SURREY COUNTY COUNCIL

CABINET

DATE:	**26 JULY 2022**
REPORT OF CABINET MEMBER:	**SINEAD MOONEY, CABINET MEMBER FOR ADULTS AND HEALTH**
LEAD OFFICER:	**LIZ BRUCE, JOINT EXECUTIVE DIRECTOR ADULT SOCIAL CARE & INTEGRATED COMMISSIONING**
SUBJECT:	**GOVERNMENT ADULT SOCIAL CARE CHARGING AND FAIR COST OF CARE REFORMS**
ORGANISATION STRATEGY PRIORITY AREA:	**TACKLING HEALTH INEQUALITY**

Purpose of the Report:

This report summarises the current proposals which make up the government's Adult Social Care Charging and Fair Cost of Care reforms and the anticipated cumulative impact for Surrey County Council. It sets out the challenges, risks to the Adult Social Care system and the Council as well as the opportunities the reforms present and how we're taking a collaborative approach across the Council to prepare for implementation. Although there are significant risks that need to be addressed, we see this as an opportunity to take another step on our transformation journey by moving to a digital first approach, recruiting a more flexible, agile and diverse workforce and working with care providers to reshape the market.

Recommendations:

It is recommended that Cabinet:

1. Note the key changes, implications and overarching risks of the government's Adult Social Care Charging and Fair Cost of Care reforms for Surrey residents and Surrey County Council.
2. Note the collaborative approach and the emerging plans to prepare, and as far as possible mitigate risks, for implementation from October 2023.
3. Approve up to £2.9m of the Council's Budget Equalisation Reserve to be used to fund additional expenditure required in 2022/23 to facilitate the implementation of Adult Social Care Charging and Fair Cost of Care reforms above funding provided by government as set out in Annex 2.

Reason for Recommendations:

The Government published its Adult Social Care system reform white paper 'People at the heart of care' on 1 December. The intent of the white paper is to make the system fairer and ensure more people do not face enormous care costs. In Surrey the reforms will mean the Council will fund care for more people, the availability and therefore the quality of care may be affected, and a significant funding short-fall is anticipated based on current proposed government funding which has been widely commented on as insufficient to meet the full cost of the reforms. With high levels of self-funding residents and existing staffing challenges in Surrey, the implementation timetable means it will be challenging to recruit, upgrade systems and build capacity to support so many residents. Current government guidance recommends an awareness campaign from January – March 2023, assessments starting in April 2023 in readiness for implementation from October 2023.

Executive Summary:

Current Arrangements

1. Current charging arrangements mean:

    - Under the Care Act 2014 we have a duty to assess a person to determine eligible needs regardless of the level of the person's financial resources.
    - The duty to meet eligible needs, i.e. commission care and support thereafter, is dependent on the level of the person's assets and the person's capacity to arrange their own care and support and whether they require care and support at home or in a residential or nursing setting.
    - The existing regulations provide a broad framework for the design of charging policies and detail the income, assets and expenditure to be taken into account when determining the level of contribution a person is able to make towards their care and support.
    - 9 Income from charging is an essential contribution to Adult Social Care's budget to support the delivery of services to help people live and age well.
    - The income from charging last year 2021/22 was around £62m.
    - Currently if a person has £23,250 in assets (£24,500 in Surrey if they live in their own home) they will have to pay the full cost of their care and will be encouraged to arrange their own care and support if they do not require help from Adult Social Care.
    - Under the Council's charging policy and in line with the national guidance, people with savings between £14,250 and £23,250 have their capital taken into account using a tariff income calculation of £1 per £250 of capital between these two figures, therefore a person with £16,000 in capital will have £7 per week added to their income for charging purposes. This only applies to people in residential and nursing care under the charging policy at the present time. A change in the charging policy will be required to bring this into effect for people receiving support at home.

New Government Proposals

2. New proposals as part of the government's Adult Social Care charging reforms include:

    - A new £86,000 cap for personal care costs.
    - Extending means-tested support for anyone with less than £100,000 in chargeable assets and an increase in the lower capital threshold to £20,000.
    - Self-funders will be entitled to ask councils to arrange care on their behalf when seeking residential and nursing care placements.
    - An intention to make care fees fairer between private and state payers, called a 'Fair Cost for Care'.

3. The following three proposals are extensions to existing provisions. We are awaiting the publication of further guidance on these proposals, therefore limiting our ability to assess the impact of these changes and formulate detailed plans to address them:

    - An extension of the rules on self-top ups – rules determining when people can use their funds to pay for more expensive accommodation than the Council would usually fund.

- An expansion of the deferred payment scheme – deferring payment of full cost fees to the Council pending the sale of a property.
- The introduction of direct payments for residential and nursing care.

4. A new cap on personal care costs from 1 October 2023 will mean:

- A cap on personal care costs of £86,000 will be introduced from 1 October 2023.
- The starting point is an assessment under the Care Act to determine that a person has eligible needs.
- Progression towards the cap is based on either the amount the person has been assessed to contribute towards their care when their needs are already met by the Council or what it would cost the Council to meet the person's needs.
- For people in residential or nursing care, the amount that accrues towards the cap, excludes the daily living costs – currently suggested £200 per week as a national figure.
- Any costs incurred prior to October 2023 do not count.
- Any costs incurred for more expensive accommodation (top-ups) than the Council would usually fund do not count.

5. Extending the means test on chargeable assets will mean: 9

- From October 2023 the Upper Capital Limit (UCL) will rise from £23,250 to £100,000.
- The Lower Capital Limit (LCL) will increase from £14,250 to £20,000 – capital below £20,000 will be ignored for financial assessment purposes.
- The UCL of £100,000 will apply universally, irrespective of an individual's care setting or circumstances.
- The analysis undertaken by Newton Europe on behalf of the County Councils Network on the impact of the charging and Fair Cost of Care reforms, which is commented on further in this report, indicated that much of the operational and financial impact of the charging reforms for Surrey County Council will be due to these proposed changes to the means test thresholds.

6. Commissioning care home placements for self-funders will mean:

- From 1 October 2023 people who are 'self-funding' will be able to ask the Local Authority to commission residential and nursing care placements on their behalf regardless of their assets. This is commonly referred to as an extension to Section 18(3) of the Care Act which already enables 'self-funders' to request local authorities to arrange care in the community on their behalf. It is linked to the Fair Cost of Care agenda designed to ensure that everyone is paying a fair cost towards their care. The changes proposed will place additional resource and financial burdens on local authorities and could risk de-stabilising care markets.
- On 7 July 2022 the government published revised operational guidance for the Adult Social Care charging reforms. Within this was an update to the proposals for the extension of Section 18(3) of the Care Act to care home placements. Under the new proposals from 1 October 2023 only residents who are not currently living in a care home and have not resided in a care home on a permanent basis for the preceding six months will be able to request their host local authority to arrange a care home placement on their behalf. It is proposed that the extension of this right to existing care home residents will be delayed until up to April 2025. The Council is continuing to review the implications of this policy change, but our initial view is that it is unlikely to

substantially reduce the financial or operational impacts the Council will face because of the reforms and risks adding further complication to an already very complex set of changes to the Adult Social Care system. Our view of this policy change will also be influenced when the government publishes updated proposed guidance for top-ups, which is currently still pending.

- The Council will be able to charge an arrangement fee for doing so, to cover the cost of arranging the care, negotiating with the provider, managing the contract and any administrative costs. Currently the arrangement fee is £295 plus an annual admin fee of £125. Further work will be undertaken to ensure these figures reflect all appropriate costs going forward.

7. An overview of the Fair Cost of Care guidance:

- The government's intention is for local authorities to apply a national standard approach to identifying a 'fair cost of care' for markets.
- The narrative is clear that they believe an increase in the price paid for care is required nationally but will vary locally.
- The government is setting aside £1.4 billion for the next 3 years as part of the Health and Social Care Levy. It has been widely commented that this level of funding is grossly insufficient, including a report on the Older People care home market undertaken by LangBuisson on behalf of the County Councils Network[1] which estimated that at least a further £854m per year of funding would be required nationally as a minimum to make the proposals workable.
- The government has published Fair Cost of Care funding allocations for 2022/23. Surrey's allocation is set to be £2.7m. Funding will be paid to local authorities subject to the following terms:
    - Conducting cost of care exercises for both 65+ residential and nursing care market and 18+ home based care market.
    - A (provisional) market sustainability plan – strategy for next three years to move towards a sustainable fair cost of care.
    - Spend report detailing how an authority's Fair Cost of Care funding allocation has or will be spent to achieve these outcomes.
    - These need to be completed and returned to Department of Health and Social Care by 14 October 2022 with a 'final plan' expected in February 2023 for spending and activity in years two and three.
    - 25% of 2022/23 Fair Cost of Care funding can be used towards completing these steps.
    - The remaining 75% of 2022/23 Fair Cost of Care funding must be used to increase Surrey County Council fees if they are determined to be below the 'fair' cost of care.
- The government is yet to confirm how funding will be distributed across local authorities in 2023/24 and beyond. It is anticipated that the outcome of the cost of care exercises across the country will influence relative funding allocations.

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[1] [New analysis warns government has 'seriously underestimated' the costs of adult social care charging reforms - County Councils Network]

Market Intelligence

8. Analytical work undertaken by LaingBuisson, Newton Europe and the County Councils Network (CCN) on the likely impacts of the government reforms is summarised in Annex 1. The LaingBuisson study concludes that the government's allocation 'seriously underestimates' the amount of new funding required and could cause a 'severe sustainability risk' to care homes across the country. The Newton Europe and CCN research reveals the regional impact on local authorities as a result of the government's adult social care reforms, concluding that the costs of these proposals could be significantly underestimated.

Cumulative Impact

9. In summary, whilst many aspects of the policy intentions of the government reforms to funding for social care are welcome, the cumulative impact of the current proposals represent a very significant risk for Surrey County Council, residents and Adult Social Care providers. This includes:
   - Surrey County Council will need to effectively engage with an additional 9,500 – 12,000 older people who currently self-fund their own care on top of the 5,800 older people whose care the council already funds. Over time Surrey County Council will fund some of the care costs for a sizeable proportion of these self-funders because of the charging reforms.
   - The amount of income Surrey County Council receives will reduce from people whose care is currently funded by the Council from October 2023 due to the increase to the capital threshold limits – work is underway to estimate the impact. There is also a risk of increase debt for Adult Social Care assessed charges.
   - The fees Surrey County Council pays for social care packages will increase because of the reforms, particularly for older people care homes and home care services across all client groups. The Council may have to increase fees if the Cost of Care exercises determine that current fees are below the assessed 'fair' prices for services. Regardless of the outcome of the initial Cost of Care exercises, Surrey County Council's fees are likely to have to increase above general inflation to maintain market viability as the Council's market share increases.
   - Surrey County Council will need to substantially increase its Adult Social Care workforce and staffing resources in other parts of the Council to manage the increased demand for social care and financial assessments and the broader impacts of the reforms. There will also be increased resource requirements across the Council as a result of the reforms. Work is underway to determine the additional resources needed to implement the reforms as well as the long-term impact on our workforce. The ability to recruit the additional staffing resources required in the timeframe proposed by government is incredibly challenging given current workforce challenges. For instance the Council currently has a vacancy rate of circa 25% for social worker posts and circa 13% for senior social worker posts. The workforce challenges will be compounded by the fact all authorities will be seeking additional resources at the same time.
   - As set out in more detail in the financial implications section of this paper, there is expected to be a huge financial impact on the Council because of the reforms and current government funding is considered grossly insufficient to fully cover the costs of these new burdens. This is in addition to the already insufficient national funding for existing Adult Social Care inflationary and demand pressures, which are rising sharply post pandemic and in the current economic climate.

10. If the government does not address the funding shortfall, workforce challenges and ensure a realistic phased timeframe for implementation of the reforms, there is a serious risk that the Adult Social Care system nationally and in Surrey could be critically destabilised, and beyond that the sustainability of the Council and many other local authorities, particularly county councils, could be materially threatened.

Planning for Implementation

11. The Adults Leadership Team set up an initial Adult Social Care Charging Reforms steering group, chaired by Michelle Head, Area Director Adult Social Care. This will be replaced by a new formal programme board commencing in September entitled Putting People at the Heart of Care chaired by Liz Bruce, Joint Executive Director, Adult Social Care & Integrated Commissioning. This programme board will oversee the implementation of the charging and Fair Cost of Care reforms in Surrey and also ensure the Council is fully prepared for the new CQC assurance regime. The board will include relevant corporate representation from across the Council.

12. A number of workstreams have been set up to undertake the detailed planning needed to support implementation of the government's reforms as follows:

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Workstream	Lead
Financial modelling	Wil House
Communications/information and advice	Laura Downton/Toni Carney
Lobbying strategy and cross authority collaboration	James Ashton-Bell
Fair Cost of Care and market impact	Jon Lillistone
Systems and operational processes	Toni Carney
Workforce and training	Hannah Dwight

13. The Adults Leadership Team is working to formalise the programme management arrangements for this large scale reform. The latest assessment of the expenditure required to implement the reforms is set out in Annex 2 and is commented further on in the financial implications and value for money section of this paper. We will also be widening participation to include the Voluntary Community and Faith Sector and wider stakeholders where appropriate.

14. The Council sees the charging reforms as an opportunity to transform our ways of working. Some of the key areas of collaborative working across the Council, being supported by members of the Council Leadership Team (CLT) include:

- Continuing to work with our regional partners to agree financial modelling and a cross authority lobbying strategy.
- Transforming our front door via a digital self-service approach to manage the increase in demand as efficiently as possible, as well as maintaining support for those who are less able to use online tools.
- Recruiting the significant additional workforce needed by exploring alternatives to traditional roles in adult social care, along with investing to equip staff with the required knowledge and skills to embed the changes and processes.
- Working with our IT supplier(s) to influence IT system design. There are positive early indications that the core IT systems used by ASC will be upgraded by our IT suppliers in time to deliver the functionality needed to manage the Care Accounts
- Delivering a communications campaign, supported by a robust information and advice offer to ensure Surrey residents and other stakeholders understand the changes and what they will mean for them.

- Engaging with the market to complete the Fair Cost of Care submission and manage the changes.

Duty for Care Quality Commission to Assess Councils

15. In the Health and Care Bill, that received Royal Assent in April 2022, there is a new duty for the Care Quality Commission (CQC) to assess how well councils are fulfilling their social care duties. CQC have been developing a new assurance framework and have been consulting with Local Authorities and Integrated Care Systems. There will be a single assessment framework covering all types of providers. For local authorities the framework will focus upon Part 1 of the Care Act. The CQC will start to roll-out their new framework from April 2023.

16. In preparation for the new assessment framework, Adult Social Care has:

- Led on the development of a South East Association of Directors of Social Services (ADASS) adult social care finance and performance dashboard which is updated quarterly. This enables us to benchmark how we are performing against others and supports sector led improvement.
- Undertaken a self-assessment using the TEASC tool (Towards Excellence in Adult Social Care). The findings of this were presented to the Adults Leadership Team in February. This has given us the assurance that any risk areas are covered by our transformation programmes, funding reform work and regular performance and financial monitoring.
- Officers actively involved in the ongoing consultations with CQC and linked into regional and national forums e.g. Local Government Association.
- A lead Area Director for Quality and a Quality of Practice Steering Group that meets monthly.

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Consultation:

17. Surrey County Council is proactively engaging through a number of routes to positively influence and better understand the detail and implications of the government's policy proposals. This engagement includes:

- Active participation in Department of Health and Social Care's (DHSC) funding distribution group and DHSC's market sustainability and fair cost of care group.
- Consultation with the National Association of Financial Assessment Officers (NAFAO) by the Council's Financial Assessment and Income Collection team about charging implications.
- Surrey County Council's Finance team has set up and will chair a financial modelling group of county councils with similar characteristics and demography.
- Agreement to set up a regional ADASS-lead group to collaborate on the information and advice offer.
- Regular collaboration with County Councils Network (CCN), Local Government Association (LGA) and ADASS contacts and networks, including Chief Execs Group of county councils with high self-funders.
- Close collaborative working with the Surrey Care Association related to the Fair Cost of Care agenda, including planning how to conduct the stipulated cost of care exercises.

18. Surrey County Council responded to the government's consultation about the operational guidance to implement a lifetime cap on care costs at end March 2022.

19. Adults and Health Select Committee received a briefing on the government's Adult Social Care charging reforms on 4 May 2022.

Risk Management and Implications:

20. The charging reforms and Fair Cost of Care policies represent the biggest change to the Adult Social Care system in England for decades. Local authorities, including Surrey, are preparing to implement the policy objectives but will need:

- Resolution of the aspects of the policy agenda that remain unclear and/or are contradictory.
- Sufficient funding to cover the true additional costs of the new policies.
- A realistic timeframe to implement the new policies, including to recruit additional staff.

Without these things, it will be challenging to implement the reforms in a way which meets the government's intended policy objectives and it will present a significant risk to the Council.

21. There is a significant risk the governments adult social care reforms will add to the financial pressures for the Council if additional funding is not made available from central government. The current Adult Social Care system is already considerably underfunded so any increase in the funding gap is a major concern. The effects of this could include:

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- The Council being unable to meet its' statutory obligations to provide social care to all residents with eligible social care needs.
- Increased costs to the Council for the reforms impacting on other Council services. Initial high level modelling indicates potential additional costs for Surrey County Council of between £117m - £309m by 2027/28 rising to between £215m - £508m by 2033/34. This is an increased budget requirement of between 29-77% by 2027/28 rising to 53-126% by 2033/34.
- Delays in hospital discharges due to lack of affordable social care provision/market impact.

22. There is a significant risk that the charging reforms will create unmanageable demand pressures for Adult Social Care, not least because of the challenges in recruiting the additional resources necessary to implement the reforms. The effects of this could include:

- Backlogs of eligibility and financial assessments.
- Urgent case-work may be overlooked resulting in people not receiving support.
- Failure to meet our statutory responsibilities.
- Reputational damage to the organisation.

Financial and Value for Money Implications:

23. The reforms will impact significantly on Surrey County Council and represent a significant risk to the Council's financial sustainability. The latest best estimate is that Adult Social Care's caseload could increase by about 9,500–12,000. The Council will face increased costs due to:

- Changes in the means test and associated capital threshold limits reducing income received in assessed charges from many people whose care is currently funded by Surrey County Council and requiring the Council to fund a proportion of the care cost for current private self-funders who have relevant assets of less than £100,000. Indeed the changes to the means test will have a much more immediate financial impact than the care cap and Newton Europe's analysis for the County Councils Network indicated that the impact of these changes would be much greater for Surrey than for many local authorities.

- Funding care for people once they have metered in full to the £86,000 care cap.
- Increased workforce and other resources needed to implement the reforms.
- Increases required in the fees that Surrey County Council pays for care packages to maintain market sustainability as the Council's market share increases (currently around 60-70% of older people fund their own care) and accentuated by the government's Fair Cost of Care policy agenda.

24. The overall financial impact on Surrey County Council of these reforms will be determined by three issues as set out below.

25. Firstly, the cost to the Council of the changes. It is very difficult to predict costs at this stage because there is a lack of readily available data about people who currently fund their own care in Surrey, the Fair Cost of Care exercises for older people care home and 18+ home care services have not yet been conducted and workforce and other resource requirements are still in the early stages of being planned. As such, it is only possible currently to undertake very high-level scenario planning of potential cost impacts, which inevitably produces a very wide possible cost impact range.

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26. Latest very high-level scenario estimates for the combined potential impact of the charging and Fair Cost of Care reforms are set out in the table below. Workforce related costs have been inflated by 3% year on year and care related costs inflated by 5% year on year in this analysis.

Scenario	Total potential additional cost to SCC per year by 2027/28 5 years post implementation	Total potential additional cost to SCC per year by 2033/34 11 years post implementation**	Total potential cumulative additional cost to SCC 2022/23 – 2033/34
Lower	£117m	£215m	£1.4bn
Medium	£199m	£338m	£2.4bn
Higher	£309m	£508m	£3.7bn

*** initial estimated period when a new "steady state" system is reached*

27. The medium scenario is currently considered the most likely, although a lot more detailed modelling work is required as part of the 2023/24 budget and 2023-28 Medium Term Financial Strategy (MTFS) planning process to refine these estimates. The work recently undertaken by Newton Europe on behalf of the County Councils Network[2] and referenced in Annex 1 estimated the cost impact to Surrey as between the lower and medium scenarios set out above, although this did not include the potential cost impact of Fair Cost of Care policies for home care services or potential wider resourcing requirements beyond social workers and financial assessors.

28. Secondly, whether the total funding quantum provided by government is sufficient to meet the full cost of the new burdens on local authorities caused by the charging and Fair Cost of Care reforms. Currently, the government has confirmed £162m of Fair Cost of Care funding and £15.5m of support for implementation funding nationally in

[2] New analysis reveals the regional impact on local councils of the government's flagship adult care reforms - County Councils Network

2022/23. Proposed national funding rises to £1.4bn in 2023/24 and £2bn in 2024/25 with funding beyond that yet to be published. It has been widely commented that this proposed level of funding is grossly insufficient. Newton Europe's report for CCN estimated a national funding gap of £10bn - £13bn over 10 years compared to the government's impact assessment, and as noted earlier Newton's modelling did not even include all potential cost impacts of the reforms. There is a very serious risk therefore that the government may not provide sufficient funding to meet the total additional cost across all local authorities to achieve the policy objectives.

29. Thirdly, how funding is distributed between authorities. Adult Social Care funding is often allocated across authorities using the current Adult Social Care relative needs formula which looks at the size of an area's population and adjusts this based on factors such as deprivation to estimate the relative state funded social care population and then adds an area cost adjustment recognising that the cost of delivering Adult Social Care services will differ across the country. This formula is fundamentally rooted in the current Adult Social Care system before implementation of the charging and Fair Cost of Care reforms is considered.

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30. A completely new approach is required to distribute funding for the charging and Fair Cost of Care reforms fairly between authorities, recognising that authorities with the largest numbers of people who fund their own care under the current system will very likely face the largest relative additional cost pressures under the new system. Due to the high number of people in the county who currently fund their own care, Surrey is one of the authorities likely to be most severely impacted by the reforms financially. This has been confirmed through reviewing the work undertaken by Newton Europe on behalf of CCN, and so it is paramount that a new equitable and evidence based approach is implemented to distributing funding for the reforms. Without this there would be a very substantial risk that Surrey County Council could receive a much smaller allocation of funding than should be the case based on Surrey's relative share of the total additional cost impact nationally.

31. A lot of work is underway to progress and refine modelling for the cost of the reforms to a narrower potential cost range and to seek to influence government about both the total funding quantum and the basis for allocating funding between authorities. Surrey has set up a modelling group of Adult Social Care finance leads from county councils with similar characteristics (following the creation of a Chief Executives group on the ASC reforms for these authorities) and is actively participating in working groups about different aspects of the reforms with the Department of Health & Social Care and other key stakeholders such as the Association of Directors of Adult Social Services (ADASS) and the Local Government Association. This work is being used to inform the Council's planning for and cost modelling of the reforms which will be fed into the 2023/24 budget and 2028-28 MTFS planning process.

32. In relation to financial impacts, it is important to note that there is very likely to be an additional cost above government funding in the current 2022/23 financial year. Annex 2 sets out the latest spending requirement in 2022/23 to implement and embed the charging and Fair Cost of Care reforms. £3.9m of expenditure is estimated to be required in 2022/23. £0.8m of government funding has been confirmed that could be used towards these costs and a further £0.3m of funding is available from ASC's base budget or transformation programme expenditure already approved. This therefore leaves an estimated funding gap in 2022/23 of £2.9m. As part of this paper, Cabinet is therefore asked to confirm approval for funding of up to £2.9m to be drawn down from the Council's Budget Equalisation Reserve as required based on actual expenditure. A new cost centre has been set up in the Adult Social

Care directorate to capture all costs associated with the reforms so that the actual additional expenditure requirement in 2022/23 can be closely monitored.

33. There is a further additional cost risk in 2022/23 relating to the outcome of the Fair Cost of Care exercises that are currently in the process of being conducted for older people nursing and residential care services, and all age home care services. It is assumed that the cost of responding to the outcomes of these exercises will be contained within the Fair Cost of Care funding due to be provided by government in 2022/23. The Council's funding allocation is £2.7m. 25% (£0.7m) of this funding can spent on implementation activities associated with preparing markets for reforms and as set out in Annex 2 it is assumed the Council will use the full allocation for this purpose. The remaining 75% (£2m) of 2022/23 Fair Cost of Care funding must be used to increase Surrey County Council fees if they are determined to be below the 'fair' cost of care.

34. A subsequent report will be brought to Cabinet in September that will confirm the outcome of the cost of care exercises and recommend for Cabinet approval how the Council's Fair Cost of Care funding should be spent. The Council will need to work closely with the provider market to achieve a difficult balance between an outcome that is sustainable for providers and affordable for the Council within allocated government funding.

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35. Annex 2 also presents indicative costs for 2023/24 and 2024/25 associated with implementing and embedding the charging and Fair Cost of Care reforms. This is subject to ongoing work to shape the planned response to the reforms and so costs for future years remain very much indicative at this stage. It is assumed these costs will be funded out of the funding government provides for the reforms in future years. This will be considered and confirmed as part of the MTFS budget planning process for 2023/24 and beyond. It is important to note that these implementation costs do not include additional ASC care package expenditure or changes to assessed charges income.

Section 151 Officer Commentary:

36. Although significant progress has been made to improve the Council's financial position, the financial environment remains challenging. The UK is experiencing the highest levels of inflation for decades, putting significant pressure on the cost of delivering our services. Coupled with continued increasing demand and fixed government funding this requires an increased focus on financial management to ensure we can continue to deliver services within available funding. In addition to these immediate challenges, the medium term financial outlook beyond 2022/23 remains uncertain. With no clarity on central government funding in the medium term, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.

37. In this context the Section 151 Officer would highlight the acute financial risk that the implementation of the charging and Fair Cost of Care reforms poses to the Council. The Finance team will continue to work proactively with Adult Social Care and other services to model the financial cost of the reform. They will work collaboratively with other authorities and key stakeholders to seek to positively influence government policy specifically in terms of the funding quantum and distribution and on issues such as the timing of implementation and key operational policy guidance.

38. If the government does not ensure sufficient national funding, a fair funding distribution and a realistic timescale for implementation, there is a serious risk that the planned Adult Social Care reforms will not achieve their objectives and may place unreasonable financial burdens on authorities.

39. If the current proposed government funding remains unchanged, and the potential additional cost impacts do prove to be close to the midpoint of current modelling then the Council will likely need to make some difficult policy decisions to ensure the Council continues to remain financially sustainable and lives within its available resources.

Legal Implications – Monitoring Officer:

40. As matters stand the detailed regulatory framework to support the proposals has yet to be finalised and published and Cabinet is therefore asked to note the approach being taken by the Authority to the broad reforms.

Equalities and Diversity:

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41. An Equalities Impact Assessment (EIA) will be undertaken as we understand more about the detail and implications, of the forthcoming government reforms. The EIA will explain how the government proposals and our plans for implementation will impact on residents and staff with different protected characteristics.

Other Implications:

42. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	**Direct Implications:**
Corporate Parenting/Looked After Children	No direct implications.
Safeguarding responsibilities for vulnerable children and adults	No direct implications.
Environmental sustainability	No direct implications.
Compliance against net-zero emissions target and future climate compatibility/resilience	No direct implications.
Public Health	No direct implications.

What Happens Next:

43. An All Member briefing on the ASC Charging and Fair Cost of Care Reforms has been arranged for 12 September 2022.

44. Cabinet sign-off in September of the Fair Cost of Care submission prior to the initial submission on 14 October 2022 and then final market sustainability submission in February 2023.

45. Subject to the final regulations and any statutory guidance, it is likely that public consultation on revisions to the Council's Charging Policy will be required prior to

implementation of the reforms. A change in the treatment of tariff income from capital mentioned in paragraph 5 above (last bullet point) for those people receiving support at home, may require consultation if there is a negative impact for some people. Further details will be provided at the earliest opportunity.

Report Author: Michelle Head, Area Director Adult Social Care, 01372-833785

Consulted:

- DHSC funding distribution group and DHSC's market sustainability and fair cost of care group.
- National Association of Financial Assessment Officers.
- DHSC Task and Finish group to interpret consultation feedback and improve guidance.
- Financial modelling group of county councils with similar characteristics and demography.
- Regular collaboration with CCN, LGA and ADASS contacts and networks, including Chief Execs Group of county councils with high self-funders.
- Surrey Care Association related to the Fair Cost of Care agenda.
- Adults and Health Select Committee.
- Council Leadership Team and Informal Cabinet.

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Annexes:

Annex 1 - Market Analysis
Annex 2 – Latest estimated expenditure required to implement and embed ASC charging and Fair Cost of Care reforms

Sources/background papers:

LaingBuisson-Impact-Assessment-of-Section-183-FCC-FINAL.pdf
Preparing-for-Reform_CCN-Newton_Final-Report.pdf

Annex 1 – Market Analysis

Analytical work by LaingBuisson focused on the impacts of the Fair Cost of Care leading to the equalisation of costs for both private and state funded care for older people care residential and nursing care homes. The work used three benchmark scenarios to provide estimates for the new cost of care at a lowest possible, highest possible and mid-point. Key headlines were:

- The overall cost per year to councils ranges from a 'floor' of £783m to a 'ceiling' of £1,681m, compared to the government funding allocation of just £378m. This is in line with the conclusion of the Competition and Markets Authority (CMA), who estimated the full cost of care for all residents would cost local authorities an additional £900m to £1,100m a year.
- At the mid-point, County Councils Network (CCN) authorities represent 80% of the total funding shortfall across all English councils.
- The lost revenue to care providers could amount to £560m a year. Care England says that the funding allocated so far could lead to 'catastrophic financial failure' for its providers.
- CCN is calling on the government to bring forward funding for local government in the Health and Social Care Levy to 2023, to pay for the additional mid-point £854m a year required.

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LaingBuisson also ran estimates for the impact of government invoking Section 18(3) of the Care Act which allows for those who self-fund to seek assistance through local authorities to secure their care. While it is unclear how many self-funding residents will take up this assistance, LaingBuisson has used a 50% assumption. Key headlines were:

- Assuming local authorities commission at the midpoint Fair Cost of Care and 50% take-up from self-funders, CCN County and Unitary authority areas account for 73% of all lost revenue to providers, reflecting these council areas geographical spread within the South-East, South-West and East of England and high levels of self-funders.
- Lost revenues to providers in the south could leave councils struggling to find beds for those who require care and trigger a deterioration in the variety and quality of care available across both local authority and private placements.

LangBuisson's work only focused on older people residential and nursing care homes. There is likely to also be a sizeable funding gap related to Fair Cost of Care policies for home care services delivered in people's own homes, but this is much harder to estimate as there is much less data available about self-funders receiving care in the community. It should be possible to form a clearer picture of the potential cost impact of care in the community, both for Surrey and nationally, following completion of the Fair Cost of Care exercises for home care services across local authorities.

Newton Europe and the CCN published a major piece of research on the implementation of the Adult Social Care reforms in May 2022. Key findings include:

- The cost of the care reforms, including the cap and means-test for over 65s, new 'fair cost of care' and administrative overheads in England could cost between £29bn - £32bn over the next decade.
- This compares to the government's impact assessment of £19bn over the same period, leading to a funding gap of between £10bn - £13bn over the first ten years post implementation. The areas of greatest difference from Newton Europe's modelling compared to the government's impact assessment are the assessed impacts of the Fair Cost of Care policies and the impact of the changes to the means test.

- There is a significant regional variation in the costs of implementing the reforms, with councils in county and rural areas disproportionately impacted.
- An additional 4,300 social work staff and an additional 700 financial assessment staff could be required nationally to carry out the additional Care Act assessments, reviews, and case management, on top of a current vacancy rate of 1,782. This assumes no change to the current operating model.
- It is estimated county councils and rural areas could face the biggest financial and workforce challenges. CCN members account for over 56% of the total cost impact modelled by Newton Europe.
- The South East is the region most acutely impacted by the reforms, with Surrey potentially one of the authorities most affected in the country based on further following up conversations with Newton Europe.
- In order to properly fund these reforms, the government could potentially need to spend half of the Health and Social Care Levy by 2032 on these proposals alone, irrespective of other social care pressures in the system.
- In addition to ensuring appropriate funding, the report makes several other key recommendations that align with Surrey's own lobbying. These include the need for a national recruitment campaign, the phasing of components of the reforms to give local authorities, providers, and residents the necessary time to prepare for the effective implementation of the reforms and for a clearer national communications plan with residents to ensure information published about the reforms more clearly aligns with the reality of the costs self-funders will remain liable for under the new system.

Annex 2 – Latest estimated expenditure required to implement and embed ASC charging and Fair Cost of Care reforms

N.B. Does not include additional ASC care package expenditure or changes to assessed charges income

Cost category	Summary description	2022/23		2023/24		2024/25	
		£000	FTEs*	£000	FTEs*	£000	FTEs*
Programme Management Office	Senior lead for the reforms, Programme manager and project officers	234	4.00	276	4.00	284	4.00
Communications/ Information and Advice	Comms campaign costs, Info & advice staffing including in Contact Centre and in external VCF partners	260	7.00	319	7.00	179	7.00
Financial Modelling and Support	Finance staff to support with modelling and monitoring ASC reforms expenditure	158	2.00	228	2.00	235	2.00
Fair Cost of Care and Market Impact	Design, implementation and ongoing maintenance of a new ASC market management system. Staff and other costs to complete FCoC and market activities.	619	6.00	403	6.00	138	2.00
Systems and Operational Processes	Purchase, development of and ongoing support for new digital client portal and other key systems for charging reforms. Additional legal resources for reforms.	686	10.00	578	10.00	421	7.00
Charging Reform Team	Creation of a new centralised team in ASC to manage and triage eligibility assessments, financial assessments and appeals associated with charging reforms	1,420	79.00	5,209	115.00	5,391	115.00
Recruitment and Training	Additional staff to lead on recruitment for ASC reforms roles, recruitment campaign costs and trainers for ASC reforms. Includes a cohort of 10 newly qualified social workers and a practitioner specialist lead	541	18.00	904	18.00	885	18.00
Growth in wider ASC workforce	There will undoubtedly be a requirement for growth in ASC's wider workforce as a result of the reforms. This is still in the process of being planned. It is anticipated that the expenditure requirement will generally be from 2023/24 onwards.	TBC	TBC	TBC	TBC	TBC	TBC
CQC Inspection regime	The ASC directorate has begun planning for the new CQC inspection regime for ASC services. To date the assumption is that complying with the regime will be accommodated within existing ASC budget resources, but this will continue to be reviewed as plans develop.	TBC	TBC	TBC	TBC	TBC	TBC
Latest total estimated required expenditure / FTEs		**3,918**	**126.00**	**7,917**	**162.00**	**7,533**	**155.00**

Current funding confirmed for reforms

	2022/23	2023/24	2024/25
Government provided Charging reforms implementation funding	107	TBC	TBC
Government provided Fair Cost of Care funding**	675	TBC	TBC
ASC base budget / existing ASC transformation funding	285	TBC	TBC
Total funding currently identified	**1,067**	**TBC**	**TBC**
Costs that require additional SCC funding	**2,851**	**TBC**	**TBC**

** FTEs planned to be recruited by the end of each financial year including contractors*

*** It is permissible for SCC to spend 25% of its FCoC funding on implementation activities associated with preparing markets for reform*