

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker</b>	Cabinet
<b>Date:</b>	19 July 2022
<b>Title:</b>	Social Care Reforms including Fair Cost of Care
<b>Report From:</b>	Director of Adults' Health and Care

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### Purpose of this Report

1. This report:
  - provides an update on the Adult Social Care Reforms (SCR) that are required to be fully implemented by October 2023.
  - sets out the context for the 'Fair Cost of Care', (FCC) exercise which forms part of the wider SCR.
  - provides an initial estimate of the financial impact of SCR and confirms that the work will lead to an immediate and then increasing significant financial consequence for the County Council in the region of c£130m per annum, or a net £90m after an estimated share of Government grants.

### Recommendations

2. Cabinet acknowledges the direction of travel and intention of the SCR. However, to achieve this in a sustainable and appropriate way Cabinet is asked to support and endorse the following as a priority for the consideration of Government:
  - Adequate funding to match the scale of the challenge and fully fund the increase in costs to local authorities, as a new burden.
  - Investment in national recruitment and workforce development campaign for local authorities and providers to address long term workforce challenges across the sector. Including support for local innovation to ease workforce pressures over the long term.
  - A staggered reform implementation or consideration of deferring wider reforms to the health and care system.
  - Publication, as soon as possible, of clear guidance on how those currently in receipt of services will transition into the new system, including how means testing and top-ups should be applied.
  - A clear public facing communications campaign to manage expectations and help residents to understand the implications of reform, including how much cost they will be liable for

- Regional bodies to provide detailed information on infrastructure and technology solutions.
- Publication of details on how the local authority equivalent cost should be calculated for self-funder Independent Personal Budgets.

### Executive Summary

3. This report covers all aspects of the Social Care Reforms (SCR) and their financial impact on the County Council.
4. The report has a key focus on the 'Fair Cost of Care' (FCC) element of the SCR due to the urgency of this work over the summer period and the immediate financial impact.
5. The Reforms could result in an **annual cost implication for the County Council of c£130m**, or a **net £90m** after estimated share of Government grants. The full impact of this is likely to be felt by 2026/27. The Reforms are set to have profound implications for upper tier authorities the length and breadth of the Country. South-East authorities are expected to be hit the hardest, as there are greater levels of personal wealth that will be retained by services users and removed from service charges.

The bulk of the forecast net £90m recurring (per annum) impact for the County Council is an additional pressure beyond the likely longer term savings requirement of between £180m and £200m.

6. This report provides a high-level impact assessment of undertaking the FCC exercise within Hampshire, and the estimated **£42m pressure** of which only **£12m** is likely to be funded by Government through additional grant.
7. Adults' Health and Care presented to CMT on 8 June and received approval to proceed with the FCC exercise requirement.
8. The County Council is seeking for Cabinet to recognise the impact of the Social Care Reform. These impacts, that are estimated to be greater than SP23 and some of the previous whole-Council savings programmes, greater than the assumed benefits of Local Government Re-organisation in Hampshire and impacts that are not currently factored into the estimated budget gap of between £180m and £200m.

### Contextual information

9. The SCR Health and Care Bill received Royal Assent on 4 May 2022. There have been several amendments made to the Bill as it has passed through the parliamentary process, with several requirements that need to be met before the regulations can come into effect. This will mean delay to the regulations and guidance being finalised; hence some aspects of the reforms are yet unknown.
10. There are three main aspects to the SCR announced in September 2021 and due to be fully in place by October 2023:
  - **Changes to the means test and care cap:** clients with capital greater than £100k rather than £23k previously will be responsible

to fully fund their own care, with all clients having a lifetime financial limit for care costs of £86k, leading to more clients being entitled to Hampshire County Council financial support. Client spend on meeting their 'eligible' care needs will count towards the £86,000 care cap – the County Council will be required to monitor and report on individuals spend/progress towards the cap. (Not restricted to residential and nursing care, includes community-based care and even some preventative activities) The changes to the lower and upper capital threshold limits to £20,000 (from £14,000) / £100,000 (from £23,250) for clients will affect when the County Council starts to pay for care and how much it contributes. Government estimates that the proportion of older people in care receiving state support would increase from one half to two thirds.

- **Implementation of Section 18(3):** allows self-funders to ask the Hampshire County Council to assess their needs and source their care: intended to give residents access to better/more consistent rates. All people with who believe they may have eligible care needs in Hampshire will be able to request an assessment for the purpose of metering their spend against the cap. Guidance states that the County Council should be ready to start conducting these assessments from April 2023. The implementation of Section 18 (3) of the Care Act for those in care homes means that self-funders can ask the County Council to commission care for them at our fee levels.
  - **Introduction of a Fair Cost of Care** to support the aims of 18(3) above: to ensure more equitable rates across the County for all residents regardless of status a self-funder or council supported. The County Council is required to conduct and publish our fair cost of care exercise and submit proposals by 14 October to Department of Health and Social Care (DHSC) to support a sustainable market over the next 3 years. The scope for this is over 65s in residential and nursing care and over 18's in domiciliary care.
11. Our draft estimate is that all three elements of SCR could result in an initial annual cost implication for the Hampshire County Council of c£130m, or a net £90m after estimated Government grant. The government grant estimate is based on an extrapolation of existing allocations however, the Government is aware that the greater impact is on Counties in the South East, so may skew funding to reflect that in which case the gap could be less than £90m.
  12. Hampshire County Council has provided responses to all consultation and engagement questionnaires from DHSC and LGA that have been sent to our political leadership, Chief Executive and DASS.
  13. As well as being part of ADASS, Hampshire County Council is part of the County Council Network and has shared views on the proposals through these national networks. At a local level, the Council has kept our MPs and

Local Councillors updated on earlier work underway to understand the impacts on the Council and Partner Services.

14. The support and engagement of our partners and providers will be key to our success in delivering the proposals. Supporting communication and engagements are being developed and will be shared shortly.

## **Finance**

15. From early analysis it is forecast that the Reforms could result in an annual cost implication for the County Council of c£130m, or a net £90m after estimated share of Government grants, extrapolated from existing allocations. The full impact of this pressure is likely to be felt by 2026/27. The Reforms are set to have profound implications for upper tier authorities the length and breadth of the Country. South-East authorities are expected to be hit the hardest. Work is underway to refine these estimates as more detailed financial models are developed.
16. Adults' Health and Care have experienced significant unit price increases for care delivery in the past year, mainly in the Residential and Nursing sector, and these have been the major contributor to a forecast financial pressure this financial year of up to £35m that has been included within the latest MTFS.
17. The bulk of the forecast net £90m recurring (per annum) impact from all three elements of SCR for the County Council has not previously been in the MTFS and therefore is an additional pressure to the current estimated budget shortfall of £180m and £200m.
18. Based on current annual spend it is estimated that the FCC element alone will lead to additional spend in the range of £30m-£42m per annum of the £130m.
19. Government grant for FCC alone is likely to be up to £12m - a potential annual shortfall of £18m-£30m from the likely cost of implementing FCC.
20. This shortfall, estimated for Hampshire, is substantiated by Laing Buisson (market consultant experts) who have calculated additional FCC costs will be between 2.0 – 4.5x higher than the funding allocation.
21. In markets such as Hampshire, where providers are the primary influencer of price, the more clients that use section 18 (3), the greater the risk that the pressure highlighted of £42m could be exceeded over time by further price increases.
22. The very premise of the need for a FCC assumes that LA's have significant influence on how much they pay for care and that what is paid currently is insufficient or means that providers have to charge self-funders much higher rates for the same service. Hampshire County Council currently purchase only around 25% of countywide beds, which does not give us sufficient leverage on the overall rates charged by our providers, i.e. Hampshire County Council is likely to already pay a fair rate for care as determined by the prices directed by the providers. The implementation of a FCC will raise

the minimum price that care can be sourced, with many providers continuing to charge self-funders significantly above this level, as they do currently.

23. Work has been completed to estimate ranges where the FCC will land and assumed a price increase for every package that is currently below this level to the FCC. All packages above the FCC remain unaffected beyond what has already been assumed within the MTFS.
24. When considering the financial impact of Section 18(3) and FCC on care providers, assuming a take up rate of 50% by self-funders, Laing Buisson calculates providers would experience a significant loss of revenue. This shortfall is estimated to be most acute in the South-East of the Country, with estimates of aggregate revenue losses of up to 7% without provider action taken.
25. However, in markets such as Hampshire where providers are the primary influencer of price, they will not experience any such losses as it will simply lead to further compensatory price increases for the County Council and private clients. It follows that the greater the number of clients that use 18(3) the greater the risk that the pressure highlighted of £42m could be exceeded over time by further price increases.

### **Preparation work**

26. The County Council is taking a proactive approach to progressing with the preparation activities using the implementation funding made available through the £3.2m grant received in 2022/23.
27. A Steering Group chaired by the Deputy Director of Adults' Health and Care, with senior leadership from across the department has been set-up to oversee the development and management of the programme.
28. The initial work underway is to develop a high-level understanding of the impact of the proposals for the Council, clients and communities. A high-level timeline aligned to the DHSC proposed implementation plan has been prepared, outlining key milestones through the phases of the programme.
29. Adults' Health and Care are engaged with the newly developed Care3 Toolkit which was commissioned by the DHSC and developed by CHIP the Care and Health Improvement Programme Team. The Care3 Toolkit has been developed to support Local Authorities to calculate the cost of care to meet expected DHSC requirements in relation to cost of care.
30. It should be noted that alongside the financial impact there will be significant resource implications on Adults' Health and Care, Shared Services and the IT department. Within Adults' Health and Care there will be requirement for significantly more finance staff, Financial Assessment and Benefit Officers, contact centre staff, debt management staff and Social Workers to carry out eligibility assessments. It should however be noted that we do not yet have the guidance as to whether social workers will be required to carry out the assessments
31. Preparation is therefore underway to develop new operating models including use of digital where possible to increase capacity within existing

teams. It is likely that the resources required to cope with the additional demand will not be available in the market and that national lobbying will be required.

32. Work is underway to mobilise internal resource from both Adults' Health and Care and Corporate Operations, including a Technology and Shared Services Workstream chaired by Director of Corporate Operations. It is possible that the technology required for the implementation cannot be implemented in the timeframes required and that national lobbying will be required.
33. Due to the extensive work required it is likely that external consultants will need to be engaged utilising the implementation funding to source the best expertise nationally regarding SCR.
34. The programme has commenced demand modelling to develop scenarios which will allow the County Council to prepare detailed planning for assessment needs and staffing requirement in addition to better model the likely combined financial impact of the new Means Test, Cap on Care and Section 18(3).

#### **Next Steps for Fair Cost of Care**

35. Local Authorities are required to complete and submit their FCC exercises by 14 October 2022, together with a draft Market Sustainability Plan.
36. 'Fair' means the median actual operating costs for providing care in the local area need to be calculated. It should be noted that inhouse care cannot be included in this calculation, but it is proposed that this is used to challenge returns.
37. Local Authorities are required to demonstrate how they have sought to involve all providers and taken reasonable steps to include a full, complete, robust and return.
38. Local Authorities are expected to work with providers and provider associations to design a process that is efficient and effective for the local area.
39. Three key principles for FCC exercises and the accompanying Market Sustainability Plan are Consistency, Transparency and Partnership.
40. If evidence is insufficient, DHSC may ask for more evidence and if unsatisfied they may withhold funding for future years.
41. Consideration will need to be given as to whether publication of the full data set is appropriate.
42. It is yet unclear when Local Authorities will be required to pay the FCC rates, this may be from publication date or implementation of the reforms in 2023, Adults' Health and Care is awaiting further guidance.

#### **Climate Change Impact Assessment**

43. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.
44. Having reviewed the key changes to legislation outlined in the report against the decision-making tools, no key vulnerabilities have been identified with respect to climate change. In respect of the delivery of the Social Care Reforms, at this stage no direct impact on climate change have been identified. As the programme of work develops and further clarity is provided through the national guidance being developed by Department of Health and Social Care, the tools will continue to be used to inform any changes to the current assessment and reflected in future reports.

### **Equalities Impact Assessment**

45. An initial Equality Impact Assessment has been completed and further assessments will be completed during the implementation of the Social Care Reforms. At this planning stage, the overall equality impact is judged to be neutral. It is worth noting however that the reforms are likely to have a positive impact on some older and disabled people, as more people will become eligible for some support with the cost of their social care, because of significant changes to the funding thresholds and the care cap. There has been a national consultation on aspects of the changes to legislation, however, at this early stage, no engagement with residents has yet been undertaken by Adults' Health and Care.

### **Conclusions**

46. SCR and specifically FCC is going to have far-reaching implications for Hampshire County Council. Undoubtedly, there will be a significant shortfall in the level of funding required to meet and fair rate of care across our services. The County Council will be unable to bridge this funding gap from existing resources and will be reliant on further funds from Government.
47. As a result of this impact the County Council is asking Cabinet to debate the issue and agree a national lobbying approach.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

**This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:**

Has significant financial consequences for the County Council

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

Document

Location

None



## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment:**

An initial Equality Impact Assessment has been completed and further assessments will be completed during the implementation of the Social Care Reforms. At this planning stage, the overall equality impact is judged to be neutral. It is worth noting however that the reforms are likely to have a positive impact on some older and disabled people, as more people will become eligible for some support with the cost of their social care, because of significant changes to the funding thresholds and the care cap. There has been a national consultation on aspects of the changes to legislation, however, at this early stage, no engagement with residents has yet been undertaken by Adults' Health and Care.