
Health and Care Reforms

Lead Member Briefing / City Mayors Briefing / Adult
Social Care Scrutiny Commission

Cllr Russell

Date of meeting: 18/07/22; 11/08/22;18/08/22

Lead Director: Martin Samuels

Useful information

- Ward(s) affected: All
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- Report version number: 1

1. Summary

- 1.1 At a time when the health and care system is recovering from the global pandemic, the scale of health and care reform is unprecedented. This report outlines the Government Acts underpinning the reforms, highlighting key legislative changes that bring both challenge and opportunity for Adult Social Care.
- 1.2 The report notes the numerous policy publications that form part of this agenda but focuses on the Health and Care Act; the Adult Social Care Reform White paper; and the Health and Care integration White paper.
- 1.3 The Department has set out a plan to manage the implementation of these Reforms, and this is presented in our plan on a page at Appendix one.

2. Recommended actions/decision

- 2.1 To note the wide range of policy reforms aimed at transforming health, care and wellbeing, in particular improving health and care services through better health and care integration and tackling growing health inequalities.
- 2.2 To note the Departments programme of change to manage the implementation of the reforms and receive future updates and progress reports.

3. Scrutiny / stakeholder engagement

- 3.1 To present to Adult Social Care Scrutiny Commission for information and feedback.

4. Detailed report

- 4.1 The health and Social Care Landscape are presently subject to several transformational changes. The Health and Care Act 2022 received Royal Assent on 28th April 2022. The Act is the legislative part of a wide range of policy reforms aimed at transforming health, care and wellbeing, in particular improving health and care services through better health and care integration and tackling growing health inequalities. Other key publications include:
 - The health and Care integration White Paper, <https://www.gov.uk/government/publications/health-and-social-care-integration-joining-up-care-for-people-places-and-populations>

- The adult social care reform white paper, [People at the Heart of Care: adult social care reform white paper - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/people-at-the-heart-of-care-adult-social-care-reform-white-paper)
- The White Paper, '[Levelling up the United Kingdom](#)'
- The Government's report, '[Build Back Better: Our Plan for Health and Social Care](#)'.

5.2 Further reforms and reports are expected in 2022, including a White Paper on health disparities, the [Messenger review](#) on health and social care leadership has now been published, the [Fuller stocktake](#) of primary care and delivering on the priorities laid out in the Secretary of State's [8 March speech](#) on health and care reforms.

5.3 The Health and Care Act sees a fundamental shift for the NHS from competition to collaboration by introducing statutory ICS (integrated care systems). Integrated care systems (ICSs) have two statutory components: Integrated care boards (ICBs) and integrated care partnerships (ICPs). ICBs will take on the commissioning functions of CCGs and are responsible for improving population health across the system. They can exercise their functions through place-based arrangements. The ICBs went live 1st July 2022.

5.4 ICPs are statutory joint committees established by ICBs and the local authority in the system. ICPs bring together partners from across the system to develop an integrated care strategy to address the health, social care, and public health needs of the population. The ICB and the local authority must have regard to the integrated care strategy when making decisions.

5.5 The Integration White Paper, joining up care for people, places and populations' builds on the collaboration and partnership working at place level and sets out place-based leadership and governance models which will be subject to further guidance.

5.6 The Government's White Paper *People at the Heart of Care* [People at the Heart of Care: adult social care reform white paper - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/people-at-the-heart-of-care-adult-social-care-reform-white-paper) sets out a 10-year vision for adult social care, and switches on the charging reforms that were initially set out in The Care Act, bringing forward the largest reform agenda faced by Social Care since the inception of the Care Act (2014).

5.7 This includes a lifetime cap on the amount anyone in England will need to spend on their personal care, alongside a more generous means-test for local authority financial support. From October 2023, the government will introduce a new £86,000 cap on the amount anyone in England will need to spend on their personal care over their lifetime.

5.8 In addition, the upper capital limit (UCL), the point at which people become eligible to receive some financial support from their local authority, will rise to £100,000 from the current £23,250. The UCL of £100,000 will apply universally, irrespective of the circumstances or setting in which an individual receives care, making it a much more generous offer than a previous proposal in 2015. The lower capital limit (LCL), the threshold below which people will not have to pay anything for their care from their assets will increase to £20,000 from £14,250.

5.9 The cap will not cover the daily living costs (DLCs) for people in care homes, and people will remain responsible for their daily living costs throughout their care journey, including after they reach the cap.

5.10 A key ambition of the Government White Paper is to end 'persistent' unfairness. The reforms will switch on section 18(3) of the Care Act which allows private funders to ask the local authority to arrange their care. However, there will be a delay of up to 18 months from October 2023 before those people already in receipt of residential care in October 2023 can ask the LA to arrange their care. At the same time, a 'Fair Cost of Care' is introduced to make local authority fee rates more sustainable and reduce the revenue losses experienced by providers from greater fee equalisation. The Local Authority is required to submit a fair cost of care analysis to DHSC by 14th October 2022, together with a draft market sustainability plan. The fair cost of care exercise requires councils to carry out assessments to determine how close they are to paying sustainable rates and engage with local providers to better understand the impact of reform.

5.11 The Market Sustainability plan allows for local authorities to assess and demonstrate how we will ensure local care markets are sustainable, as we move towards implementing reform. The plan will consider the results of the fair cost of care exercise and 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 local authorities to inform the development of mitigating actions, including how much we will need to increase fee rates over the three-year Spending Review period. This will be a trigger point for additional government funding over 3 years (2022/23 to 2024/25) to support with any perceived gap in the sufficiency of existing fee rates. The plan will need to consider the impact of commencement of Section 18(3).

5.12 The Reforms introduce a duty in which the CQC becomes responsible for assessing local authorities' delivery of their adult social care duties. The New CQC duty to assess how LAs are meeting their social care duties under part 1 of the Care Act covers 2 areas:

- Scope 1- working with people (including unpaid carers): People receive services that prevent or delay; people can get I&A to make good decisions about Care and Support
- Scope 2 – Providing Support (markets, including commissioning, integration and partnership working) – People have a range of high quality, appropriate services to choose from

The CQC assessment regime comes into force 2023, assessments are due to commence from April 2023.

5.13 On 7 September 2021, the [Prime Minister announced £5.4 billion for adult social care reform over the next 3 years](#). At the [Autumn Spending Review 2021](#), it was confirmed that £1.7 billion of this funding would be for major improvements across the adult social care system. The white paper sets out how some of this money will be spent to begin to transform the adult social care system in England, such as new investments in:

- housing and home adaptations
- technology and digitisation
- workforce training and wellbeing support
- support for unpaid carers, and improved information and advice
- innovation and improvement

Together, these measures aim to put people at the heart of social care and move towards the 10-year reform vision set out in the plan.

5.14 Given the scale of change, the tension of recovery and reform, and the resource implications for the Council both in terms of workforce and financial impact, the Department has committed to a transformational change programme with governance and plans in place to support implementation and manage the risks. The programme is presented as our plan on a page, set out at Appendix one. The plan is dynamic and subject to change. In addition, ADASS has set out a timetable for the Reforms, this is included at Appendix 2. Both documents illustrate the breadth of change. The plan on a page sets out cross cutting workstreams which will support the delivery of the projects within the programme but pay heed to avoiding duplication and managing interdependencies of programme delivery.

5.15 Future reports will be brought forward that set out the implications of key workstreams of the programme, including more detailed plans as well as risks and issues to be managed.

6. Financial, legal, equalities, climate emergency and other implications

6.1 Financial implications

6.1 The financial implications of these reforms are significant for the LA.

1. The more generous means test will mean a step reduction in the income received from charges paid by our current state funded clients. We are in the process of estimating what that impact will be.
2. The more generous means test means that a greater proportion of existing self-funders will become state funded than currently which will increase our costs.
3. The introduction of the cap means that as people reach the cap in around 3 years time, the LA's costs will begin to rise as fees and charges for these people end. All things being equal the rise in costs from the cap will stop once a steady state has been reached.
4. There will be additional operational costs of dealing with self funders and more administration costs of dealing with our existing clients.

6.2 The LA is currently in the process of assessing what the 'fair cost of care' should be for 65+ residential and 18+ home care. Existing providers are being surveyed to assess their current costs as part of this exercise. The basic premise is that LA rates are being subsidised by providers charging self-funders a higher rate (up to 40% supposedly). The implementation of a care cap means that all people should be able to access care at the same rate regardless of how the care is funded. If there is a significant subsidy in our market, it will result in the LA costs increasing significantly.

The exercise of assessing the fair cost of care is being made more difficult because of the uncertainty of future costs particularly in respect of energy (for care homes), fuel and other items in an environment where inflation is changing monthly. Moreover, there is still the legacy of pandemic in terms of occupancy levels in care homes and competition for staff within the wider labour market.

It is also not clear exactly how the fair cost of care, assuming it is different to our current rates, will be implemented with providers. Current government guidance seems to imply LAs transitioning towards the fair cost rate but there is a risk of challenge from providers if we do not move to higher rates immediately.

- 6.3 We are currently trying to assess the current number of self-funders in our LA area and we are approaching providers as a first step. There is a wide variation in the desk top estimates of self funder numbers – using national average figures provided by the DHSC’s own impact assessment suggest self funders are around 50% of current state funded clients, ie around 2,700. Conversely work done by consultancy firm Newton suggest a much lower figure for Leicester which includes a statistical assessment of the wealth by post code of people in Leicester. The final answer is likely to be somewhere between these two assessments and this will become clear following feedback from providers.
- 6.4 The extent of the number of self-funders is clearly key in terms of assessing the impact of the items mentioned in 6.1 (2-4) above. This is particularly important given that there are difficulties in recruiting these staff at the moment and this will get more difficult as all LAs look to increase their capacity ahead of the reforms going live. The greater use of available digital technology to carry out assessments will be looked at to improve the efficiency of our existing processes and to try and reduce the number of additional staff needed.
- 6.5 Government have set aside £5.4bn over 3 years from the national insurance levy for adult social care with £3.6bn aimed at the cap, means test and fair cost of care. From 2023/24, £2.2bn of this is intended to cover the additional costs of the cap and more generous means test (item 6.1 above) together with the additional staffing costs to manage more clients. The LA allocations for this have not been determined yet. From 2022/23 £1.4bn is intended to cover the increased costs from the fair cost of care. The LA will receive £1m this year from this grant and of this 25% can be spent on the fair cost of care evaluation costs and other setup costs. Leicester has also received a £97k grant this year to cover set up and implementation costs of the charging reforms and there will be further as yet unknown amounts in 2023/24.
- 6.6 The County Council’s Network have released a report saying that the funding set aside by DHSC of £15.6bn over a 10 year period for these reforms is inadequate by at least £10bn. We are not in a position to make an evidence based assessment for Leicester given the uncertainties outlined above.

Martin Judson, Head of Finance

6.2 Legal implications

At this stage there are no direct legal implications arising from this report as it seeks to provide a summary of the proposed legislative and policy changes being brought about by reforms to Adult social care and Health provisions. To support these changes the Council has devised a transformational change programme by which it will seek to measure the impact, risk and implementation of these changes moving forward. Legal advice should continue to be sought as and when required to support the work in this area.

Pretty Patel Head of Law, Social Care & Safeguarding Tel. 0116 454 1457

6.3 Equalities implications

Whilst there are no direct equality implications arising from this report as it provides an overview of the proposed legislative and policy changes being brought about by reforms to Adult Social Care and Health provisions. Equality considerations need to be embedded as part of the transformational change programme to implement the proposed legislative and policy changes and that Equality Impact Assessments be carried out as appropriate.

The council need to ensure that that we are meeting our statutory obligations under the Equality Act 2010. Whereby public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

Equality advice should continue to be sought as these changes are implemented.

Sukhi Biring, Equalities Officer, 454 4175

6.4 Climate Emergency implications

Insofar as the changes outlined in the report principally relate to the way that social care is funded, it is not clear that there will be significant Climate Emergency implications arising from them. If there are implications from any specific aspects of the changes these will need to be identified and addressed as they become clear from future reports.

Duncan Bell, Climate Change Manager, Sustainability Team. Ext. 37 2249

6.5 Other implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

7. Background information and other papers:

8. Summary of appendices:

Appendix one: plan on a page

Appendix two: ADASS reform timetable

9. Is this a private report No

10. Is this a “key decision”? No

Appendix One: Plan on a Page

AST REFORM IMPLEMENTATION PROGRAMME BOARD
GOVERNANCE STRUTURE

Directors Monthly Meetings
Programme Sponsor – Martin Samuels
Senior Project Manager

Programme Team

<p>Project 1 Market Shaping and Sustainability Sponsor: Kate Galoppi Tech Lead: MC/BW Project Manager: LB</p>	<p>Project 2 Adult Social Care Assurance Sponsor: Ruth Lake Tech Lead: TBC Project Manager: PP</p>	<p>Project 3 Charging Reforms (go live date Oct 23) (cap £86k, capital upper limit £100k/Lower limit £20k) Sponsor: Ruth Lake Tech lead: MJ/Ops HOS Project Manager: SB</p>	<p>Project 4 Prevention Sponsor: Kate Galoppi</p>	<p>Project 5 Integration Sponsor: Martin Samuels (White Paper Jan 22)</p>	<p>Project 6 Liberty Protection Safeguarding (LPS) Sponsor: Ruth Lake Tech lead: VD Project Manager: RH</p>
Fair Cost of Care exercise 14 October 22	Preparing for CQC	Care Accounts	Pilot to improve IAG	Commence ICS Establish ICP and ICB's 1 July 22	
Market Sustainability Plan 14 October 22 Final plan Feb 23	Quality Assurance	Care Cap impact assessment	Innovative models of Care	Revision of BCF Dec 22	
Spend Report (14 October 22)	Care Quality	Demand modelling on capacity (including Self Funders)	Technology	Agreed governance model for place April 23	
Implementation of section 18(3) duty to arrange Oct 23 Market Analysis for self funders	Working with People Part 1 CA	Admin fee feasibility	Empowering carers	Integration shared outcomes framework April 23	
Demand/Capacity Modelling	Providing support from a range of quality services	Impact on ops finance and process	Employment		
Home care toolkit available	Reviews commence April 23	Revise Charging policy	Housing		
Residential care toolkit tbc	ASCOF Framework	Implementation of section 18(3) Market Analysis for self funders	Focus on prevention and health promotion		

Workforce (Training, Skilled, healthy, Supported and Sustainable workforce) Louise Pinnock
Communication (Provider, Self funders, Co-production, Internal) Brian Lisowy
Digital (Customer Portal, On line financial assessment, on line care needs assessment, Support plan, Controc)
Strategic Finance (Revenue impact, operational budgets, self funder analysis, Grant funding management)