



Report to Policy Committee

Author/Lead Officer of Report:
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Report of: Director of Adult Social Care

Report to: Adult Health and Social Care Committee

Date of Decision: 21st September 2022

Subject: Market Shaping – Adult Social Care

Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
If YES, what EIA reference number has it been given? 1256		
Has appropriate consultation taken place?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i>		

Purpose of Report:

To seek approval from Committee for Sheffield’s Market Shaping Statement, noting the proposal to develop further, more detailed ‘Market Positions Statements’ through 2022 and 2023.

To update Committee on progress made towards meeting the government’s requirement to conduct and report on a ‘Fair Cost of Care Exercise’ and ‘Market Sustainability Report’ which are due for submission on 14/10/22

To note the Market Sustainability Development plan, which sets out how we will ensure that we fulfil out statutory duties as set out in the Care Act 2014, and how we will develop our October and February 2023 Fair Cost of Care submissions to the Department of Health and Social Care (DHSC)

Recommendations:

1. To approve Sheffield's Market Shaping Statement.
2. To approve proposals to develop a range of Market Position Statements over the next 12 months.
3. To note the progress being made towards making the required returns to government to access its Market Sustainability and Fair Cost of Care Fund (2022-23)
4. To receive a further update in December 2022.

Background Papers:**Appendix 1 – Market Shaping Statement****Appendix 2 – Market Sustainability Delivery Plan****Appendix 3 – Equality Impact Assessment**

Lead Officer to complete: -			
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.		
	Finance: <i>Liz Gough, Ann Hardy</i>		
	Legal: <i>Patrick Chisholm</i>		
	Equalities & Consultation: <i>Ed Sexton</i>		
	Climate: <i>Jessica Rick</i>		
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	SLB member who approved submission: <i>Alexis Chappell</i>		
3	Committee Chair consulted: <i>Cllrs Angela Argenzio and Steve Ayris</i>		
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.		
	<table border="1"> <tr> <td>Lead Officer Name: <i>Catherine Bunten</i></td> <td>Job Title: <i>Interim Head of ASC Commissioning</i></td> </tr> </table>	Lead Officer Name: <i>Catherine Bunten</i>	Job Title: <i>Interim Head of ASC Commissioning</i>
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1. PROPOSAL

- 1.1 The purpose of this report is to seek approval from Committee for Sheffield's Market Shaping Statement, attached at *Appendix 1*, noting the proposed programme of work to develop a range of 'Market Positions Statements' through 2022 and 2023.
- 1.2 The Market Shaping Statement summarises the responsibilities of the Council as set out in the Care Act 2014, and the activity that Sheffield Council carries out to meet these responsibilities.
- 1.3 This report also updates Committee on progress made towards meeting the government's requirement to conduct and report on a 'Fair Cost of Care Exercise' and 'Market Sustainability Report' which are due for submission on 14/10/22. Our Market Sustainability Development Plan is included in *Appendix 2*.

2 BACKGROUND

2.1 Local Context

- 2.1.1 An [Adult Health and Social Care Strategy](#) and an accompanying Adult Health and Social Care Strategy Delivery Plan were approved in 2022 to set out our vision for 2022 to 2030. Called 'Living the life you want to live', it is about how we work together to help the people of Sheffield to live long, healthy and fulfilled lives.
- 2.1.2 Our Adult Social Care Vision is that *everyone in Sheffield lives in a place they can call home, in communities that care, doing things that matter to them, celebrated for who they are - and when they need it, they receive care and support that prioritises independence, choice, and recovery.*
- 2.1.3 The vision is centred around delivery of five outcomes and six commitments. Our outcomes help to make our vision real – they are about what we want to focus on getting right. Our commitments are guiding principles we will follow and describe how we will achieve our outcomes and highlight what we want to do better.
- 2.1.4 The proposals in this report align with our vision and primarily supports the delivery of Commitment 6:

'We will make sure there is a good choice of affordable care and support available, with a focus on people's experiences and improving quality'.

Specifically, the ASC Strategy Delivery Plan sets out the intention to:

- Develop Market Position Statement[s] so that providers have the information they need to develop new business models (by March 2023)
- Implement the Market Position Statement and refresh the statement on a three yearly cycle. (April 2023 to March 2029)

2.2 National Context

2.2.1 The Care Act places duties on local authorities to promote the efficient and effective operation of the market for adult care and support. This can be considered a duty to facilitate the market and a market position statement (MPS) is a document which summarises supply and demand in a local authority area, and signals business opportunities within the care market.

2.2.2 A Market Position Statement gives providers a range of information relevant to their business and how it might develop. It should tell providers what commissioners' plans are and aim to give its readers information which would be helpful in planning their future businesses and offer a clear picture of what gaps there are in the existing care market

2.3 Market Shaping

2.3.1 Local authorities' duties in Market Shaping are covered in section 5 of the Care Act 2014:

A local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market:

- a) has a variety of providers to choose from who (taken together) provide a variety of services;
- b) has a variety of high quality services to choose from;
- c) has sufficient information to make an informed decision about how to meet the needs in question.

In performing that duty, a local authority must have regard to the following:

- a) the need to ensure that the authority has, and makes available, information about the providers of services for meeting care and support needs and the types of services they provide;
- b) the need to ensure that it is aware of current and likely future demand for such services and to consider how providers might meet that demand;
- c) the importance of enabling adults with needs for care and support, and carers with needs for support, who wish to do so to participate in work, education or training;
- d) the importance of ensuring the sustainability of the market
- e) the importance of fostering continuous improvement in the quality of services and the efficiency and effectiveness with which services are provided and of encouraging innovation

- in their provision;
- f) the importance of fostering a workforce whose members are able to ensure the delivery of high-quality services

2.3.2 To support our statutory responsibilities under the Care Act 2014, we produce a Market Position Statement that sets out how we intend to shape a market that can deliver a wide range of high-quality care and support services that meets the needs of, and is accessible to, people living in the City.

2.4 Fair Cost of Care Exercise and Market Sustainability Plan

2.4.1 As part of the government's adult social care reform agenda, local authorities are required to complete a fair cost of care exercise, and in 2012, the government announced the [Market Sustainability and Fair Cost of Care Fund 2022 to 2023](#) to support local authorities to do this.

2.4.2 To receive its share of the fund (c £1.8m this year and c£6m in each of the next 3 years), Sheffield Council is required to complete a "fair cost of care exercise" to arrive at a shared understanding with providers of the local cost of providing care.

2.4.3 In addition, authorities are required to publish a Market Sustainability Plan detailing how they plan to move towards a fair cost of care (where this is not already being paid) over the next three years.

2.4.4 The Market Sustainability Plan will need to cover the key risks to market sustainability for the 65+ care home market and the 18+ domiciliary care market and to set out plans to address any issues identified, including how fair cost of care funding will be used over the next three years.

2.4.5 The outcomes of the Fair Cost of Care Exercise, a draft version of the Market Sustainability Plan, and report setting out how the Fair Cost of Care Grant has been used in 22/23 must be submitted to DHSC by 14th October 2022, with the final Market Sustainability due to be submitted, and published in February 2023.

3 **MARKET SHAPING**

3.1 The Care Act 2014 placed duties on local authorities to promote the efficient and effective operation of the market for Adult Care and Support so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways.

3.2 This market should be sustainable and offer a diverse range of care and support providers, continuously improving quality and choice, and delivering better outcomes that promote the wellbeing of people who need care and support through innovation.

3.3 Market shaping should be considered a process, based on co-production, that includes:

- Designing strategies that meet local needs – including reviewing the way

in which services are commissioned.

- Engaging with providers and local communities.
- Understanding the current and future care and support needs in the City, and understanding the market, and how it may need to change to deliver the services to meet these needs This should include demographics, drivers and trends, the aspirations, priorities and preferences of those who will need care and support, their families and carers, and the changing care and support needs of people as they progress through their lives.
- Facilitating the development of the market
- Integration with local partners, especially Health partners and the Voluntary and Community Sector
- Securing supply in the market and assuring its quality through contracting and oversight

3.4 Sheffield's Market Shaping Statement (provided at *Appendix 1*) is the starting point of this process and is informed by the consultation and engagement behind the Adult Social Care Strategy, re-modelling of Homecare, commissioning strategies for Working Age Adults and Mental Health, and the engagement with providers in the Fair Cost of Care exercise.

3.5 It provides providers with our intentions and standards and provides a starting point from which to engage further with our communities, our providers, and our partners to inform and influence a number of more detailed Market Position Statements that give both the purchasers and providers of care information on the needs and demands for different types of care and support, and the commissioning intentions to shape and change the market to meet these needs.

3.6 In addition to Market Position Statements, commissioning and procurement practice must ensure sustainability, quality, and value for money in the market. This includes market oversight and contract management to mitigate, as far as possible, risks around discontinuity of care (for example, destabilisation caused by multiple contracts ending at the same time, provider failure or exit of the market), or decommissioning of services.

3.7 The Market Shaping Statement, and subsequent Market Position Statements are intended to be dynamic documents, subject to regular review and engagement and updated at least annually for approval by Committee.

3.8 Adults Health and Social Care Committee are asked to approve the Market Shaping Statement and note next steps:

- Development of a summary and web-friendly version for publication
- Engagement and production of supporting Market Position Statements
- Review in Spring 2023, following publication of Fair Cost of Care Market

Sustainability Plan.

- Annual review thereafter

3.9 Timeline for Market Position Statements:

Document	Timeline
Mental Health and Emotional Wellbeing Market Position Statement	Autumn 2022
Working Age Adults Market Position Statement	December 2023
Living and Ageing Well Market Position Statement	Spring 2023
Dementia Strategy & Market Position Statement	Spring 2023

3.10 Adult Social Care Target Operating Model

- 3.10.1 Through implementation of our Adult Health and Social Care Strategy, a new target operating model is being developed which will enable practical realisation of the strategy.
- 3.10.2 Providers will be working alongside this operating model and, where successful in commissioning and procurement exercises, they will be enabled to co-design relevant elements of the model along with Adults, families and wider partners so that our model reflects and deliver improved outcomes for people of Sheffield and our communities.
- 3.10.3 A report on the Adult Health and Social Care Target Operating Model is planned for approval at November 22 Committee.

4 **FAIR COST OF CARE AND MARKET SUSTAINABILITY PLAN**

4.1 Fair Cost of Care

As part of the government's adult social care reform agenda, the Fair Cost of Care exercise, and the funds being made available to local authorities, are designed to support:

- Preparation of the markets for reform, including the implementation of Section 18(3) of the Care Act 2014 in October 2023.
- Local authorities moving towards paying providers a fair cost of care.

4.2 Local authorities are required to undertake a fair cost of care exercise and submit their findings to the Department of Health and Social Care.

4.3 Working with providers, Sheffield Council will build a shared understanding of the local cost of providing care so that our submission to DHSC is an accurate reflection of the true costs facing care providers.

- 4.4 The Department of Health and Social Care considers 'fair' to mean the median actual operating costs for providing care in the local area. 'Fair' also means what is sustainable for the local market. This is what local authorities will move towards paying providers.
- 4.5 The final version must be submitted to DHSC by 14th October 2022
- 4.6 In undertaking this exercise, the Council are looking to identify the lower quartile, median and upper quartile costs in Sheffield for the following care categories:
- 65+ care homes
 - standard residential care
 - residential care for enhanced needs
 - standard nursing care
 - nursing care for enhanced needs
 - 18+ domiciliary care
- 4.7 An independent consultant (Laing Buisson) was appointed to carry out the field work and report writing for the care home part of the exercise. Laing Buisson were selected via a "request for quotes" process throughout which care home providers were closely consulted. For home care, the field work was carried out in-house with the data validation and report writing being delegated to Laing Buisson.
- 4.8 Laing Buisson's fees are being covered by part of the Department of Health and Social Care Market Sustainability and Fair Cost of Care Fund for 2022-23 and therefore have no impact on Council budgets.
- 4.9 Providers were required to submit detailed costs associated with running the business including:
- Staffing
 - Supplies
 - Premises (for care homes)
 - Profit/Returns
- 4.10 Verification of returns is currently in the final stages, and we are expecting these in mid-September to inform our Market Sustainability Plan.
- 4.11 Market Sustainability Plan**
- 4.11.1 The purpose of the Market Sustainability Plan is to detail how Councils plan to move towards a fair cost of care over the next three years. They must also assess market sustainability, identifying any risks and demonstrating how Sheffield City Council will address these to ensure that local care markets are sustainable.
- 4.11.2 The Plan will assess the impact current fee rates are having on the market and the potential future risks (particularly in the context of adult social care reform). This assessment will enable Sheffield City Council to inform the development of

mitigating actions, including how much we will need to increase fee rates over the three-year period.

- 4.11.3 A provisional Plan must be submitted alongside the Fair Cost of Care results by 14th October 2022. As mentioned above, Laing Buisson have been commissioned to complete this draft. This version will outline SCC's assessment of the sustainability of the local care market in relation to 65+ care home services and for 18+ domiciliary care services, which:
- considers the results from the cost of care exercises
 - considers the impact of future market changes over the next three years, particularly in the context of adult social care reform
 - sets out an outline action plan for addressing the issues identified and the priorities for market sustainability investment
- 4.11.4 A draft Market Sustainability Plan covering the whole Adult Social Care market is attached to Sheffield's Market Shaping Statement and is provided at *Appendix 2*. This will be further aligned with the Fair Cost of Care Market Sustainability Plan as we consult with providers over the Winter.
- 4.11.5 A final version of the Market Sustainability Plan will be submitted in February 2023 following the publication of the Local Government Finance Settlement 2023 to 2024. The key addition at this stage will be the inclusion of a commitment for how the local authority will move towards the cost of care calculated in their exercise as part of their 2023 to 2024 budget setting process.
- 4.11.6 Local authorities are required to publish their final market sustainability plans (with commercially sensitive information redacted) once they are finalised and following notification from DHSC that the review process is complete.

5. HOW DOES THIS DECISION CONTRIBUTE?

- 5.1 This proposal meets the 'Efficient and effective' outcome set out in the Adult Social Care Strategy. Effective Market Shaping should ensure that people have a choice of good services that meet their needs and give them a positive experience regardless of their background, ethnicity, disability, sex, sexual orientation, religion, or belief.
- 5.2 This proposal also supports a broad range of strategic objectives for the Council and city and is aligned with "[Our Sheffield: One Year Plan](#)" – under the priority for Education Health and Care; Enabling adults to live the life that they want to live and the Councils Delivery Plan approved at Strategy and Resources Committee on 30th August 2022.

6 HAS THERE BEEN ANY CONSULTATION?

- 6.1 The ASC Strategy, which has informed our commissioning intentions, was developed through significant consultation over an 18-month period. This involved people receiving services, carers, providers, partners, and workforce across the sector.

- 6.2 Each Market Position Statement will be developed with further collaboration with providers of care and support services as well as those who draw on the services.
- 6.3 The Fair Cost of Care exercise has relied on the participation of care providers to input cost data into the respective online tools, and further engagement will take place in the development of our final Market Sustainability Plan.

7 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

7.1 Equality Implications

7.1.1 As a Public Authority, we have legal requirements under the Equality Act 2010. This includes the Public Sector Equality Duty, under which public authorities must, in the exercise of their functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is connected to protected characteristics and prohibited by or under this Act;
- advance equality of opportunity between those who share a relevant protected characteristic and those who do not;
- foster good relations between those who share a relevant protected characteristic and those who do not.

7.1.2 The broad ambitions set out above are consistent with The Duty. These include promoting independence and wellbeing and for people to be actively involved in the design of their own support; envisaging a range of different types of provision envisaged (supported living, extra care, residential care, etc), including support for people with complex needs; aiming for preventative and community-based support, including for people with mental ill health.”

7.1.3 The Equality Impact Assessment can be found at *Appendix 3*.

7.2 Financial and Commercial Implications

7.2.1 The grant allocation from Central Government has not been determined yet so the figures included in business planning are estimates.

7.2.2 It is currently assumed that the amount of grant received will not be adequate to cover the full cost of uplifts to the Homecare and Care Home market to achieve the Fair Cost of Care assuming our estimates are correct and without knowing the outcome of the market testing.

7.3 Legal Implications

7.3.1 The Care Act 2014 sets out the law around market development in adult social care. It enshrines in legislation duties and responsibilities for market-related issues for various bodies, including local authorities. Section 5 of the Care Act sets out duties on local authorities to facilitate a diverse, sustainable high-quality market for their whole local population, including those who pay for their own care and to promote efficient and effective operation of the adult care and

support market as a whole. The statutory guidance to the Act suggests that a local authority can best commence its market shaping duties under Section 5 of the Care Act by developing published Market Position Statements with providers and stakeholders. The proposals are therefore in line with the Council's legal obligations.

7.4 Climate Implications

7.4.1 The commissioning of care and support services for Adults in Sheffield can have a large impact on Sheffield's Climate Emergency.

7.4.2 For example:

- The care workforce is significant, and is required to travel across the city, working together to create better opportunities for 'active travel' can help to reduce emissions from transport
- The energy efficiency of the buildings in which care is delivered (such as day services, or residential care) provides a significant opportunity to reduce our carbon emissions, and commissioning should encourage and enable improvements to environmental standards and promote green energy.

7.4.3 There will be additional areas of impact to transport and energy efficiency, and we will be bringing forward a Climate Action Plan for Adults Social Care to fully assess these, alongside an action plan setting out how we will contribute to Sheffield's 'Net Zero' Climate ambitions.

7.4.4 Further, Climate Impact Assessments will be undertaken as a key element of our commissioning approach, and we want providers and partners to align with our Net Zero ambitions and will be looking to work with them to identify key areas of impacts in their activities and how we can reduce, monitor and measure these.

7.4.5 Giving early indications of this intention to the market is important as it potentially links to cost of providing the service, for example when thinking about things like energy use and the business case for providers to invest in alternative energy sources.

7.5 Other Implications.

8 ALTERNATIVE OPTIONS CONSIDERED

8.1 The development of Market Position Statements is consistent with Council's duty to oversee and if necessary to intervene in the market to ensure that people have a choice of good quality support providers to choose from should they need to draw on social care services, whether funded by themselves or from public funds.

8.2 The completion of the Fair Cost of Care Exercise is a mandatory requirement of the Department of health and Social Care as a condition of accessing the funding described above.

8.3 There is therefore no alternative open to the Council other than to proceed with these exercises.

9 REASONS FOR RECOMMENDATIONS

9.1 The recommendations arise from the Council's market shaping responsibilities and from the need to fulfil the conditions for receiving the DHSC's Market Sustainability and Fair Cost of Care Fund (2022-23).