



ADULTS AND COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE
24 JANUARY 2022

ADULT SOCIAL CARE REFORM AND CHARGING

REPORT OF DIRECTOR OF ADULTS AND COMMUNITIES

Purpose of report

- 1 The purpose of this report is to brief the Committee on the:
 - “People at the Heart of Care: Adult Social Care Reform White Paper” and its impact on social care provision in Leicestershire;
 - proposals on the Adult Social Care charging reform, the charging of which is set out under the “Build Back Better: Our Plan for Health and Social Care” command paper and subsequent policy paper.
- 2 The Committee is asked to note the contents of the report and is invited to make comments.

Policy Framework and Previous Decisions

- 3 The Care Act 2014 places a duty on local authorities to promote an individual’s well-being, including unpaid carers when making decisions. The Act embeds an individual’s right to make choices about their care, placing focus on their needs and what they want to achieve, and a legal right to a care and support plan. Local authorities must provide or arrange services to keep people as well and independent as possible. They are also required to put measures in place to help prevent people developing needs for care and support and to delay the need for ongoing care and support by focussing on ways to support people to maintain or improve their independence. Authorities must also ensure that their local care market is healthy and diverse.
- 4 The Committee has previously commented on the Adults and Communities Ambitions and Strategy for 2020-2024 set out in “Delivering Wellbeing and Opportunity in Leicestershire”, which was subsequently approved by the Cabinet. This Strategy sets out the Department’s direction of travel in its provision of care and so the reforms may impact on future reviews of the Strategy.

Background

- 5 On 7 September 2021, the National Government announced £5.4 billion over three years solely for the reform of adult social care. At its spending review in October 2021, the Government announced that the investment would be used in two main

areas. These being £3.6 billion to pay for charging reform, and £1.7 billion to improve access to social care in England, including a £500 million investment in the workforce.

- 6 The “People at the Heart of Care” White Paper sets out the Government’s 10-year vision of how it proposes to transform support and care in England (<https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper/people-at-the-heart-of-care-adult-social-care-reform>). The vision revolves around three objectives:
- People have choice, control, and support to live independent lives;
 - People can access outstanding quality and tailored care and support;
 - People can find social care fair and accessible.
- 7 The White Paper describes the Government’s priorities for investment in social care and describes where the money will be used. Investment will be funded through the new Health and Social Care levy. This is a proposed tax in the UK to be levied by the Government and expected to be launched in 2023. Provision for the tax is given under the Health and Social Care Levy Bill and is designed to deal with the backlog of patients waiting for treatment following the Covid-19 pandemic, as well as to improve social care.
- 8 The White Paper has at its foundation the Care Act 2014, particularly its focus on wellbeing, and it structures and opportunities for improvement around a number of main themes which are summarised in the next section of this report.

Main themes from the People at the Heart of Care: Adult Social Care Reform White Paper

Shaping healthy and diverse social care markets

- 9 The White Paper emphasises the responsibility of local authorities to promote a healthy and diverse local care market; encourages closer working with, and the development of, community-based organisations who may have the potential to increase people’s choice, independence, and wellbeing.

Variation in quality and safety of care

- 10 The White Paper prepares the ground for enhanced local authority assurance, improvement support and enhanced use of data to create more geographical equity in the quality and safety of care.

Supporting the social care workforce

- 11 The White Paper draws attention to the asset and scale of the social care workforce and the pressures that they face including the high turnover of staff. It also notes that large parts of the workforce are unregistered, and would benefit from further training, a clear career structure and learning offer. The paper announces the investment of £500 million over the next three years to support of the workforce. The investment will target knowledge, skills, health and wellbeing and recruitment policies to improve social care as a long-term career choice.

Navigating the system and finding the right care and support

- 12 The White Paper seeks to empower people who draw on care and support and their carers and families so to enable them to make informed decisions based on accessible, trusted, and high-quality information and advice. To this end the Government proposes to invest circa £5m to test and evaluate new ways to help people navigate local adult social care systems, including development of a national website.
- 13 In addition, £25m will be invested to work with the sector to kick start a change in the services provided to support unpaid carers, including the provision of respite, breaks, peer and wellbeing support.

Accelerating adoption of Technology

- 14 The White Paper highlights the important deployment of digital technology that has helped people stay connected to their friends and families during the Covid-19 pandemic and how monitoring technology has helped care workers identify and support those in need. The use of technologies in social care should:
 - enhance the quality of care;
 - free up time for meaningful human interactions;
 - create stronger connections between people and their friends, family and care networks;
 - make the provision of social care more efficient, informed and joined up.
- 15 The White Paper notes technology can be transformative, helping people to live happy, fulfilled lives in their homes and communities. However, it also focuses on the inequalities in access to technology, e.g. 40% of those aged 75+ not making use of the internet alongside 14.9% of those with a disability. This is compounded with care home staff (23%) struggling to consistently access the internet at work.
- 16 The White Paper announces the proposal for the Government to invest at least £150 million of additional funding over the next three years to drive digitalisation across the sector and unlock the potential of 'caretech' innovation that enables preventative care and independent living.
- 17 In addition, a £30m Innovative Models of Care Programme will be launched to support local systems to build the culture and capability to embed into the mainstream innovative models of care. The programme will support a number of local authorities and partner providers to develop, commission and deliver new models of care for people living in non-residential settings.

Expanding the choice of housing options

- 18 The White Paper sets out the Government's ambition for people to have more choice over their housing options, whether it be a new or existing home, purpose designed or not and with access to the adaptations or technologies to help them live well. Local areas are encouraged to "think housing and community" when they plan and deliver services.

- 19 The proposals include the Government's intention to invest at least £300m over the next three years to embed the strategic commitment to connect housing with health and care and drive the stock of new supported housing. In addition, they intend to fund a new service to make minor repairs and changes in people's homes to help people remain independent and safe.
- 20 This will happen alongside increasing the upper limit of the Disabled Facilities Grant (DFG) by committing a further £570m per year for 2022-23 to 2024-25. The Government intend to consult in 2022 on the amount of DFG per individual adaptation, the allocation of DFG to local authority areas and how the means test aligns to charging reform.
- 21 Within the £300m, the Government states its intention to continue to invest in the Care and Support Specialised Housing fund with £71m capital funding per annum available for the period 2022-23 to 2024-25 to incentivise the supply of specialised housing for older people and people with a physical disability, learning disability, autism or mental ill-health.

Driving integration of health and care services

- 22 The White Paper recognises the need to continue to develop a holistic approach to dealing with people's care so that preventative measures are optimised and unnecessary hospital admissions are avoided. It references an upcoming Integration White Paper which will outline proposals to improve person centred care and improve the interface between health and care services. However, the implementation of this White Paper has been deferred until the summer.

Supporting local authorities to deliver reform

- 23 The White Paper sets out a proposed new approach to assuring the delivery of care by local authorities including a specific focus on strengthening market shaping and commissioning functions; and plans for improved data to understand how local areas are achieving the Government vision for reform.
- 24 From 2022-25, the Government proposes to provide £3.6 billion to reform the social care charging system to enable local authorities to move towards paying providers a fair rate for care.
- 25 In addition, the Government proposes to provide more support for local authorities to strengthen their market shaping and commissioning capabilities, providing an increase in improvement funding of more than £70m between 2022-23 and 2024-25 to ensure that local authorities are set up to deliver the vision set out in the White Paper.
- 26 Local authorities will be required to submit to the Department of Health and Social Care, a cost of care exercise that accurately reflects local costs such as staff pay and travel time; a provisional market sustainability plan setting out a local strategy for the next three years (2022-25) and a spend report.

Assurance

- 27 As part of the proposals, the Government will introduce a duty for the Care Quality Commission (CQC) to independently review and assess local authority performance in delivering their adult social care duties under part 1 of the Care Act 2014. This will include putting in place new legal powers for the Secretary of State for Health and Social Care to intervene to ensure improvement where there are significant local authority failings in undertaking their duties.
- 28 The White Paper sets out an emerging approach to assurance that is likely to focus on the following areas:
- Oversight of the social care workforce supporting staff retention and professional development;
 - Managing transitions between services e.g. between health and social care;
 - Focus on prevention activities;
 - Carrying out safeguarding duties;
 - Quality of leadership;
 - Management of commissioning and contracting responsibilities;
 - Market shaping;
 - Meeting the needs of unpaid carers;
 - Assessing the needs of people who may be eligible for care and support them to access what they need whether or not they receive local authority support or will fund their own care.

“Build Back Better: Our Plan for Health and Social Care”

- 29 The Government published its [Command Paper](#) on 7 September 2021. One of the stated aims of the changes is to, "protect individuals and families against unpredictable and potentially catastrophic care costs – so that from October 2023, no eligible person starting adult social care will have to pay more than £86,000 for personal care over their lifetime”.
- 30 Some clarifications were published in a [Policy paper](#) on 19 November 2021 and updated on 3 December 2021. Further detail will now be published as part of the consultation on statutory guidance in early 2022.
- 31 The papers set out a number of proposals:
- 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. It will be implemented using legislation already in place under the 2014 Care Act (Section 15) with amendment subject to parliamentary approval.
 - The cap amount (£86,000) will be subject to annual adjustment in line with changes to the average earnings in England. The proportion of the cap a person has satisfied so far would be increased proportionately when the cap level is adjusted.
 - The upper capital threshold in the financial assessment, above which a person is liable for the full cost of their care and support, will increase from £23,250 to £100,000, whilst the lower threshold will increase from £14,250 to £20,000.

- The Minimum Income Guarantee (MIG) and the Personal Expenses Allowance (PEA) allowed before a person is required to contribute towards the cost of their care will be increased in line with inflation each year, from April 2022. Statutory guidance provides local authorities with the discretion to set its own MIG and PEA amounts and make any necessary adjustments to these, with the proviso that they do not fall below the minimum level set by Central Government. One of the outcomes of the SH v Norfolk County Council judgement was that local authorities should have a clear and transparent process and a recorded judgment of its decision on MIG/ PEA. The Council, in line with statutory guidance, has not been required to increase the allowances it has set since 2015. It is therefore intended that a report on this matter will be presented to the Cabinet in March to agree a way forward.
- Care accounts will be maintained by the local authority. Local authorities will be required to provide regular care account statements and engage early with the person once they are close to approaching their cap. Further detail on care account statements will be consulted on. There is an existing requirement for six-monthly deferred payment agreement statements.
- Residential self-funders will be able to require the local authority to arrange their care. Currently they can only request the local authority do so. This is intended to ensure self-funders get better value for money. Further details regarding self-funders asking local authorities to arrange their care will be confirmed in early 2022.

Response

- 32 There has been a varied response to the proposed reforms across health and social care. There is a broad view that the reform is a continuation of the Care Act and that although the funding made available is welcome and represents a step in the right direction, much more is needed to meet the delivery of transformation and the growing costs of care. There has also been an amount of media criticism around the proposals of the care cap and that its impact will be harsher for people with smaller asset bases.
- 33 There is still much detail to be clarified around the reforms, e.g. details on charging for self-funders, and the precise nature of future assurance frameworks. Therefore, planning a response for Leicestershire will require the flexibility to shape plans further once more detail is understood.

Leicestershire's response

34. The proposals will significantly increase the number of people engaging with the County Council regarding their care and support needs and will require the Department to plan for the proposed assurance framework when more detail is ascertained.
35. Detailed work is being carried out within the Council to determine the impact on service users, including any equality impacts, the resource requirement on the Council and the necessary changes to policy and practice that will arise as a result of the Government reform agenda. A range of work is currently in progress and will contribute to any response. This includes:

- Work underway to produce a place-based integrated strategy for Leicestershire with involvement from a number of local partner organisations such as health stakeholders for the next 10 years. This includes place-based delivery of integrated services within our Primary Care Networks.
- Leicestershire has a well-established Better Care Fund programme that seeks to better integrate health and social care services utilising a pooled budget of resources. This also supports housing services and initiatives through boroughs and districts and the use of DFGs.
- The County Council has been working towards developing the care market in Leicestershire in a variety of ways, building stronger relationships with the market and developing robust risk management processes to help providers at risk.
- Developing strength and asset-based approaches including better use of community assets and developing social work practice to encompass strength-based conversations and co-production.
- There is a continued focus on developing and progressing the internal adult social care workforce. This is demonstrated through the delivery of the Social Work Apprenticeship programme.
- The Inspired to Care service continues to support recruitment and retention across the external market. Challenges have increased in this area due to a range of factors, including competition for staff from other sectors, and the requirement for care home and the wider health and care workforce to have mandatory vaccinations.

Consultation

36. The Government has set out details of its engagement on the development of the White Paper. This included local authorities, providers, workforce representatives and professional bodies, voluntary and community sector organisations, and people with lived experience including unpaid carers.
37. The County Council has engaged with a wider range of partners and stakeholders as part of the consultation and engagement on the Adults and Communities Department Strategy 2020–2024 from December 2019 to June 2020.
38. Many of these organisations and people are currently being consulted on a draft 10-year Leicestershire Joint Health and Wellbeing Strategy 2022–2032, which sets out an overall vision for health and wellbeing across Leicestershire. The consultation closes on 23 January 2022.

Resource Implications

39. As set out above, the Government has announced funding associated with the proposals in the White Paper. It is currently not fully clear how much of this is new money or how it will be distributed between Councils and other organisations.
40. Therefore, the resource and funding implications for the County Council from the White Paper and to what extent these will be covered by additional funding from Government are not clear at present. This will be able to be better assessed once the Government outlines more detailed plans and proposals.

Timetable for Decisions

41. The White Paper aims to set out a 10-year vision for Adult Social Care in England but the Government has not set out a timetable for publishing the detail and delivery of their plans.
42. In the White Paper the Government has indicated that it will set up a series of workshops discussions with stakeholders in early 2022 to help them develop the funding proposals.
43. It is proposed that further reports will be presented to this Committee as the Government progresses the detail of the reform agenda.

Conclusion

44. This report sets out the main features of the Government's proposed reforms of social care and funding. The Committee is asked to note the report and is invited to comment on its content.

Background papers

People at the Heart of Care: Adult Social Care Reform White Paper

<https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper/people-at-the-heart-of-care-adult-social-care-reform>

Build Back Better: Our Plan for Health and Social Care

<https://www.gov.uk/government/publications/build-back-better-our-plan-for-health-and-social-care>

Reports to the Adults and Communities Overview and Scrutiny Committee on 11 November 2019 and 7 September 2020 - Adults and Communities Ambitions and Strategy for 2020-2024 "Delivering Wellbeing and Opportunity in Leicestershire":

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=1040&MID=5690>

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=1040&MID=6170>

Reports to the Cabinet on 22 November 2019 and 18 September 2020 - Adults and Communities Ambitions and Strategy for 2020-2024 "Delivering Wellbeing and Opportunity in Leicestershire":

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MID=5608#AI61396>

<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MID=5997#AI64121>

Delivering Wellbeing and opportunity in Leicestershire – Adults and Communities Department Ambitions and Strategy for 2020-24

Consultation on Joint Health and Wellbeing Strategy

<https://www.leicestershire.gov.uk/have-your-say/current-engagement/joint-health-and-wellbeing-strategy>

Circulation under the Local Issues Alert Procedure

45. None.

Equality and Human Rights Implications

46. This report is a briefing document, and as such is not subject to an Equalities and Human Rights Impact Assessment. Any subsequent changes in policies arising from the reform will be subject to appropriate assessments.

Officers to Contact

Jon Wilson, Director of Adults and Communities

Telephone: 0116 305 7454

Email: jon.wilson@leics.gov.uk

Nigel Thomas, Assistant Director (Strategic Commissioning)

Telephone: 0116 305 7379

Email: nigel.thomas@leics.gov.uk

This page is intentionally left blank