

## READING BOROUGH COUNCIL

### REPORT BY EXECUTIVE DIRECTOR FOR ADULT CARE AND HEALTH

<b>TO:</b>	POLICY COMMITTEE		
<b>DATE:</b>	21 SEPTEMBER 2022		
<b>TITLE:</b>	ADULT SOCIAL CARE REFORM - MEETING THE FAIR COST OF CARE AND MARKET SUSTAINABILITY FUND REQUIREMENTS FOR READING		
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#### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The government has committed to a national programme of Adult Social Care reforms to be implemented over the next two years of which four key elements will significantly impact on the 'cost' of Adult Social Care. This report focusses on the 'Fair Cost of Care' element of the reforms which requires local authorities to undertake a collaborative exercise with Adult Social Care Providers of Home Care (for people aged over 18) and Providers of Nursing and Residential services (for people aged over 65) to determine a 'Fair Cost of Care' and to develop a 3-year Market Sustainability Plan.
- 1.2 The current care market is such that, at the present time, people who fund their own care often need to pay much higher rates for their care than people whose care is commissioned by local authorities. This has long been considered unfair and the government is keen to address this and create a system whereby comparable rates are paid for care, no matter whether the care is funded by the local authority or directly by the person funding their own care. As a consequence of the government's social care reforms therefore, any care provider currently charging a higher rate to self-funders and/or using self-funder income for the same service to subsidise the true cost of care, may be at financial risk as this is unlikely to be a viable business model.
- 1.3 In order to ensure the overall sustainability of the care market the government has made available a three-year Fair Cost of Care and Market Sustainability Fund - "the Fund" - to support local authorities in ensuring the ongoing sustainability of their local care markets. A sum of £384k (of which 25% can be spent on implementation) has been made available to Reading Borough Council this financial year with future year allocations to be confirmed, noting that current projections suggest that the cost of achieving the fair cost of care is likely to exceed the total amount of funding allocated to Reading for the Social Care Reforms. Of note, failure to submit the requirements of the Fund may mean that a local authority will not have access to future Fund resource.
- 1.4 This report outlines the requirements of the Fund which include:
- A fair cost of care exercise, and
  - A market sustainability plan;

It provides an overview of the actions to date alongside the planned next steps notably a requirement to publish a 'Fair Cost of Care' on the Council's website and submit a

## 2. RECOMMENDED ACTION

- 2.1 Policy Committee is asked to note the requirements of the Market Sustainability and Fair Cost of Care Fund 2022/23 (see paragraph 3.5 below) and the actions of officers to date to meet the requirements of the Market Sustainability and Fair Cost of Care Fund in its first year - 2022/23.
- 2.3. Policy Committee is asked to delegate authority to the Executive Director of Adult Social Care and Health in consultation with the Director of Finance and the Lead Member for Adult Social Care to approve the submission of both the cost of care exercise and the provisional Market Sustainability Plan to the Department of Health & Social Care by 14<sup>th</sup> October 2022, and to publish the cost of care exercise outcome to the Reading.gov.uk website.
- 2.4. Policy Committee is asked to note that the final Market Sustainability Plan outlining how the Market Sustainability & Fair Cost of Care Funds will be spent in Reading will be submitted and published in February 2023, after local government budgets have been finalised.

## 3. POLICY CONTEXT

- 3.1 In December 2021, the government published a white paper - People at the Heart of Care, which outlined a 10-year vision “putting personalised care and support at the heart of adult social care”. As part of its commitment to social care reforms, the government is committed to wide-ranging changes which will impact significantly on costs sustained by local authorities, the financial contributions paid by residents when they need and receive social care, as well as on the care markets which provide this care.
- 3.2 At the moment, unlike NHS health care, which is free to all<sup>1</sup>, residents may pay a financial contribution to, or, all of their care costs dependent on an assessment of their income and assets. Across the Country, this has led to situations where the price paid by people who self-fund all of their care is significantly higher than the price paid by local authorities. It has also led to situations where care providers may rely on higher fees paid by self-funders to subsidise rates paid by the local authorities.
- 3.3 Every local authority has a duty under the Care Act 2014, Section 5, to promote the efficient and effective operation of the market in services for meeting care and support needs, with a view to ensuring services are diverse, sustainable and high quality for the local population, including those who pay for their own care. The government recognised that the opportunity for self-funders to access local authority rates may have the potential to increase risk to markets which have relied on self-funders to subsidise local authority care rates.
- 3.4 In preparation for the Reforms, in December 2021, the Government introduced the **Fair Cost of Care and Market Sustainability Fund** - “the Fund” - to support Local Authorities to prepare their markets for reform, including the commencement of the Section 18 (3) Care Act responsibilities and to support local authorities to move towards paying a fair cost of care. In total, the national Fund amounts to £1.36 billion (as of 29<sup>th</sup> June 2022 update). In 2022 to 2023, £162 million has been allocated with a further £600million being made available in both 2023/24 and 2024/25. The amount of funding available to the Council for this first year (22/23) is £384k.

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<sup>1</sup> With minor exceptions like prescription charges.

3.5 As part of the Council's implementation of the Social Care Reforms, the full financial implications will be set out in the "Financial Impact" workstream of the programme, along with an analysis of how these costs will need to be met (either through existing LA funds, additional Central Government funds, or a combination thereof). At this stage, however, the only financial impact data available is that provided by Newton Europe<sup>2</sup>, which is not comprehensive and only looks at the financial implications of the 65+ cohort. The money allocated to the Council by central government for managing the Reforms amounts to £2.9m. This is at least £500k lower than the cost implications estimated by Newton Europe which total up to £3.4m additional expenditure FYE in 23/24. Market sustainability is a key aspect of social care reform and will be informed by the outcome of current expectations.

3.6 As part of the requirements of the Fund, every local authority is required to:

- Engage with providers to determine a fair cost for home care (18+ years) and care homes (65+ years) in the local area. This is defined as the median cost for home care; residential care, nursing care and dementia care (including the upper and lower quartiles). The Fair Cost of Care exercise must be submitted to the Department of Health and Social Care (DHSC) by the 14<sup>th</sup> October 2022 and published on each local authority's website.
- Complete a 5-page Market Sustainability Plan which considers the local market, the anticipated impact of the Social Care Reforms particularly in relation to self-funders and the actions to be taken to achieve a market sustainable fee rate over the next three years. A provisional Market Position Statement must be submitted to the DHSC by 14<sup>th</sup> October 2022.
- The full Market Sustainability Plan must be finalised by February 2023, submitted to the DHSC and published on the local authority website.

## 4. THE PROPOSAL

### 4.1 Context and actions taken to date

#### **Funding**

- As stated above, for 22/23, the Council received £384k from the Fund. This amount has been made available to contribute to the ongoing stability of the Reading care home and home care markets. Up to 25% can be spent on resourcing any activities needed to complete the Fund requirements.

#### **Expert Support**

- In May 2022, the Council appointed CIPFA C.Co Ltd as a sector expert to work alongside the Directorate Adult Care Health Service's Commissioning Team to complete a cost of care exercise with the local eligible care homes (13) and home care providers (46).

#### **Toolkits**

- On a national basis, toolkits were developed for data collection across the two markets. These include a toolkit for home care developed by the Care & Health Improvement Programme (CHIP) of the Local Government Association (LGA) and a tool commissioned in late Spring 2022 by the LGA from public sector transformation partner - iESE Ltd for Care Homes. Whilst the Fund does not stipulate what specific toolkits are to be used by local authorities, a decision was taken to use the nationally recommended toolkits so that Reading could benefit from the national support available, and the additional and beneficial opportunity to benchmark across providers and with other local authorities.

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<sup>2</sup> Newton Europe and the County Councils' Network - 'Planning for Reform' May 2022

### Provider engagement

- All local residential and nursing care providers and home care agencies registered in Reading were initially contacted in late May 2022 then throughout June and July. In total 15 sessions (both face to face and remote) have been offered to providers to support them in understanding the tool and the purpose of the exercise; this has been supplemented with further information shared through forums led by the Commissioning Team and direct contact from both C.Co and the Commissioning Team.

### Working with other Local Authorities and national organisations

- As a nationwide exercise, all local authorities are separately completing cost of care exercises with the providers in their areas. This has provided opportunity for learning and sharing of experiences and feedback through the regional SE ADASS network meetings; briefing sessions with the LGA, iESE Ltd and with the local and national care associations. Reading has been liaising with neighbour authorities - Wokingham Borough and West Berkshire Councils who separately commissioned CIPFA C.Co to undertake their fair cost of care exercise (which in itself has offered efficiencies as well as benefits of knowledge transfer) and liaising with other Berkshire authorities and their partnering agencies.

- **Timescale and Milestones**

As a national exercise, contributing to the broader requirements of the social care reforms, the Council must meet certain milestones and deadlines. In relation to the fair cost of care and market sufficiency, the first of these critical dates is the 14<sup>th</sup> October 2022 when the outcome of the fair cost of care and the Provisional Market Sustainability Plan must be submitted to the DHSC. The outcome of the fair cost of care exercise must also be published to Reading.gov.uk website. The DHSC has also indicated that a Final Market Sustainability Plan must be submitted in February 2023 and published to Reading.gov.uk. The specific date for this has not yet been publicised. It is anticipated that the full market sustainability plan will inform and be informed by the Local Government Finance Settlement.

A summary of the key actions, timescales and progress is provided below.

Action	Timescale	Progress
Launch	May 2022	Complete
Appoint expert consultant to support.	May 2022	Complete - CIPFA C.Co appointed
Engagement with providers	Apr - Aug 2022	Ongoing - see below
Data cleansing, challenge and analysis	Aug 2022	Ongoing - see below
Data analysis	Aug 2022	Ongoing - see below
Finalise cost of care exercise	Aug/Sep 2022	Ongoing - see below
Estimate of self funder numbers	August 2022	Ongoing - see below
Market sustainability plan	Aug/Sept 2022	Ongoing - see below
Sign off cost of care and <i>provisional</i> market sustainability plan	Sep/Oct 2022	To be completed
Submit cost of care and provisional market sustainability plan to DHSC	14 <sup>th</sup> Oct 2022	To be completed - on track
Publish median cost of care information to Reading.gov.uk	14 <sup>th</sup> Oct 22	To be completed - on track

## 4.2 Current Position

### Provider engagement

One of the challenges all authorities have experienced, including Reading, is the level of provider engagement. Officers in the Commissioning Team are working with C.Co to both encourage engagement but also to look at how information from providers across Berkshire can inform the Reading cost of care exercise. This will need to take into account, where possible, any local differences impacting on the market;- for example, workforce differences and the impact on costs arising from travel time (e.g urban versus rural landscape).

Providers (local and across the country) have given feedback on concerns about the complexity of the exercise, the time needed to complete it (when delivery of care is the priority focus over busy summer months when many care workers may face additional childcare demands); concern about sharing sensitive financial information with commissioners and not having information readily available. Some providers have declined to be involved; whilst others have expressed willingness and interest but have not had sufficient time. Of note, national providers have largely submitted information across the country (e.g., BUPA) - potentially benefitting from the advantage of national teams and resources; but this is not the case for smaller, more local providers. Within Reading we have a mix of both. This lack of engagement is problematic as it does mean a comprehensive data set is not available to support conclusions.

### **Data Cleansing**

In addition to the challenges of ensuring sufficient provider engagement; another issue has been with the quality of the data submitted with some partial and inaccurate returns being received. This is necessitating time-consuming and significant follow up and may mean that some data submissions cannot be used in the overall exercise at risk of creating 'distortions'.

Another requirement at this stage is that of 'challenge' to ensure that the information submitted by providers is not only accurate but fair and reasonable and to ensure that the Council fulfils its responsibilities as a guardian of public finance.

### **Data Analysis**

In Reading, C.Co are currently completing the analysis on the available data; alongside ongoing work to encourage provider participation and data cleanse. No local authority has yet completed and published their cost of care exercise - but anecdotal evidence suggests that providers are indicating that a fair cost of care would be higher than the fees currently paid by local authorities.

### **Market Sustainability Plan - Provisional and Full**

The Market Sustainability Plan draws on information about the local home care and care home markets. It includes an assessment of the sufficiency of good quality provision to meet needs now whilst using information from the cost of care exercise to anticipate the likely actions that will need to be taken by each local authority to ensure provider sufficiency from October 2023. A key aspect of this is understanding the influence of the self-funder market in each area as it is likely an increasing number of self-funders will access local authority support to secure local authority rates, and an increasing number of people will no longer be required to self-fund (as a result of the higher capital limits or care cap).

Office of National Statistics data suggests that the number of self-funders in Reading is currently in the region of 34.7% of the total number of people with eligible care needs [July 2022]. At present, further work is being undertaken to verify this by analysing the number of self-funders currently supported by providers (noting that not all providers are willing to share information). This analysis appears to be showing that whilst the projection for care homes is accurate, for home care, it is under-estimated, and the percentage of self-funders is higher. The working projection for the number of self-funders is 600 to 650 people.

### 4.3 Next Actions

#### Options proposed

1. To finalise the cost of care exercise and Provisional Market Sustainability Plan for submission to the DHSC by 14<sup>th</sup> October 22 and meet the requirement to share the cost of care median outcomes on Reading.gov.uk website.

This will include maximisation of the provider engagement, robust data cleansing and challenge and opportunity to benchmark against neighbouring local authorities.

Seek delegation as detailed in point 2 above to approve the submission of the Fair Cost of Care and provisional market sustainability plan in line with the timescale.

Complete the full Market Sustainability Plan for submission to DHSC and publication to Reading.gov.uk in February 2023 as detailed in point 2 above.

2. To prepare the full market sustainability plan for February 2022. This will include:
  - a. Full consideration of the DACHS financial position and pressures, Local Government Settlement 23/24 and additional resource available through the Market Sustainability and Fair Cost of Care Fund to meet the requirements of the Social Care Reforms.
  - b. Ongoing engagement with the local provider market in preparation of the full Market Sustainability Plan which will ensure broad understanding of the impact of the Social Care Reforms.
  - c. Fair cost of care and the Market Sustainability Plan will be one of the key strands of the proposed Social Care Reform Programme being mobilised in Reading.

To complete the full Market Sustainability Plan for submission to DHSC and publication to Reading.gov.uk in February 2023 as detailed in point 2 above.

#### Other Options Considered

**To do nothing** - This is not a viable option. Failure to meet the requirements of the Fair Cost of Care and Market Sustainability Plan may result in the Council needing to return the £384k received from the Fund this financial year. It may further mean the Council would not have access to the Fund for 23/24 and 24/25.

The Fund has been made available to support all local authorities in preparing their markets for the Social Care Reforms, in particular in ensuring sufficiency and stability of the care sector when self-funders have opportunity to access council rates (under Care Act Section 18(3); the capital limits are increased, and care metering is introduced. Failure to proactively prepare for the Social Care Reforms would mean that the Council is unable to meet its statutory obligations come October 2023.

## 5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 It is a statutory duty on the local authority to meet the obligations of the Care Act 2014 and to deliver the Social Care Reforms by October 2023. The completion of the Market Sustainability and Fair Cost of Care Fund requirements is a key step in the preparation and delivery of the reforms and compliance is essential to ensure the Council can realise its vision - *To help Reading realise its potential - and to ensure that everyone who lives and works here can share the benefits of its success* - and its corporate themes.

## 5.2 Healthy environment

- A strong and diverse care market in Reading is an essential requirement to ensure that residents have fair access within Reading to the social care services they need which will support early intervention, promote independence, health and well-being, recognise individual strength and reduces the need for intensive support.

### Thriving Communities

- A strong and diverse care market in Reading ensures that a diverse, good quality and affordable range of services is available to support the most vulnerable people in Reading.

### Inclusive economy

- A strong and diverse care market in Reading not only ensures that local services are available to meet individual need, but also supports the economy through opportunities for employment.

## 6. ENVIRONMENTAL AND CLIMATE IMPLICATIONS

- 6.1 There are no immediate climate implications arising from the recommendations within this report, as the recommendations in and of themselves will not carry an environmental impact. Environmental impact will continue to be given consideration in the council's ongoing engagement and work with the care market - for example in influencing choices around sustainable forms of travel within the home care market and in maximising social value opportunities in future contracts.

## 7. COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 The Council is already engaging with the care market in completion of the Fair Cost of Care. Information has been shared with providers through forums, regular written updates and engagement sessions to support completion of the Fair Cost of Care Toolkit. All local providers have been strongly encouraged and supported to provide information for the cost of care exercise. The Council has also drawn on the support of the local care association and the voice of national care associations.

- 7.2 Of note, discussions through ADASS (including the SE ADASS networking meetings) indicate the ongoing challenge of securing the engagement of the market. This will need to be an ongoing focus for the Council to ensure that the local market is fully aware of the breadth of the pending changes. Communication and engagement with care providers will need to be persistent and ongoing. It is proposed that communication (providers, residents, staff) will be one of the key strands of the overall DACHS proposal to deliver the Social Care Reforms.

## 8. EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment (EIA) has not been completed as it is not anticipated that this decision will or could have a differential impact on racial groups; gender; people with disabilities; people of a particular sexual orientation; people due to their age; people due to their religious belief; and the Armed Forces community.

## 9. LEGAL IMPLICATIONS

- 9.1 The Council has statutory obligations under the Care Act 2014 to meet the requirements of the Act. Of particular relevance to this report are duties under Section 5; the duty on local authorities to promote diversity and quality in the market for care and support and to ensure that there is sufficient variety of service provision available; and the duties under Section 18 - the duty to meet needs for care and support - including 18(3) which is being fully enacted in October 2023 - the duty to arrange care and support to

meet the eligible needs of adults with resources over the financial limit. The Social Care Reforms will additionally impact - notably, the raising of the capital limit and the introduction of the maximum lifetime financial contribution to care.

## 10. FINANCIAL IMPLICATIONS

- 10.1 The funding available to the Council from the Market Sustainability and Fair Cost of Care Fund for 2022/23 is £384,000 but the impact of this work will wide-reaching into future years as the Social Care Reforms are implemented.

Local authorities are required to use all the funding provided this year to improve the sustainability of the 65+ care home market and the 18+ domiciliary care market and “not just cover existing pressures.” Local authorities are expected to use at least 75% of allocated funding for 2022/23 to increase fee rates paid to providers beyond pressures funded by the Local Government Finance Settlement 2022/23. Up to 25% of allocated funding in 2022/23 (up to £96k) can be used to fund implementation activities associated with meeting the fund purpose. This funding has been used to cover the costs of the external expert - CIPFA C.Co Ltd. Of the 25% £46,550, has not yet been committed to implementation activities and is available either to support activity or contribute towards provider fee rates.

The final Market Sustainability Plan which will detail the Council’s plan for ensuring stability of the care home and home care market for the next 1 to 3 years and planned expenditure from the Market Sustainability and Fair Cost of Care Fund will be shared with members as part of the budget planning cycle and MFTP for 2023/24.

In 2023/2024, the Fair Cost of Care alone has been estimated to cost an additional £2m per year (rising to £3m per year from 28/29 - 31/32) <sup>3</sup>which is £600k more than the £1.4m in total funding that central Govt. have allocated to RBC for managing the whole cost of the reforms in 2023/2024. The actual cost may well be higher as Newton Europe’s projections are based only on people aged 65+ living in residential care.

## 11. BACKGROUND PAPERS

- [Market sustainability and fair cost of care fund 2022 to 2023: guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/market-sustainability-and-fair-cost-of-care-fund-2022-to-2023)

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<sup>3</sup> Newton Europe