



## Report to Policy Committee

**Author/Lead Officer of Report:**  
Catherine Bunten

**Report of:** Director of Adult Health and Social Care

**Report to:** Adult Health and Social Care Committee

**Date of Decision:** 19<sup>th</sup> December 2022

**Subject:** Fair Cost of Care and Fee Rates – 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? ( <i>1256 reviewed and updated 7<sup>th</sup> December 2022</i> )   |   |  |
| Has appropriate consultation taken place?  | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            |
| Has a Climate Impact Assessment (CIA) been undertaken?   | Yes <input type="checkbox"/>            | No <input 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 (<b>report/appendix</b>) is not for publication because it contains exempt information under Paragraph (<b>insert relevant paragraph number</b>) of Schedule 12A of the Local Government Act 1972 (as amended).”</i> |   |  |

### Purpose of Report:

The purpose of this report is to provide Adult Health and Social Care Policy Committee with an update on the position from the Government as it relates to Social Care Reform and the Fair Cost of Care exercise, including implications of this on the Grant and future reporting.

The report also seeks approval for the use of the Market Sustainability and Fair Cost of Care Fund in 2022/23.

Finally, the report seeks approval for the proposed process on fee setting in 2023/24, including proposals for consultation with providers.

**Recommendations:**

It is recommended that Adults Health and Social Care Policy Committee:

1. Note the latest position from UK Government.
2. Approve the proposals for use of the 2022/23 Market Sustainability and Fair Cost of Care Fund.
3. Approve that contributions for backdated fee increases are waived, with people being informed about the fee rate increase and impact on contributions on 10<sup>th</sup> January 2023, and the increase in contributions taking effect from 23<sup>rd</sup> January 2023
4. Approve the proposed process for fee setting in 2023/24

**Background Papers:**

None

**Appendices:**

None

| 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   | <b>SLB member who approved submission:</b>  | <i>Alexis Chappell</i>  |
| 3   | <b>Committee Chair consulted:</b>   | <i>Cllrs Argenzio and Phipps</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. |   |
|   | <b>Lead Officer Name:</b><br><i>Catherine Bunten</i>  | <b>Job Title:</b><br><i>Interim Head of ASC Commissioning</i> |
|   | <b>Date:</b> <i>05/12/22</i>  |   |

## 1. PROPOSAL

1.1 The [Adult Health and Social Care Strategy](#) and [delivery plan](#) sets 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.

1.2 A sustainable market, with a strong partnership approach and joint working with providers is critical to achieving this vision, and as set out in section 5 of the Care Act 2014, local authorities have a duty to promote the efficient and effective operation of a 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.

1.3 A [Market Shaping Statement](#) and a [Market Sustainability Delivery Plan](#) was approved by the Adult Health and Social Care Policy Committee on 21<sup>st</sup> September 2022 setting out the actions we intend to take to continue to secure a sustainable market in Sheffield, including work related to the Market Sustainability and Fair Cost of Care Grant in 2022/23. An update was also provided on this date in relation to the [Fair Cost of Care Exercise](#).

1.4 An update in relation to our Market Sustainability Plan is due to be reported to Committee in February 2023 alongside proposals, with health colleagues, for market oversight, quality standards and delivery upon our Care Act duties.

1.5 The Council is required to set a balanced budget and to that end a cash standstill was implemented by Strategy and Resources Committee 5<sup>th</sup> July 2022 for the period 2023/2024 following the [Medium Term Financial Analysis](#). This means that each Policy Committee has been required during the period 2022/ 2023 to develop proposals to achieve a balanced budget.

1.6 Proposals have been provided to Adult Social Care Policy Committee along with an update regards the Committee budget position to do this. Due to this the Committee is required to make decisions regards Market Shaping within the financial envelope available to the Committee and within the requirements set out by UK Government for any national funding to social care.

### 1.7 National Context

1.7.1 The Autumn Statement 2022 was announced on the 17<sup>th</sup> November 2022. Announcements in this statement change the context for Social Care Reform and the Market Sustainability and Fair Cost of Care Fund significantly.

1.7.2 All aspects of the governments announced reforms to social care charging have been postponed until October 2025. It is unclear if there will be changes to the current proposals during this time and as such preparation work has slowed. Monitoring is being undertaken with trailblazers' sites as a key indicator of the future of the reforms and the service continues to engage with Department of Health and Social Care.

- 1.7.3 Whilst funding for implementation (£1.3bn) will be maintained, this is now for local authorities to address current pressures across both adult **and children's** social care and has been rolled into the Social Care Grant alongside an additional £1 billion of central government funding in England in 2023/24 with an expectation that this additional funding will be used to support hospital discharge.
- 1.7.4 This funding will be allocated at the Local Government Finance Settlement through the Social Care Grant. It is anticipated that a letter will be provided to local authorities on 21<sup>st</sup> December 2022 detailing how the funding should be used, including the future of the Market Sustainability and Fair Cost of Care Fund. An update will be provided to February 2023 Committee setting out the implications of the Autumn Statement and what the funding can be used for.
- 1.7.5 Though the position of national government has changed, the learning from the exercise continues to have value, and it is of note that providers in Sheffield have positively approached the Fair Cost of Care Exercise, working with Laing Buisson, and Council officers to complete the exercise and continue to inform our developing Market Sustainability Plan. Officers would like to thank providers for their engagement.
- 1.7.6 Part of the preparations work undertaken by the Council for implementation of the social care charging reforms included developing systems for self-assessment processes, particularly for people funding their own care. This work will continue and allow for more developed systems to be in place in time for future changes. We also intend to develop our understanding of the private market to support ongoing market shaping and preparedness for any potential future changes.

## **1.8 Allocation Of the Fair Cost of Care Fund 2022/23**

- 1.8.1 The Government announced the Market Sustainability and Fair Cost of Care Fund on 16<sup>th</sup> December 2021 with the primary to support local authorities to prepare their markets for reform and to support local authorities to move towards paying providers a fair cost of care.
- 1.8.2 Given the Autumn Statement, it's unclear at this time the implication until guidance is given on 21<sup>st</sup> December 2022. Due to this, and without the detailed funding letter noted above, the Fund for 2022/ 2023 must now be considered as a one-off fund at this stage.
- 1.8.3 In 2022/23, Sheffield City Council received £1.826m from the Fair Cost of Care Fund and this funding requires allocation.
- 1.8.4 The purpose of the Market Sustainability and Fair Cost of Care Fund in 2022/23 is to support local authorities to prepare their markets for reform of the adult social care system and to support local authorities to move towards paying providers a fair cost of care (in respect of residential and nursing care of those aged 65 and over, and domiciliary care for those aged 18 and over, including those who operate in extra care settings). Funding must be spent within the designated financial year.

- 1.8.5 Where average fee rates are below the fair cost of care, local authorities should use this additional funding to increase fee rates paid to providers beyond the level required to cover increases in core costs such as inflation, workforce pressures, National Living Wage, and National Insurance.
- 1.8.6 Up to 25% of the funding in 2022/23 may be spent on implementation activities associated with preparing markets for reform. This could include activities such as:
- strengthening internal commissioning and contract management capacity
  - procuring external resource to undertake the work associated with these grant conditions
  - conducting cost of care exercises for residential and nursing care for those aged 65 and over, and domiciliary care for those aged 18 and over.
  - engaging with providers
  - developing and executing a Market Sustainability Plan.
- 1.8.7 Local authorities are expected to use at least 75% of allocated funding in 2022/23 to increase fee rates paid to providers in scope, if its rates are below the fair cost of care, and beyond pressures funded by the Local Government Finance Settlement 2022/23.
- 1.8.8 In line with the criteria noted at 1.8.6 for accessing the fund, it is proposed that approximately £425,000 (23%) is used as follows:
- Supporting engagement with providers for the purpose of the cost of care exercise and potential impact of social care reform
  - Funding posts to strengthen internal commissioning and contract management capacity
  - Covering the cost of the contract with Laing Buisson, who completed the fieldwork and report writing requirements of the Fund. The cost of the contract with Laing Buisson was £45,000
  - Funding towards meeting costs in developing a Market Sustainability Plan
- 1.8.9 It is proposed that the remainder of the available fund (c£1.4m, 77%) be apportioned between contracted 65+ Care Homes at the SCC standard rate and Framework 18+ Home Care providers as a fee rate increase backdated to April 11<sup>th</sup>, 2022.
- 1.8.10 Final values will depend on the number of people and hours of care they receive but it is expected that:
- contracted 65+ Care Homes on SCC's standard rate will receive approximately £1m through an increase of £18 per placement, per week
  - Framework 18+ Home Care providers will receive approximately £400k through an increase of 20p per hour

- 1.8.11 The increase in fees to care homes will not generally affect the contributions that people make to the cost of their care because they are already paying the maximum they can afford to pay. There are around 5 exceptional cases where the uplift will affect contributions and these will be dealt with on a case-by-case basis.
- 1.8.12 The increase in fees to 18+ homecare providers will result in a small increase in contributions for some people, in line with charging policy and based on their ability to pay as set out in their individual financial assessment. We estimate that this will affect around 650 people, with an increase of £1.50 per week on average, with approximately 12 people seeing an impact of over £4 per week.
- 1.8.13 It is recommended that contributions for backdated fee increases are waived, with people being informed about the fee rate increase and impact on contributions on 10<sup>th</sup> January 2023, and the increase in contributions taking effect from 23<sup>rd</sup> January 2023.

## **2.0 CARE FEE SETTING IN 2023/24**

- 2.1 Fee rates in 23/24 for homecare, supported living, activities outside the home (day activities), respite and short breaks have been set through current procurement exercises. Therefore, consultation is not proposed for these providers.
- 2.2 Engagement with 65+ residential and nursing Care Homes has been ongoing through the Fair Cost of Care Exercise, including several sessions delivered in October and November 2022 to discuss Social Care Reform, the Fair Cost of Care Outcomes, and to inform Sheffield Market Sustainability Plan (as it relates to 18+ domiciliary care and 65+ Care Homes). This engagement will be used in the development of proposed fee rates for 23/24.
- 2.3 In addition to this consultation, the Council will write to Care Home providers, including non-standard rate residential homes, with initial proposed rates for 22/23 for consideration and to provide the opportunity to feedback on.
- 2.4 Providers will be able to provide feedback by return email or letter, via an online survey or via online consultation sessions held in January 2023.
- 2.5 A full briefing will take place with Members as part of this exercise, including Finance Sub Committee.
- 2.6 Learning from the Fair Cost of Care exercise as well as the consultation will inform our final fee rate proposals, which will come to Committee by March 2023.

## **3.0 HOW DOES THIS DECISION CONTRIBUTE?**

- 3.1 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.

3.2 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 Council's Delivery Plan.

#### **4.0 HAS THERE BEEN ANY CONSULTATION?**

4.1 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.

#### **5.0 RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

##### 5.1 Equality Implications

5.1.1 Decisions need to take in to account the requirements of the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010. This is the duty to have regard to the need to:

- Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

5.1.2 An Equality Impact Assessment has been completed. There is expected to be an overall positive impact through strengthening market sustainability and developing the provider market to meet a wider range of needs.

5.1.3 The primary impact is assessed as covering most protected characteristics, and it is essential that further Equality Impact Assessments are completed for all individual Market Position Statements, and Sheffield Market Sustainability Plan.

5.1.4 The Equality Impact Assessment can be found at Appendix 1

##### 5.2 Financial and Commercial Implications

5.2.1 The grant allocation from Central Government for 2022/23 was £1.8m which will not be breached during the 2022/23 financial year. The expenditure is clearly stated above although is based on estimates depending on actual activity to the end of March 2023.

5.2.2 The amount of grant received was inadequate to move immediately to the median cost of care based on our market testing. It is therefore assumed that this is the fairest way to distribute the funding to the providers and cover the costs that SCC incurred in conducting the exercise.

5.2.3 The grant allocations for 2023/24 are not known until the final settlement arrives December 21<sup>st</sup> but it is widely anticipated that the money will still be inadequate to move immediately to the fair cost of care from the exercise already conducted.

### 5.3 Legal Implications

5.3.1 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.

5.3.2 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.

### 5.4 Climate Implications

5.4.1 There are no climate implications

### 5.5 Other Implications

5.5.1 There are no other implications

## **6.0 ALTERNATIVE OPTIONS CONSIDERED**

6.1 The conditions of the Market Sustainability and Fair Cost of Care Fund dictate local authorities should use this additional funding to increase fee rates paid to providers beyond the level required to cover increases in core costs such as inflation, workforce pressures, National Living Wage, and National Insurance.

6.2 Funding must be spent within the designated financial year.

6.3 Therefore, the only other option would be to not allocate the Fund to providers. Given the risks and issues faced by providers, including those relating to financial stability, this is not recommended.

## **7.0 REASONS FOR RECOMMENDATIONS**

7.1 The recommendations for the use of the Fair Cost of Care Grant are made to ensure compliance with the Grant conditions.

7.2 The Council will continue to monitor the costs and pressures facing each type of care provision to support a stable, quality and diverse market during a very challenging time for providers, for people who use services and for the Council and wider health and social care system.

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