

REPORT OF THE CABINET MEMBER, ADULT SOCIAL CARE AND PUBLIC HEALTH**ADULT SOCIAL CARE MARKET POSITION STATEMENT, MARKET SUSTAINABILITY PLAN AND FEE STRATEGY****Purpose of the Report**

1. The report provides Cabinet with an update on the Department of Health and Social Care (DHSC) Fair Cost of Care exercise, the ongoing position, and the timeline associated with this.
2. The report provides an update to Cabinet on the final submission to be made to the DHSC on 1 February 2023.
3. The report provides detail on the final Market Sustainability Plan, the Fee Strategy and Cost of Care report submission along with the Market Position Statement that will be presented to Cabinet in March 2023.

Information**Background**

4. In Nottinghamshire, as nationally, much of the market providing care to individuals assessed as requiring care is delivered by organisations, many of which are independent businesses, alongside self-employed individuals, voluntary and community organisations.
5. The Council has a statutory duty within the Care Act to promote, develop and manage the market ensuring sufficient high-quality provision that meets local need.
6. In December 2021, the government announced the Market Sustainability and Fair Cost of Care Fund 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.
7. The government released a grant to support local authorities to prepare for the fair cost of care. As a condition of receiving the fund, local authorities are required to evidence the cost of care exercises for 65+ care homes and 18+ domiciliary care markets alongside a provisional market sustainability plan and a spend report detailing how funding allocated for 2022/23 is being spent.

8. Adult Social Care reform and expected requirements were set out for Cabinet in July 2022. Some aspects of Adult Social Care national reform guidance are delayed, and guidance is pending from the DHSC on how current and future Reform Grant Conditions will be met.
9. Councils annually review rates for their commissioned social care providers typically carrying out a local cost of care exercise. This informs them of the pressures on various parts of the care market.
10. In Nottinghamshire, most provider fees are uplifted annually in line with the National Living Wage and any other statutory increases, applied to the proportion of the rate that relates to staffing costs or the statutory increase. In addition, Ageing Well (65+) banded care home rates receive an additional general inflationary element for costs based on previously agreed statistical indices.

The Fair Cost of Care Exercise

11. East Midlands' Councils collaborated to analyse the social care market. This collaboration has enabled work to take place at scale and offers consistency with shared providers with the East Midlands' authorities individually commissioning Care Analytics to undertake the Cost of Care exercise. The analytical work involves looking at costs of care to inform the required Cost of Care exercise and the Council's Fee Strategy and provides an independent market analysis and recommendations to inform each local authority's future Fee Strategy.
12. In addition to the Cost of Care exercise, the Council will use the following to determine its costs and fee setting:
 - local care providers quality monitoring and assurance data and information
 - local performance monitoring and information
 - local market comparison information
 - local public health information
 - national data and information, for example from Skills for Care
 - engagement with workforce leads
 - views of people, for example from quality monitoring.
13. Participating in the exercise was not mandatory for care providers, however the Council encouraged care providers to be involved and invested in building strong relationships with them. Several care provider engagement events and communications took place and communication with providers is ongoing.

Current Position

14. The October 2022 submission was made on time. This included:
 - completed cost of care exercise for Care Homes (65+) and Homecare (18+)
 - completion of a provisional Market Sustainability Plan
 - completion of a spend report detailing how funding allocated for 2022 to 2023 would be spent in line with the fund's purpose.

15. DHSC are reviewing local authorities' Cost of Care data exercises, the provisional Market Sustainability Plans and spend reports. This is to assure the Department of local authorities' compliance with the grant conditions tied to October's submission deadline, including that 2022-23 funding allocations have been spent appropriately.
16. The Cost of Care information received from providers continues to be analysed and quality assured along with other market analysis being conducted by Care Analytics as part of their work and will be contained in their final report.

Next Steps - DHSC

17. Next steps for the Department between December 2022 and February 2023 are detailed below:
 - a) DHSC will contact local authorities to check on grant conditions where funding has been used to increase fee rates paid to providers in line with the objectives of the Fund in year one.
 - b) DHSC will also contact local authorities where there are specific questions on the results of the Cost of Care exercise to understand where the greatest market sustainability risks lie and to understand what strategies local authorities are using to address these.
 - c) DHSC will continue to work with local government representatives to produce high-level content recommendations for local authorities to consider including in their final Market Sustainability Plans.
18. There is an expectation that local authorities continue working on, and sharing, information with their providers until the submission and publication deadlines.
19. Cost of Care reports need to be published on local authorities' GOV.UK webpages by 1 February 2023.
20. The date for submission and publication dates for final Market Sustainability Plans are yet to be confirmed.

Next Steps – Nottinghamshire County Council

21. Final guidance is still pending from DHSC on the February (and March) submission with information, templates, and updates being followed as they become available from central government. Due to this, further work continues to finalise the Fair Cost of Care exercises and the associated Fee Strategy, understanding the key findings and identifying the key challenges (including any relating to the impact of rurality) ensuring compliance with the required submission.
22. The DHSC returns will be completed and approved in advance of the final submission of Annex B and its publication on the Council website on 1 February 2023. The Cabinet Member for Adult Social Care and Public Health will be given the delegated authority to approve the final submissions to be made to DHSC following consultation with the Monitoring Officer and the s151 Officer.

23. It should be noted that, DHSC could contact the Council at any time up to 01 February 2023 (for the Fair Cost of Care work) and up to 31 March 2023 (for the Market Sustainability Plan) regarding submission to seek clarification that could result in changes, or even amendments after this date. With documents already published on the Council's website should any changes be required by DHSC, they will be discussed with and authorised by the Cabinet Member for Adult Social Care and Public Health. A record of any changes will be brought back to the next available Cabinet.
24. A report will be brought to Cabinet in March 2023. This report will include:
- 1) the final Cost of Care report and associated annexes
 - 2) the Fee Strategy
 - 3) the Market Sustainability Plan and Market Position Statement
 - 4) any questions regarding Nottinghamshire's submissions that have been raised by DHSC.

These documents will become the Council's policy on how fees are set and the rates that are paid to providers. As such, Cabinet will be asked to adopt these documents as Nottinghamshire County Council's fee policy.

Other Options Considered

25. Other options are not being considered as the Council is following national guidance.

Reason/s for Recommendation/s

26. To update Cabinet on the continuing work to meet the national deadlines and the current position of the Fair Cost of Care exercise.

Statutory and Policy Implications

27. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS (National Health Service) Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability, and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

28. National funding was made available to support the Fair Cost of Care exercise of £162m for 2022/23. Of this, Nottinghamshire's allocation was £2.31m. The spend report was submitted to DHSC in October 2022.
29. At least 75% of 'the fund' for 2022/23 must be spent on uplift of care fees. The spend report submitted to DHSC on 14 October 2022 set out that the Council expected to use £1,929,447 (81%) to partially fund the £1 per hour increase in rates paid to homecare providers from September 2022 as agreed by Cabinet in July 2022, with the remaining 19% being used for implementation activity.

Public Sector Equality Duty Implications

30. An Equality Impact Assessment is being completed as part of the drafting of the Market Position Statement, Market Sustainability Plan and Fee Strategy.

Implications for Residents

31. The ambitions of Social Care reform and the Fair Cost of Care exercise are to give residents greater choice, control, and support to live independent lives, access to personalised care and support of outstanding quality, and fair and affordable adult social care. Under the new reforms, which have now been delayed by Government for a further two years, self-funders would have been able to ask local authorities to arrange their care for them at the local authority rates.
32. The Council has experience of supporting self-funders receiving domiciliary care and officers will engage and listen to residents who are currently experiencing this service to determine (following the residents' steer) any areas that can be improved in the delivery of this service.
33. These lessons learned will be shared with self-funding residents and families currently living within residential care settings in the County and Nottinghamshire residents living in such settings out of area, focus groups and other residents through a formal consultation process.
34. The consultation will enable the development of an effective support model for self-funding residents that has been co-designed and developed by people who are, or will be, using this service.
35. The model will be reviewed regularly to ensure it is fit for purpose.

RECOMMENDATION/S

That Cabinet:

- 1) acknowledges the work to date and the current position with regards to the Market Sustainability, Market Position Statement, the Fair Cost of Care exercise and the related fee strategy, including the submission to the Department of Health and Social Care.
- 2) delegates to the Cabinet Member for Adult Social Care and Public Health the authority to approve the final submissions to be made to the Department for Health and Social Care in February following consultation with the Monitoring Officer and the s151 Officer.
- 3) notes that a report will be brought to Cabinet in March 2023 to consider and adopt the final Market Sustainability Plan, final supporting Fee Strategy and Market Position Statement and Market Sustainability Plan.

Councillor Matt Barney
Cabinet Member, Adult Social Care and Public Health

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Constitutional Comments (CEH 17/01/23)

36. The report is to inform and update Cabinet on the Fair Cost of Care exercise including progress to date and the next steps, and falls within the remit of Cabinet.

Financial Comments (KAS 10/1/23)

37. The Council has received £2.31m of the £162m national allocation. In addition to other council funding this is being used to partially fund the £1 per hour increase in rates paid to homecare and supported living providers from September 2022 as agreed by Cabinet in July 2022.
38. At least 75% of the £2.31m received will be spent on uplift of care fees in line with the grant conditions, with the remaining grant being used to fund the implementation costs.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Published [Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023 - GOV.UK \(www.gov.uk\)](#)

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

Published Social Care Reform White Paper: <https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper>

Published [Adult Social Care Reform Impact and Risks Cabinet report dated 14th July 2022](#)

Published [Adult Social Care Market Pressures Cabinet Report dated 14th July 2022](#)

Published Section 5 of the Care Act – shaping the market and support services [Care Act factsheets - GOV.UK \(www.gov.uk\)](#)

Published Care and Support Statutory Guidance (Sec 4.31) [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](#)

Published further background information on [Think Local Act Personal \(TLAP\)](#)

Autumn Statement in Detail - [CBP-9315.pdf \(parliament.uk\)](#)

Electoral Division(s) and Member(s) Affected

All.

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