

Decision Maker: ADULT CARE AND HEALTH POLICY DEVELOPMENT AND SCRUTINY COMMITTEE AND EXECUTIVE

Date: 7th September 2022 and 19th October 2022

Decision Type: Non-Urgent Executive Key

Title: ADULT SOCIAL CARE REFORMS

Contact Officer: Heather Sinclair-Constance, Programme Manager – Adult Social Care Reform
Tel: 020 8313 4641 E-mail: heather.sinclair-constance@bromley.gov.uk

Chief Officer: Kim Carey, Director of Adult Services

Ward: All

1. REASON FOR REPORT

- 1.1 In September 2021, in the Build Better plan, the government announced £5.4bn of investment in the adult social care system in England over 3 years to transform the sector. £3.6bn is allocated for the charging reform (including paying a Fair Cost of Care) and £1.7bn for the systems reforms.
 - 1.2 The government is committed to the introduction of charging reforms by October 2023 including a new £86,000 cap on personal care costs; changes to the means test thresholds, further bringing into effect section 18(3) and a move towards paying a fairer rate of care.
 - 1.3 This report is for information, providing a summary of the changes embedded within the Adult Social Care Reform White Paper – People at the Heart of Care and an update on the work undertaken by the Council to prepare and implement the changes.
 - 1.4 A decision is also requested to drawdown the grants totalling £908k to support the work detailed in this report.
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2. RECOMMENDATION(S)

- 2.1 Adult Care and Health PDS and Executive are asked to note and comment on the contents of this report.
- 2.2 Executive are requested to agree the drawdown of the grants totalling £908k as detailed in paragraph 9.1 and 9.2 from central contingency to support the work detailed in this report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: The Adult Social Care Reform White Paper 'People at the Heart of Care' sets out a 10-year Vision for how the government will transform support and care in England by putting people at its heart.
 2. The White paper sets out a range of policies that the Department of Health and Social Care will deliver in partnership with the adult social care sector and those who draw on care and support over the next three years.
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Transformation Policy

1. Policy Status: New Policy: A 10-year vision to transform adult social care in England delivered over three-years.
 2. Making Bromley Even Better Priority:
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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Financial

1. Cost of proposal: Estimated Cost: £908k
 2. Ongoing costs: Not know at this time
 3. Budget head/performance centre: Adult Social Care
 4. Total current budget for this head: £79.3m
 5. Source of funding: Department of Health and Social Care funding to support the reform
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Personnel

1. Number of staff (current and additional): Current staff 1.6 FTE
 2. If from existing staff resources, number of staff hours: 21 hours from existing resource.
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Legal

1. Legal Requirement: Statutory Requirement:
 - Health and Care Act 2022
 - Care Act 2014
 2. Call-in: Not Applicable
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Property

1. Summary of Property Implications: Not Applicable
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Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
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Customer Impact

1. Estimated number of users or customers (current and projected): Not know at this time.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

3.1 Introduction

3.1.1 In December 2021, the Adult Social Care Reform White Paper 'People at the Heart of Care' set out a 10-year Vision for how the government will transform support and care in England by putting people at its heart, revolved around three objectives:

- 1) People have choice, control, and support to live independent lives.
- 2) People can access outstanding quality and tailored care and support.
- 3) People find adult social care fair and accessible.

3.1.2 These proposals are backed by the new Health and Care Levy, of which £5.4bn is being invested into adult social care over the next three years as follows:

Charging reform (£3.6bn)	Systems reform (£1.7bn)
<ul style="list-style-type: none">• A new £86,000 cap on personal care costs.• Extending means tested support for anyone with less than £100,000 in chargeable assets and an increase in the lower capital limit (LCL) threshold to £20,000.• From October 2023, enabling Self-funders who are not already living in a care home, and who have not been living in a care home in the previous six months, to access care at local authority commissioned rates (Section 18 (3)). Self-funders will be entitled to ask their local authority to arrange care on their behalf when seeking residential and nursing care placements.• From April 2025 at the latest, all self-funders, including people who were already living in a care home in October 2023, will be able to ask their local authority to arrange care on their behalf as detailed in Section 18 (3).• Making care fees fairer between private and local authority payers, called 'Fair Cost of Care'.	<ol style="list-style-type: none">1. Workforce - £500m investment in the social care workforce.2. Housing - £300m to integrate housing into local health and care strategies.3. Digital and Technology - £150m for technology and widespread digitalisation across social care.4. Data, assurance, and improvement - More than £70m to assist local areas to better plan and develop the support and care options available.5. Innovation and Scaling including models of care, unpaid carers, information, and advice -<ul style="list-style-type: none">○ Up to £25m support a change in services provided to unpaid carers.○ £30m to help local areas innovate around the support and care they provide in new and different ways.

3.1.3 The White paper will:

- Build on the Care Act 2014 (focus on wellbeing) to ensure fully **personalised, user-led social care is embedded** for everyone.
- **Reform the adult social care charging system** to make the system fairer for everyone and paying providers a fair rate for care.
- **Acknowledge the important role of carers**, while enabling those who provide unpaid care to be supported to achieve their own life goals.

- **Recognise the adult social care workforce**, by providing opportunities to develop their careers, supporting them to deliver outstanding quality of care.
- **Develop an Assurance Framework** for adult social care and introduces a duty for the Care Quality Commission to independently review and assess local authority performance in delivering their adult social care duties under Part 1 of the Care Act 2021.
- **Empower people who draw on social care**, unpaid carers and families.
- Implement commitments in the Health & Social Care Data Strategy **“Data Saves Lives”** including new national data frameworks, gathering provider data regularly and sharing of data across health and care.
- **Develop a local supported employment** scheme to identify effective ways local authorities can support autistic people and people with learning difficulties into employment.
- **Support sustainable care markets** and tackle variability in market shaping and commissioning.
- Integrate housing into local health and care strategies and expanding the choice of **housing options**.
- **Ensure greater adoption of technology** and widespread digitisation.

3.1.4 Local authorities will need to achieve the White Paper’s objectives in the face of rising demand and demographic changes. In Bromley, we see the reform as an opportunity to refresh our vision for adult social care and start to build a 21st century social care system that delivers our Making Bromley Even Better Priorities.

3.1.5 A visual representation of the White Paper’s objectives and deliverables, is in Appendix A.

3.1.6 High-level Timelines and Milestones:

Milestone	Baseline date
Department of Health and Social Care Fair Cost of Care Policy	16 December 2021
Fair Cost of Care - Home Care Toolkit and Guidance ‘go live’	February 2022
Impact Statement: Adult Social Care System Reform	February 2022
Operational guidance to implement a lifetime cap on care costs	4 March 2022
Supporting local preparation: draft guidance	4 March 2022
Implementing the cap on care costs: draft operational guidance	4 March 2022
Market Sustainability and Fair Cost of Care Fund 2022 to 2023: guidance	24 March 2022
Fair Cost of Care - iESE Care Home Tool	26 May 2022
Adult social care charging reform: minimum viable product (MVP) software requirements specification Guidance published	July 2022
High-level charging reform technology implementation plan developed	July 2022
Trailblazer early IT assessment commencement	September 2022

Milestone	Baseline date
Department of Health and Social Care Market Sustainability and Fair Cost of Care Fund Deadline For submission of: <ul style="list-style-type: none"> • Cost of Care Table • Cost of Care Report • Provisional Market Sustainability Plan • Spend Report 	14 October 2022
IT supplier development complete and	January 2023
Implementation completed for trailblazer	January 2023
Department of Health and Social Care Market Sustainability and Fair Cost of Care Fund Deadline For submission of: <ul style="list-style-type: none"> • Final Market Sustainability Plan 	February 2023
Early assessments commencement for all local authorities (excluding trailblazers)	April 2023
Assurance Framework	April 2023
IT implementation completed for all local authorities	October 2023
Charging Reform 'go live'	October 2023

3.1.7 The overarching risks outlined in reform:

- Delivery of what is an ambitious package of measures over the next three years. Given the ongoing fluctuating impact of Covid and associated NHS pressures on the health and social care systems, the system may struggle with capacity to implement the immediate reforms proposed in the white paper.
- Whilst system reform funding and measures are separate to charging reform, there is a risk that the expectation for many complex reforms at once is too much for the system to handle.
- Implementation of Section 18 (3) of the Care Act for those in care homes means that self-funders can ask for the local authority to commission care at local authority levels and on their behalf. We need to understand the likely demand and increased assessments.
- The most significant challenge for local authorities at present, is the potential for unanticipated costs – ordinary residents from other local authorities becoming Bromley's responsibility.
- New assurance framework will change the way local authorities are assessed in how they deliver adult social care functions, and it will have an impact both on the delivery of services under inspection and on officer resources to prepare for inspection regimes.
- Lifetime contribution change and the personal saving limit changes will result in funding for many of those people becoming the Council's responsibility, which represents a potential large financial risk.
- Local authorities will have to take over social care funding of more people due to changes to the capital limits and the care cap.

- The 'fair cost of care' is likely to cause an increase in cost of provider services to local authorities.
- There will be resource impacts (more requests for information, advice and guidance, assessments, financial assessments, brokerage, reviews, complaints) which will cost money to deliver.
- Staffing costs will also increase as a result of the employer's contribution towards the social care levy.
- Experts may be required to implement some of the changes required (e.g., LAS/ContrOCC care cap tracking), but all local authorities will have this requirement so expertise may be in short supply.
- There are potential workforce shortages, which may increase pressure on wages and the existing workforce.
- These issues are also affecting the provider sector, which will put an upward pressure on costs.

3.1.8 Risk Mitigations – Staffing:

- Bromley's biggest risk mitigation is its excellent workforce, which has already demonstrated its resilience, innovation, and ability to respond at pace to system change.
- The Council recruited additional staffing capacity to help reduce the assessment backlog caused as a result of the pandemic, this resource is still in place and could be used to help mitigate the anticipated increased assessments.
- The Council recruited specialist staff to support the implementation of the new case management system, this resource is still in place as the new system is still in the project phase. The charging reform technology implementation will require the same skill set, knowledge, and expertise; therefore, we will be able to utilise them.
- Greater staffing mix, for instance use of unqualified staff i.e., Care Manager Assistants with Care Manager (Social Worker) oversight.
- Implement system-wide usage of Trusted Assessors.
- Consideration of new assessment models to manage predicted increased demand.

3.1.9 Risk Mitigations – Finance:

- Bromley has excellent relationships and partnerships with all care settings in the borough, which has been further strengthened throughout the pandemic.
- Several of the policies changes outlined in the White Paper are already being implemented in Bromley through Making Bromley Even Better.
- Charging self-funders to arrange care.
- Increase use of online self-service options for adult/carer.

3.2 Trailblazers

3.2.1 The government invited six local authorities (Wolverhampton, Blackpool, Cheshire east, Newham, North Yorkshire, and Oxfordshire) with different economic, geographical and care market characteristic, to be part of a Trailblazer programme for the adult social care charging reform. The purpose of trailblazers is to develop and refine the implementation plan and approach, and to test key elements of the charging reform plans in January 2023 ahead of the national rollout in October 2023.

3.2.2 The initiative has already generated valuable evidence and insight to help the government to monitor progress, identify challenges and improve understanding of how the reforms will work in practice. Trailblazers have co-produced documentation to education and inform other local authorities including 'Eight Key Things Trailblazers Think You Could Be Doing Now'.

3.2.3 The Council met with the London Borough of Newham to share learning, best practice, and its approach to implementing the reform. The insight gained was invaluable and helped to inform our understanding of the resources we will require, address capacity limitations, gaps in provision and skills.

3.2.4 A meeting with North Yorkshire is scheduled for October 2022 and will help to further develop our understanding of the reforms in practice and implementation plans give our similar demographic, geographic and care market characteristics.

3.3 Planning for Implementation

3.3.1 The Adult Social Care Programme Board was established in July 2022 to provide oversight and lead on implementing and embedding the reform changes in Bromley and is jointly chaired by the Directors of Adult Services and Finance. The Board will agree priorities, oversee workstreams and monitor process against the reforms and other related national guidance in line with emerging guidance and mitigate risks. Membership of the Board includes relevant corporate representation from across the Council.

3.3.2 Several workstreams have been set up to undertake the detailed planning needed to support implementation of the government's reforms, which is outlined in Appendix B.

3.3.3 The Board is working to ensure we have appropriate programme management arrangements and resources for this large-scale reform. The Council will be creating the capacity to manage the programme from within the grant and in line with the government advice.

4. MARKET CONSIDERATIONS

4.1 There are 52 CQC registered care homes in Bromley, for Older People as well as people with Learning Disabilities, Mental Health, and Physical Disabilities. In addition, 87 Domiciliary Care Agencies delivering long-term packages of care to 18 plus Bromley residents, 6 Extra Care Housing Schemes and 12 Learning Disability Supported Living providers (with over 61 individual settings).

4.2 According to ADASS, a sustainable care home market sits at circa 85%. Most homes within Bromley continue to sit close to, or above 85% occupancy, indicating a sustainable market overall. Learning Disability homes are at 93% occupancy with a low throughput, while Mental Health and Physical Disabilities homes are at 98%. We also have a good 18 plus domiciliary care provision.

4.3 An integrated wrap around support offer to care setting in Bromley was accelerated in response to the COVID-19 pandemic. Previously, individuals' teams supported care settings in various ways, sometimes with overlapping functions. More efficient systems and processes established during the pandemic have been successfully formalised and mainstreamed. In addition, Bromley's relationship with the provider market has changed, working with providers as partners. As a result, our partnership is effective, intelligence based and support specific needs of our residents, the market including its workforce.

4.4 We know that:

- 50% of people who draw on care in Bromley are self-funders (people who pay privately for their care)
- 20% are funded by the Council,
- 10% by Health, and
- 20% live outside of the area, but have been placed in a care home, by another local authority. This practice is known as an 'Out of Borough' placement and usually occurs as a

last resort or where the person who draws on care has a family member resident in the area.

- 4.5 We have a high level of home ownership in the borough - 73% of housing is privately owned compared to 50% across London, a lower proportion of social rented housing at 14%, and whilst the privately rented sector has grown steadily in recent years, it remains relatively small at 14%.
- 4.6 Whilst many people prefer to stay in their own homes, if possible, some expressed a wish to move into more suitable accommodation. Over half the people consulted for Bromley's Ageing Well Strategy thought that their current home would be inappropriate or need adaptations in the future. We have seen residents make lifestyle choices to move into new luxury 5* care homes recently opened within the borough for several reasons such as their previous home may have been too large for their needs, the passing of a loved one, or as previously mentioned a lifestyle choice.
- 4.7 We are taking steps to understand and estimate, as far as possible, the additional likely demand because of the charging reforms. Working with partners and adopting a systems approach, will enable us to consider the specific groups who are more likely to approach the Council from the introduction of the cap on care costs and extended means test. For instance, self-funders, people with assets under £100k and working-age adults.
- 4.8 Information from across the care and health system will need to be used to build a picture on people who arrange their own care, who may be eligible, taking into consideration current use of other services by self-funder populations and future and other potential cohorts.

5. STAKEHOLDER ENGAGEMENT

- 5.1 In June 2022, the Director of Adult Services wrote a letter to the care market outlining the Council's approach to preparing and implementing the changes in the reform and asked providers to partner with us and complete the Fair Cost of Care Exercise.
- 5.2 Working in partnership with the Care Provider Alliance, the Council was able to help providers understand the impact of non-engagement in the exercise:
- We are less likely to see funding at the level needed to implement the coming reforms.
 - Without funding, providers are likely to face significant financial pressure beyond current levels.
- 5.3 As a result, the Council has achieved a good return rate for both our Care Homes and Domiciliary Fair Cost of Care Exercise, exceeding the ADASS London 30% minimum rate.
- 44% of returns (38 out of 87) were received from Domiciliary Care Providers delivering services in Bromley.
 - Of which 43% of returns (37 out of 87) have been included in the Bromley Fair Cost of Care Exercise following a review of the returns for completeness, identification of outliers seeking clarification from the providers and agreeing adjustments where needed to validate the data.
 - 62% of returns (21 out of 34) were received from Registered Care Homes - 65+ Older People in Bromley.
 - Of which 59% of returns (20 out of 34) have been included in the Bromley Fair Cost of Care Exercise following a review of the returns for completeness and identified outliers to validate the data as previously mentioned.

- 5.4 The Council has met with the Department of Health and Social Care's Charging Reform Implementation Team to discuss our progress, opportunities the reform brings, outline how we plan to mitigate the predicted local implementation risks and to kept abreast of any new development. The department is also using Bromley as a sounding board although the Council is not part of the Trailblazer Programme.

In addition, we were invited by the Department of Health and Social Care to join its Reform Communications Group, which includes communications representatives from Trailblazer local authorities. Our local communication strategy is currently being developed, which will include key messages to residents, staff, partners, stakeholders that builds on the national communication campaign, and communications strategies developed by the trailblazer programme.

- 5.5 Meetings were also arranged with other local authorities in the planning stage of our reform programme set up to help inform our plans this included. The authorities we met were:

- Essex
- Merton
- Barnet
- Tower Hamlets
- Camden
- Barking and Dagenham

The insight gained was invaluable and helped to inform our understanding of the resources we will require, understand our capacity limitations, gaps in provision and skills. We have agreed to continue sharing our learning, best practice, and approach to implementing the reform.

6. IMPACT ASSESSMENTS (INCLUDING VULNERABLE ADULTS AND CHILDREN)

- 6.1 The Department of Health and Social Care published a national impact assessment in respect of the White Paper in January 2022. Local authorities have been informed that a revised version of the impact assessment will be published later this year to consider updated inflation, evidence from the Fair Cost of Care Exercise and the outcome of consultation on the Adult Social Care Charging Reform: distribution of funding 2023 to 2024.
- 6.2 A detailed equalities impact assessment for Bromley will be completed considering the revised national impact assessment as part of the work to prepare and implement the changes embedded within the reform.

7. TRANSFORMATION/POLICY IMPLICATIONS

- 7.1 The Adult Social Care Reform addresses the MBMB priorities 2 and 5 as detailed below.
- (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence, and making choices, and
 - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.

8. IT AND GDPR CONSIDERATIONS

- 8.1 The government published the technology specification on 13 July 2022 to support technology implementation for charging reform. This sets out the detailed technical requirements for developing care account functionality in existing ASC case management systems.

- 8.2 The Council has completed a 'Care Cap Preparedness Survey' to assess our readiness and understanding of the current functionality of Bromley case management systems to support the charging reform technology implementation. This includes developing the care account functionality and the use of CareCubed in Adult Services Operations and Brokerage.
- 8.3 A Data Protection Impact Assessment will be completed in partnership with colleagues in IT. The use of any new technology solutions to support implementation of the reforms will include the standard wording and expectations upon staff, partners, and providers in relation to IT and GDPR.

9. FINANCIAL CONSIDERATIONS

- 9.1 The Department of Health and Social Care have announced two grants to support preparation for the implementation of the reforms totalling £908k for 2022/23:
- **Market Sustainability and Fair Cost of Care Fund (£804k):** this is intended to support local authorities to prepare their markets for reform of the adult social care system, including the further commencement of Section 18(3) of the Care Act 2014 in October 2023, and to support local authorities to move towards paying providers a fair cost of care. Up to 25% of this funding can be spent on implementation activities, and the remainder must be used to increase rates if its rates are below the fair cost of care (for placements for those aged 65 and over, and domiciliary care for those aged 18 and over, including in extra care settings).
 - **Charging Reform Implementation Support Grant (£104k):** this is to support to local authorities towards expenditure in funding adult social care charging reform implementation. The grant covers the planning and preparation costs associated with charging reform to recruit additional staff to manage the increased demand for assessments and the implementation of the care account module.
- 9.2 This Committee is asked that Executive be requested to agree that these grants are drawn down from central contingency to support the work in preparing to implement the reforms, with agreement of how these will be spent, including distribution to providers, delegated to the Director of Adult Social Care in consultation with the Director of Finance and the Portfolio Holder for Adult Care and Health.
- 9.3 With regard to the potential cost implication of the reforms themselves, initial modelling suggests this could be in the region of £6m in 2023/24, rising to £22m in 2026/27. The Council Tax report to February 2022 meeting of Executive identified potential net costs, after Government funding, of between £10m and £15m per annum. It is uncertain at this point how much of this will be funded from the government, so represents one of the most significant financial risks facing the Council at this time.
- 9.4 These estimates will be refined as part of the work detailed in this report, in particular the Market Sustainability and Fair Cost of Care Fund element due to be completed in October 2022 and will be used to inform the 2023/24 budget and four-year financial forecast.

10. LEGAL CONSIDERATIONS

- 10.1 Local authorities are accountable to their local populations in how they deliver their statutory duties under the Care Act 2014 and other relevant legislation. The government will implement the proposed reform set out in this report through amendments to the Care Act 2014 and other relevant legislation.

Non-Applicable Headings:	12. SOCIAL VALUE, CARBON REDUCTION AND LOCAL NATIONAL PRIORITIES 13. PROCUREMENT AND PROJECT TIMESCALES AND GOVERNANCE ARRANGEMENTS 14. STRATEGIC PROPERTY CONSIDERATIONS 15. PROCUREMENT CONSIDERATIONS 16. PERSONNEL CONSIDERATIONS 17. WARD COUNCILLOR VIEWS
Background Documents: (Access via Contact Officer)	People at the Heart of Care, Adult Social Care Reform White Paper.