

CABINET

7 FEBRUARY 2023

ADULT SOCIAL CARE- FAIR COST OF CARE

Portfolio Holder: Councillor David Brake, Portfolio Holder for Adults' Services

Report from: Jackie Brown, Assistant Director Adult Social Care

Author: Samiat Salinsile, Project Manager

Summary

On 16 December 2021, the government announced the Market Sustainability and Fair Cost of Care Fund. The purpose of the fund was to support councils to move towards paying providers a fair cost of care and to prepare their local markets for the adult social care reform. The Department of Health & Social Care (DHSC) fair cost of care review asked for information from older people's care homes (65+) and home care providers (18+). It did not cover other sectors of the market.

The Autumn Statement announced the delay to the national rollout of the social care charging reforms. The Department of Health and Social Care (DHSC) have confirmed maintaining current levels of Fair Cost of Care funding for local authorities for the next two years.

1. Budget and policy framework

- 1.1. Section 5 of the Care Act 2014, states that 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.
- 1.2. This supports the council plan priority outcome 'Older and disabled people living independently in their homes'
- 1.3. In line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. In this case, there is an urgent need to publish the Cost of Care Exercise reports on the Council's website in order to meet DHSC requirements. On this occasion it is proposed that the call-in period be waived to prevent any further delay in publishing the reports. The Chairman of the Health and Adult Social Care Overview and

Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

2. Background

- 2.1. In September 2020, central government announced the goal of establishing a sustainable care market for care providers. This need had been accelerated by the release of the government's policy paper "Market Sustainability and Fair Cost of Care Fund", which sets out that the government will be providing funding to support local authorities moving towards paying providers a fair rate of care
- 2.2. All councils in England were required to carry out a 'fair cost of care exercise' as detailed in the policy paper and further guidance released by the Department of Health and Social Care (DHSC) on 24th March 2022.
- 2.3. The cost of care exercise provided an opportunity for local authority commissioners and local care providers to work together to arrive at a shared understanding of what it costs to run quality and sustainable care provision in the local area and that is reflective of local circumstances.
- 2.4. The Autumn Statement announced that the government has taken the decision to delay the planned Adult Social Care Charging Reforms from October 2023 to October 2025.
- 2.5. However, while the Cap on Care is delayed, there is an expectation that Local Authorities continue to work towards the Fair Cost of Care.

3. Options

- 3.1. The directive from the DHSC does not give any alternative options to the Fair Cost of Care.
- 3.2. In this respect there are no alternative options to present in this report.

4. Advice and analysis

- 4.1. Although, the government has taken the decision to delay the planned Adult Social Care Charging Reforms from October 2023 to October 2025, councils are expected to continue to work towards the fair cost of care.
- 4.2. The Autumn statement confirmed the recycling of funding from adult social care charging reforms (£1.3bn in 2023-24 and £1.9bn in 2024-25) to be distributed to local authorities via the Social Care Grant for adults and children to help enable local authorities to address current adult social care pressures.

- 4.3. The Fair Cost of Care (FCoC) data collection process has been concluded between Local Authorities and from older people's care homes (65+) and home care providers (18+). It did not cover other sectors of the market.
- 4.4. The data collection and analysis by Medway Council identified the lower, median, and upper quartile cost of care in the local area for the series of care categories in paragraph 4.3 above.
- 4.5. Subsequently, a draft 'Market Sustainability Plan' has been submitted by Medway Council to the Department of Health and Social Care using the FCoC exercise, to assess the impact current fee rates are having on the market, and the potential future risks. Thus, outlining mitigating actions, including the pace at which Medway Council intended to move towards the Fair Cost of Care between 2022 to 2025.
- 4.6. The Department of Health & Social Care (DHSC) requires Medway Council to Publish the Cost of Care Exercise Reports (Appendices 2 and 3) by 1 February 2023 on Medway GOV.UK webpages. It has been agreed with DHSC that the publication of Cabinet papers on the 30th January, achieves this deadline, and that the information will be published in a more prominent area on the site once this has been agreed by Cabinet. All Local Authorities have a duty to inform the Department of where their exercises have been published, including a link to their published exercise by this date.
- 4.7. As with Cost of Care Reports, local authorities are also required to submit and publish their final Market Sustainability Plan (Exempt Appendix) by 27 March 2023. The final submissions will reflect delays to charging reforms.
- 4.8. Ahead of publication, Medway have been advised and are continuing to work closely with, and consult, providers on their cost of care returns and Market Sustainability Plan to arrive at a shared understanding ahead of publication to facilitate joint working and transparency. This consultation was due to be carried out at the Provider Forum meeting on 25 January 2023.
- 4.9. As set out in DHSC guidance, published in March 2022, the outcome of the cost of care exercise is not intended to be a replacement for the fee-setting element of local authority commissioning processes or individual contract negotiation. Subsequently, Medway Council are expected to use the insight gained from the cost of care exercises to support their commissioning and contract negotiation for the relevant services in practice.

5. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Inadequate Funding to reach a Fair cost of care	Funding received from Central Government not adequate to enable Medway to achieve Fair Cost of Care and sustainable market.	Continue to work and discuss appropriate action with DHSC and DLUCH to draw up options.	B2

Likelihood	Impact:
A Very high B High C Significant D Low E Very low F Almost impossible	1 Catastrophic (Showstopper) 2 Critical 3 Marginal 4 Negligible

6. Consultation

- 6.1. Older people's care homes (65+) and home care providers (18+) were consulted with in order to complete the draft Fair Cost of Care submission as appropriate, setting out details of the nature and extent of any consultation with stakeholders and the outcome of that consultation.
- 6.2. A total of 31 care homes were deemed to be in scope of this exercise as they provide residential and/or nursing care to older people over the age of 65 and are located within Medway. These homes combined are registered with the CQC to provide 1212 beds. Medway Council received 14 responses in total (overall return rate of 41.9%).
- 6.3. From the care providers registered in Medway by the Care Quality Commission (CQC) to deliver community-based services, a total of 28 care providers were deemed in scope to input into the exercise. Medway Council received 16 responses in total (overall return are of 50%).

7. Climate change implications

- 7.1. This report has no implications for climate change.

8. Financial implications

- 8.1. Funding allocated by central government for the implementation of the Care Reforms will be maintained within local government and distributed via the Social Care Grant for adults and children to help enable local authorities to address current adult social care pressures.

- 8.2. The Fair Cost of Care fund local government finance settlement announced December 2022 announced £562m for 23/24 (including the £162m for 2022/23), to be distributed using the Relative Needs Formula (as in 2022/23).
- 8.3. The expectation of this new grant funding will enable Local Authorities to make tangible improvements to adult social care to address discharge delays, social care waiting times, low fee rates, workforce pressures, and to promote technological innovations in the sector.
- 8.4. The publication of the Cost of Care Exercise Reports and Market Sustainability Plan out at Appendices 2, 3 and the Exempt Appendix to the report ensures that the Cost of Care figures Medway Council are required to work towards over the next two years are in the public domain. However, if funding from central government is not adequate, this could leave us in the position where we are unable to meet our legal duty of a balanced budget.

9. Legal implications

- 9.1. The Council has 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.

10. Recommendations

- 10.1. The Cabinet is requested to approve the publication of the Cost of Care Exercise Reports, as set out at Appendices 2 and 3 to the report.
- 10.2. The Cabinet is requested to agree in principle the publication and submission to the Department of Health and Social Care of the Market Sustainability Plan, as set out in the Exempt Appendix of the report and delegate authority to the Director of People - Children and Adults, in consultation with the Portfolio Holder for Adults' Services, to finalise the Market Sustainability Plan following receipt of feedback from the Department for Health and Social Care.
- 10.3. The Cabinet is asked to agree that recommendation 10.1 is considered urgent and therefore should not be subject to call-in.

11. Suggested reasons for decisions

- 11.1. This report updates the Cabinet on the latest position in relation to the Fair Cost of Care nationally and locally in Medway. The Council is required to publish the Cost of Care Exercise Reports on the Medway Council website. It is also required to submit and publish its final Market Sustainability Plan.
- 11.2. Waiving of call-in enables publication of the Cost of Care Exercise reports on the Council's website in order to meet DHSC requirements.

Lead officer contact

Jackie Brown, Assistant Director Adult Social Care,
Gun Wharf, 01634 331212,

jackie.brown@medway.gov.uk

Appendices

Appendix 1 - DHSC update on FCoC Year 1 next steps

Appendix 2 - Cost of Care Exercise Report - 18+ Domiciliary care

Appendix 3 - Cost of Care Exercise Report – 65+ Care Homes

Exempt Appendix – Market Sustainability Plan

Background papers

None