

Healthier Communities and Older People Overview and Scrutiny Panel

Date: 01 November 2022

Subject: Social Care Reform

Lead officer: Keith Burns, Interim Assistant Director, Commissioning

Lead member: Cllr Peter McCabe, Cabinet Member for Health and Social Care

Contact officer: Keith Burns

Recommendations:

- A. That the Panel note the upcoming social care reforms scheduled to take effect in 2023 and the work underway to prepare for the implementation of the reforms.
 - B. That the panel note that the implementation timetable may change following the Government announcement on fiscal plans currently scheduled for the 31st of October 2022.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. The report advises members of the Healthier Communities and Older People Overview and Scrutiny Panel of the upcoming social care reforms introduced by the White Paper People at the Heart of Care, published in December 2021.
- 1.2. The report provides an overview of the work underway to ensure that the Council can implement the necessary changes introduced by the reforms in a way that is compliant with Government expectations and timescales.

2 DETAILS

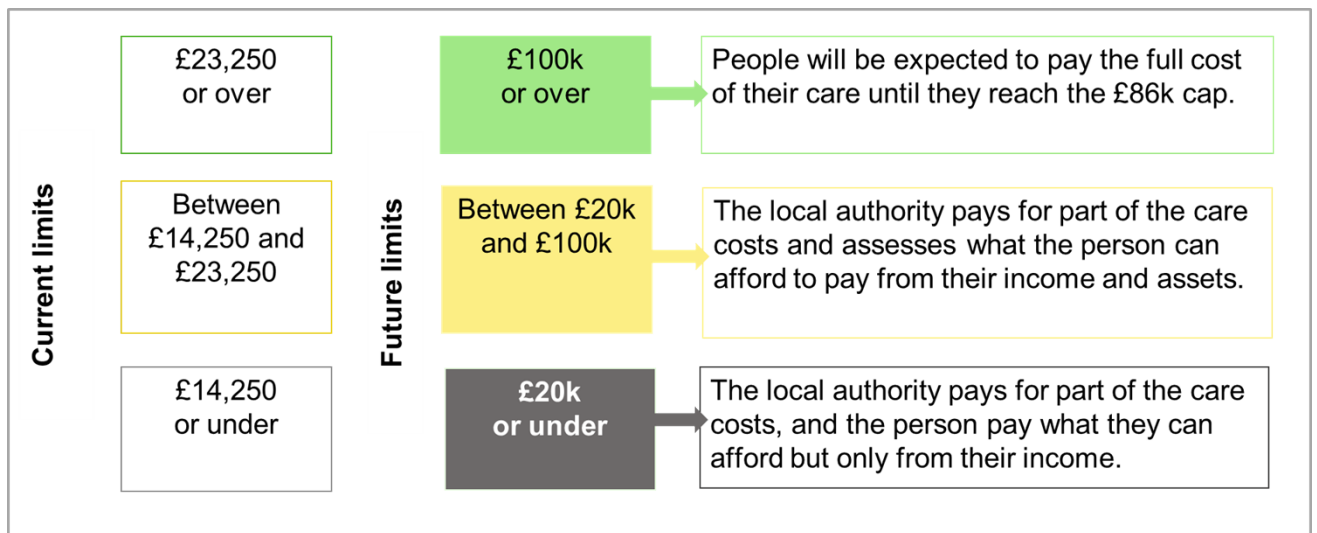
- 2.1. The social care reforms cover three main themes:
 - Charging reform (including the introduction of the Care Cap);
 - Care Quality Commission Assurance of local authority social care services; and
 - Support for the social care provider market.
- 2.2. People at the Heart of Care (the White Paper) set out a 10-year vision for a more sustainable and affordable care system that effectively works with other public services, with 3 person-centred objectives:
 - People have choice, control, and support to live independent lives
 - People can access outstanding quality and tailored care & support
 - People find adult social care fair and accessible.

These objectives are consistent with the original aim of the Care Act 2014 and the key purpose of the White Paper is essentially to bring into effect a number of elements of the Care Act that were not implemented when it originally came into force. The most significant of these elements are the

changes to capital thresholds and the introduction of a 'cap' on the lifetime cost of care for an individual. The Health and Social Care Act 2022 (the Act) received Royal Assent in May 2022 and gives legislative effect to the policies set out in the White Paper.

Charging Reform

- 2.3. The Government currently intends that changes to the Financial Assessment regime for adult social care will take effect from October 2023. However, it is important to note that there is a possibility that the Government's upcoming 'fiscal event' scheduled for the 31st of October 2022 may result in a change to this timetable, with the planned changes possibly coming into effect a year or more later than planned. A verbal update will therefore be provided to the Panel at the meeting.
- 2.4. The Act introduces a number of changes to the Financial Assessment regime for Adult Social Care primarily focused on the capital limits applicable to assessing how much an individual contributes to the cost of their care as well as on the introduction of a cap on the lifetime cost of care.
- 2.5. There are currently two capital limits known as the lower and upper capital limits. The lower capital limit is £14,250, while the upper limit is £23,250. Where an individual has assets, usually savings or property, with a value above the upper capital limit they are required to pay the full cost of their care. Between the upper and lower capital limits the Council will (depending on the individual's income and other factors) contribute to the cost of the individual's care. Capital below the lower capital limit is disregarded for the purposes of assessing the individual's ability to contribute to the cost of their care.
- 2.6. From October 2023 changes to the upper and lower capital thresholds are scheduled to take effect. These changes will raise the upper capital threshold to £100,000 and the lower to £20,000. This will have the effect of meaning that the Council will (depending on income and other factors) commence contributing to the cost of an individual's care at an earlier point and for longer. It will also mean that the amount of capital to be disregarded increases. The implication of both changes is increased cost to the Council. The Government has announced additional funding for Local Authorities from 2023/24 onwards in respect of these additional costs. It is not yet known either whether the national funding will be sufficient to meet the increase in costs, nor what the formula for allocating funding to individual local authorities will be. There is, therefore, a degree of uncertainty about the net future impact of the proposed changes for the Council.
- 2.7. The changes to the capital limits are summarised in the diagram below.



- 2.8. As noted above, the Act also introduces a lifetime cap on the amount an individual will contribute to the cost of their care, known as the Care Cap. It is important to note, however, that the cap relates specifically to care costs. For individuals living in residential care daily living costs such as food, utilities and ‘rent’ are excluded from the definition of care. As a result, individuals will remain liable for those daily living costs even after reaching the Cap.
- 2.9. The daily living cost for those living in residential care has been set at £200 per week for October 2023.
- 2.10. It is also important to note that the definition of ‘care’ relates to care being provided in relation to needs that are eligible under the Care Act 2014. For individuals who have been assessed by the Local Authority and who have a care and support plan in place this eligibility has been established and the services included in the Personal Budget associated with the care and support plan are therefore relevant to the Care Cap for that individual.
- 2.11. For those purchasing their care privately and who have not had their needs assessed by the Local Authority, no such eligibility will have been established. If an individual wishes to have their care costs count towards the Care Cap they will first have to request an assessment by the Local Authority in order to determine whether they have needs which are eligible under the Care Act 2014. Following the assessment the Local Authority is required to determine how much it would pay to meet any needs which are identified as eligible. This amount is expressed as an Independent Personal Budget.
- 2.12. For individuals whom the Council is arranging care for, and who have a Personal Budget, it is the amount that the individual contributes to the cost of their care that counts towards the Care Cap. This amount is calculated by means of a Financial Assessment governed by national rules. For individuals paying for their care privately, the Independent Personal Budget calculated by the Local Authority, less daily living costs if appropriate, will be the amount that counts towards Care Cap.
- 2.13. In order to track an individuals’ progress towards reaching the Care Cap, local authorities are required to set up a Care Account for each individual

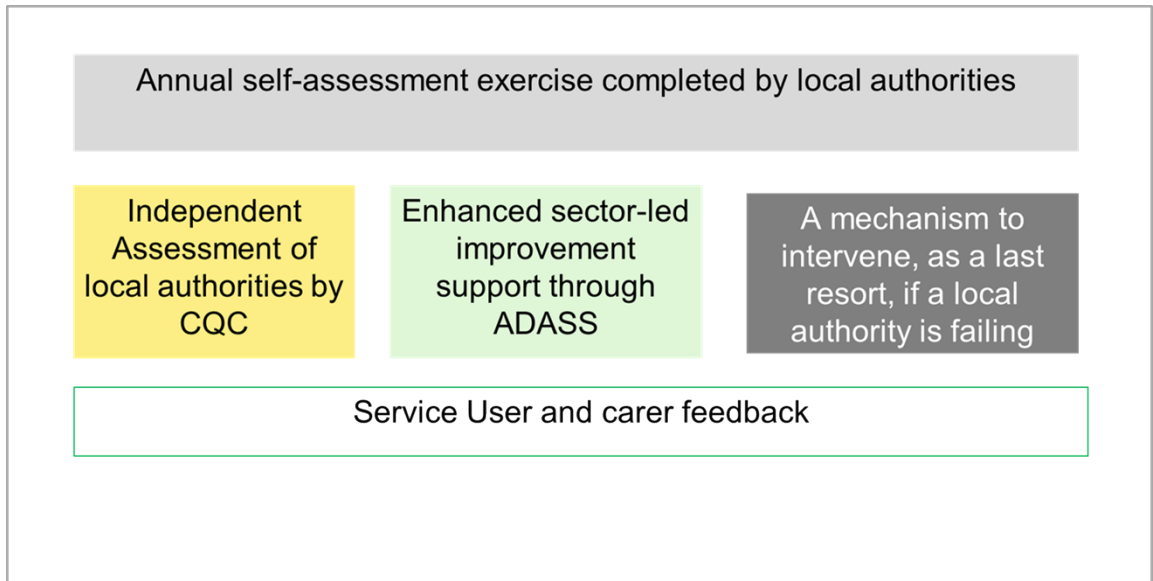
assessed as having eligible needs. The key characteristics of a Care Account are as follows:

- A care account is an up-to-date record of the individual's accrued costs that count towards the care cap. The care account must identify costs relating to daily living costs, but as noted above these are excluded when calculating progress towards reaching the Care Cap.
- Care accounts are portable from one local authority area to another.
- Councils must provide annual statements on care accounts and inform the person once those costs exceed the cap on care costs.
- Records on care accounts must be retained for 99 years.
- When Care Accounts are introduced in October 2023 no retrospective costs are to be included.
- Councils can, from April 2023, identify people who meet eligibility before that date to ensure they begin progressing towards the cap from the point it comes into effect.

Care Quality Commission Assurance

- 2.14. From April 2023 the Care Quality Commission will have responsibility for assuring the quality of each local authorities Adult Social Care functions. The Commission's predecessor bodies previously had similar responsibilities but there has not been a national assurance framework for Adult Social Care since 2010. The new responsibilities are, in broad terms, similar to those OFSTED have in relation to Children's Social Care.
- 2.15. The Care Quality Commission have published a draft version of the Framework under which local authorities will be assessed and work is ongoing to finalise the methodologies that will be used. Analysis of data and the views of people with lived experience of using social care services and their families will both be key elements of the approach.
- 2.16. The draft Framework is built around four key themes:
- Working with People: assessing needs, care planning and review, direct payments, charging, supporting people to live healthier lives, prevention, well-being, information and advice
 - Providing Support: market shaping, commissioning, workforce capacity and capability, integration and partnership working
 - Ensuring Safety: safeguarding enquiries, reviews, Safeguarding Adults Board, safe systems, pathways and continuity of care
 - Leadership: culture, strategic planning, learning, improvement, innovation, governance, management and sustainability
- 2.17. Underpinning each of the four key themes are a series of 'We' and 'I' statements. The 'We' statements describe what the CQC expect a 'good' authority to be able to say about the way in which Adult Social Care is delivered to local people, while the 'I' statements describe what an individual should expect from their involvement with Adult Social Care.

- 2.18. The diagram below provides a visual representation of the different elements that will make up the assurance framework:



- 2.19. It is likely, but not confirmed, that a rating will be published for each local authority on an annual basis. The approach to determining ratings is likely to be similar to that currently used for social care providers in that performance against each of the four key themes will be rated and then a consolidated rating determined to reflect overall performance. The current rating scheme for providers includes four ratings: Inadequate; Requires Improvement; Good; and Outstanding.

Support for the social care provider market

- 2.20. Alongside the charging reforms outlined above the Government have also introduced a policy framework called Fair Cost of Care. This policy is intended, over time, to reduce the gap between what local authorities pay for care and what individuals privately funding their own care pay.
- 2.21. To support preparations for implementing a local approach to the Cost of Care local authorities were provided with additional funding for 2022/23. For Merton this funding amounted to £505k. Twenty five percent of this amount can be spent on preparing Fair Cost of Care plans, with the remaining seventy five percent to be paid to providers. This seventy five percent will be distributed to care homes for older people and home care providers using a methodology similar to that adopted for the distribution of various COVID-19 related funding streams.
- 2.22. Initial drafts of plans were to be submitted to the Department of Health and Social Care in October 2022, with final plans to be submitted in February 2023. The Government intends that these final plans be published by local authorities and have previously committed to additional funding being available to support progress towards achieving fee levels that more closely relate to the cost of care. No detail has yet been published with regards to the distribution of funding for 2023/24 and as with the funding for wider charging reform future funding may feature in the fiscal event planned for the 31st of October 2022.

- 2.23. Alongside a focus on cost of care, the White Paper made a number of commitments in relation to the social care workforce:
- Care workers to be paid for all the hours they work.
 - Improve terms and conditions, to ensure a sustainable future supply of care staff.
 - Knowledge and skills framework, career pathways and investment in learning and development to support career progression.
 - Portable Care Certificates and a delivery standard recognised across the sector.
 - Digital hub for the workforce to access support, information and advice, and a portable skills passport.
 - Wellbeing and occupational health offer including counselling, peer support, bespoke support helpline and mental health training.

2.24. Further detail is awaited on how it is intended that these commitments be rolled out nationally. At a local level officers will seek to incorporate these commitments into procurement and service delivery proposals wherever relevant and feasible.

Preparing for reform

- 2.25. The Departmental Change Board, which meets fortnightly, maintains oversight of preparation for the reforms.
- 2.26. Through an ongoing programme of work, called Ways of Working, officers are reviewing and improving the 'customer journey' for individuals who are in contact with our Adult Social Care Teams. Preparing for CQC assurance is an important element of the work being done within the Ways of Working programme.
- 2.27. The Department is closely linked into London wide work on preparing for CQC Assurance and a series of workshops that are being planned for the period between November 2022 and April 2023.
- 2.28. Additional resources are being secured to support the updating of a number of key policy and strategy documents as well as to refresh and update the Council's Adult Social Care webpages so that CQC are easily able to access evidence of good practice. These additional resources are being funded from within the Department's existing transformation budget.
- 2.29. Detailed work is also underway to gain a better understanding of the number of residents who privately fund their care in order to gauge the likely impact of additional requests for Care Act assessments as well as the potential financial impact of the charging reforms. This work will be completed by the end of December 2022 so that any necessary recruitment can be pursued, subject to confirmation of Government financial support.
- 2.30. A series of webinars on the social care reforms, focusing initially on charging reform for Adult Social Care staff have been held, with further webinars planned for the period November 2022 to April 2023.

3 ALTERNATIVE OPTIONS

- 3.1 This report is for noting and comment only and alternative options are not therefore required.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Officers have undertaken initial internal engagement with colleagues across the Council to ensure that all necessary parties are aware of the upcoming reforms. A series of webinars have been held for staff within Community and Housing and further webinars are planned over coming months.
- 4.2. There is ongoing engagement with colleagues across South West London and London as a whole to share learning and good practice.
- 4.3. Further engagement with a range of external partners, including representative VCS bodies, is planned for coming months.

5 TIMETABLE

- 5.1. The current timetable from Government is set out in the body of the report. This may change as a result of the Government spending announcement scheduled for the 31st of October 2022.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. The report notes the likely financial pressures on the Council arising from the reforms, the national funding available to support implementation and the work underway to understand the extent to which the national funding will be sufficient to meet the projected cost pressures.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The reforms bring into force aspects of the Care Act 2014 that were not implemented when the Act originally came into effect and as such introduce new duties and powers that the Council is required to comply with.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. The Government have undertaken and published an Impact Assessment relating to the reforms. Officers will complete an EQIA as part of the detailed implementation planning underway in order to test whether any mitigating actions are required as part of implementation.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None immediately arising.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The primary risks relate to the financial sustainability of the reforms and the ability of the Council to meet the increased demands arising from the reforms coming into effect. Detailed work is underway to develop an implementation plan that will include contingency and risk mitigation actions.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- None

12 BACKGROUND PAPERS

12.1. None