to Councils by the Government to fund these changes. The Government's intention is to fund adult social care reforms through an increase in National Insurance contributions across the population but the mechanism for funding Local Authorities for Social Care is, as yet, unknown and initial funding has been targeted towards the NHS as it is expected that reforms will be delivered across the Health and Social Care system. In addition the extent to which any such new funding will be sufficient to meet the cost of delivering the reforms will need to be a consideration in the development of the Council's budget for 2023/24 and will be subject to further assessment of the impact of charging reforms and the outcome of the fair cost of care/market sustainability programme of work. The consultancy company Newton's have been commissioned by the County Council network and are producing early indicators of likely cost for BwD.

The Government has made available various ad-hoc grants to support the social care system. These are cash grants, some of which are non-recurrent, payable to local authorities for investment in Adult and Children's Social Care, either directly by the Council or as part of a pooling arrangement with the NHS. Conditions for spend are required. These grants are set out with the Council's Medium Term Financial Plan presented to Finance Council in February 2022.

As set out to Finance Council in February 2022, and as part of Social Care Reforms the Council has been allocated a new Market Sustainability and Fair Funding Grant, and a new Charging Reform Implementation grant. These funding streams, and the required activity will be covered in more detail later in this report.

#### **4. KEY ISSUES & RISKS**

The key issues and risks in respect of each of the four areas of social care reforms are detailed below:

##### **Charging Reforms – Introduction of the Care Cap**

Under current legislation individuals in receipt of care services following an assessment of their care needs, are subject to financial assessment to determine what level of contribution they will make towards the cost of their care and what support the local authority will fund. This is based on an assessment of the individual's income and assets.

As part of the charging reforms the Government are introducing a cap of £86,000 on the amount any individual can spend on their personal care over a lifetime. Under these reforms the local authority will be required to help people 'meter' towards the cap through a Personal Care Account which is used to account for any money they spend on care, based on the budget the local authority determines is appropriate for level of eligible need. There will be key exclusions from 'care costs' which will not count towards the care cap such as daily living costs. Once the cap is reached, care will be funded by the local authority. This will mean residents contributions to their care will be limited regardless of the level of wealth and assets they have.

The local authority will be required to understand the numbers of people who will reach the care cap, by April 2023, for October implementation, by assessing the number of self-funders in the Borough and assessing existing service users who are likely to reach the cap. This will require the introduction of care accounts on our social care and/or finance systems and a reform of our digital approach. It is worth noting that the demographic in Blackburn with Darwen means that we have a much lower proportion of self-funding residents or residents exceeding the Upper Capital Limit of the new means test thresholds however the likely cost impact will be significant.

##### **Charging Reforms – Change in Means Test**

The charging reforms will result in a more generous means test which will mean more individuals receive some financial assistance in paying for their care. The current means test system uses asset thresholds to determine when and how much an individual contributes to their care. These thresholds are referred to as the Lower Capital limit (LCL) and Upper Capital Limit (UCL).

The introduction of a more generous means test will mean that anyone with assets of less than the £23,250 (LCL) and £100,000 (UCL) will receive some assistance with the cost of their care from the local authority. This compares with the current limits of £14,250 and £23,250 which means that the authority pays in full if the individual has assets of less than £14,250 and funds in part for any individual with assets below the UCL of £23,250. Anybody with assets above the UCL of £23,250 pays for their own care in full as a self-funder.

The financial assessment also uses a Minimum Income Guarantee and Personal Expenses Allowance to protect an individual's income. Income above this level is contributed towards the cost of care. This will be unfrozen under the new system and will rise with inflation meaning an individual keeps more of their own income.

These changes will mean that fewer people will pay the full cost of their care, and more people will be eligible for financial support from the local authority and will **not** contribute to the cost of their care.

Changes in the means test will have a direct impact on the cost of care and client contribution levels for adult social care, but there will also be an impact on local authorities in terms of managing the additional demand for both care and financial assessments. As such the operational costs of additional social care and financial assessment staff will increase unless the operating model for social care is changed. This will require the development of and investment in our processes, systems and ways of working.

The Government have allocated a new Implementation Support Grant for Charging Reforms and Blackburn with Darwen has received £97,403 for 2022/23. The grant provides support to local authorities in England towards expenditure on the planning and preparation costs associated with charging reform, to recruit additional staff to manage the increased demand for assessments and the implementation of the care account module. This grant is a non-ringfenced contribution towards local authorities to implement charging reform.

### **Care Brokerage**

Local Authorities have a duty under Section 5 of the Care Act to promote and manage the efficient and effective operation of a market in services for meeting care and support needs. Implementing section 18(3) of the Care Act will mean that the local authority has new responsibility for assessing and brokering care for self funders.

Self funders will be able to request an assessment from their local authority and they will be able to ask the local authority to source and broker (commission) their care for them at the local authority 'fair cost of care' rate.

As such it is expected that providers will lose income from this cohort of service users which will impact upon the stability of the care market if commissioned rates do not reflect this. In most cases providers charge a higher rate or apply 'top ups' for self funders to receive an 'enhanced' level of care and support e.g.: to be supported in a specific home with specific facilities or support above their local authority assessed level of eligible need.

These new duties are expected to increase the number of individuals presenting to the local authority for assessment.

### **Fair Cost of Care/Market Sustainability Plans**

Local Authorities are required by October 2023 to 'move towards' paying a 'fair cost of care'. This is to ensure that providers of care receive sustainable funding to deliver high quality consistent care.

As part of the reforms the Council has been allocated a new Market Sustainability and Fair Funding Grant with the Council's share being £516,000 for 22/23. It is assumed that this is a one-off grant and Government guidance states that it is intended to be used by Council's to:-

- conduct a cost of care exercise to determine sustainable rates within the care market and identify how close they are to it;

- engage with local providers to improve data on operational costs and number of self-funders to better understand the impact of reform on the local market;
- strengthen capacity to plan for, and execute, greater market oversight (as a result of increased section 18(3) commissioning) and improved market management to ensure markets are well positioned to deliver on the Governments reform ambitions;
- use this additional funding to genuinely increase fee rates, as appropriate to local circumstances.
- grant conditions stipulate that a minimum of 75% of the grant should be paid directly to Providers in scope of the fair cost of care exercise, to increase fee rates.

Local Authorities must:

- Complete and publish a fair cost of care exercise for providers in scope (this includes providers of Residential and Nursing Care for Older people over 65yrs and Domiciliary Care for providers of care at home for Adults 18yrs plus.
- Complete and Publish a Market Sustainability Plan which includes as assessment of market changes over the next 3 years including changes due to charging reform, the impact of current fee rates on the market, potential risks and information on the development of mitigating actions and plans to deliver a sustainable rates over the spending review period
- Submit a Spend Return detailing how the funding allocated is being spent in line with the conditions of the grant

These returns must be submitted to the Department of Health and Social Care (DHSC) by 14th October 2022 and will include provisional market sustainability plans. Final plans will be submitted in February 2023 to link into the local authority budget setting process.

Plans to undertake the Fair Cost of Care (FCoC) work have been established and work is well underway in terms of engaging with providers to complete the exercise and establish a Fair Cost of Care within the Borough. Council officers are working closely with an organisation which has been commissioned to support the collation of Care provider cost data and provide analysis to provide the DHSC Fair Cost of Care returns. The commissioned organisation are well established in this area of work having worked closely with a number of Trailblazer authorities. Work is also underway within the adults strategic commissioning team to update and refresh our Market Position Statement and update areas of the Borough's Local Plan in preparation for submitting our Market Sustainability plans.

The outcome of the FCoC work will determine sustainable rates within the care market and an assessment of the full budgetary implications can then be undertaken for the Local Authority's financial planning however it is anticipated that the financial implications will be significant for Blackburn with Darwen given our current baseline for provider fees.

## **5. POLICY IMPLICATIONS**

None with this report, however policy changes required as a result of the social care reforms and legislative changes within and across social care will be considered and further updates reported to Executive Board as needed. A new Target Operating Model will be required for Adults Social Care.

## 6. FINANCIAL IMPLICATIONS

There are significant financial implications associated with the social care reforms which are not yet fully known or quantified.

At its simplest:

- the charging reforms detailed above, redistribute financial responsibility for care, so the cost to individuals will reduce and the cost to the local authority will increase.
- the additional commissioning responsibilities and changing means test are expected to bring increased operational costs in terms of workforce requirements
- there will be significant cost to move towards a sustainable fee rate for providers

Whilst these would seem to be the most obvious cost implication there are other financial risks and issues, which have already been stated within the report that the local authority needs to understand in relation to the full impact and overall cost of the reforms. These include but are not limited to:

- Increased annual price and pay inflation above previous budget planning assumptions, in line with a local authority's overall increased expenditure on adult social care services.
- Potential for increased resources required to manage contacts / enquiries from residents and provide information, advice and advocacy. This is likely to include both increased internal resources and potentially increases to the scale of contracts with external organisations for these services (typically provided by the voluntary sector).
- The need to implement and maintain new systems or adaptations to our existing systems to enable Care Accounts to be set up and people's metering towards the cap to be tracked. These systems will then need to be integrated with the main adult social care system and finance systems to enable a smooth transition when people reach their cap.
- Potential increases to adult social care debt, as people may be less willing to pay charges before they reach their cap and subject to policy decisions the total amount local authorities bill to residents may increase.
- Increased resources required in other parts of the Council, for instance finance, HR, procurement, legal services.

Whilst some of the financial impact of social care reforms has been included within the Medium Term Financial Plan, in terms of expected increases to provider rates for National Living Wage increases, this is not the full impact and our future funding levels associated with reform are unknown.

Further assessment of the full financial cost and impact is needed. As this work programme progresses the overall impact and cost will be quantified and a further update will be brought to Executive Board in due course.

As already detailed in the report the authority has received two new grants for 22/23, to support the social care reforms: Fair Cost of Care/Market Sustainability at £516,000 and Implementation of Charging Reforms at £97,403. These funding streams will be managed through the portfolio's budget.

In addition the County Council Network have commissioned a report from Newton's Europe which seeks to assess the impact of Social Care reforms nationally and provide direct comparison to the Government's own Impact Assessment. Regional and local information has been made available by Newton's to provide an early indication of the likely cost within a local authority area. Blackburn with Darwen is progressing a review of the Newton's analysis together with our own data collation to assess the full implications.

## 7. LEGAL IMPLICATIONS

None with this report however all future formal governance arrangements will be agreed in accordance with Social Care legislation and the Council Constitution.

## 8. RESOURCE IMPLICATIONS

The initial resource implications are being managed within the existing Commissioning and Finance team within Adults and Health. Further resource implications are anticipated and will require further assessment to understand the full resource implications. Continued Member and Officer time and commitment are required in order to achieve the changes required from Social Care Reforms.

## 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

## 10. CONSULTATIONS

Consultation has been ongoing and undertaken with DHSC and Local Authority. Consultation has been undertaken by the Local Authority with care providers via a number of provider forums.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The

recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>Zoe Evans</b>
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<b>DATE:</b>	27.07.2022
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<b>BACKGROUND PAPER:</b>	
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