

CABINET
15 NOVEMBER 2018**FORWARD LOOK AT ADULT SERVICES**

Relevant Cabinet Member

Mr A I Hardman

Relevant Officer

Director of Adult Services

Recommendation

- 1. The Cabinet Member with Responsibility for Adult Social Care recommends that Cabinet:**
 - (a) notes the current and forecast demand and financial pressures for the provision of Adult Social Care, which is significant both nationally and locally, as set out at Appendix A;**
 - (b) notes the recent reports by the Competition and Markets Authority (November 2017) into the viability of the adult care market and recent National Audit Office report 'Financial Sustainability of local authorities 2018';**
 - (c) endorses the direction of travel within Adult Social Care to manage demand and improve people's independence, as set out in 'Promoting Independence: Our Vision for Transforming Adult Social Care in Worcestershire' and the Worcestershire Market Position Statement as set out at Appendices B and C;**
 - (d) notes and endorses those policies and procedures set out at paragraphs 9-23 and Appendix D, and authorises the Interim Director of Adult Services to take all necessary steps to implement them;**
 - (e) requests a report on the Council's response to the Green Paper on care and support for older people, which has been announced for publication in Autumn 2018, and at the point of discussion of this report indicating a preferred direction of travel; and**
 - (f) requests that the value of the care sector as wealth-generating businesses and as an employer is recognised in the development of economic and regeneration policies within the County.**

Background

2. Worcestershire County Council's Corporate Plan "*Shaping Worcestershire's Future,*" sets out its four key priorities to guide the work of the Council and our relationship with individuals, families, communities and partners over the next five years.

3. Apart from *Promoting Health and Well-Being* being a priority in its own right, the Corporate Plan recognises the impact that the other priorities have on the wellbeing of our residents and it is our priority, working with partners, to ensure Worcestershire residents are healthier, live longer, have a better quality of life and remain independent for as long as possible.

4. This priority is supported by local residents as recent consultations with residents and local businesses make it clear that one of their top priorities remains "*Protecting vulnerable adults – particularly those older people with physical learning and mental health difficulties.*"

5. Our focus for Adult Social Care is to keep people with care and support needs and those that support them as independent as possible, enabling people to remain active members of their community and to continue to make a contribution. The aims within our vision will be achieved by working with partners to provide the framework, support and guidance to enable people to live healthy, independent lives, and be as active for as long as possible, whilst ensuring we can provide the best support that people need in times of crisis. In order to deliver our vision we will:

- *Assess and meet Care Act eligible need and commission and deliver services that meet that need directly or through the independent and voluntary sectors*
- *Prevent, reduce and delay the need for care*
- *Engage with the provider market to ensure that they are aware of and can meet current and future need*
- *Ensure a robust safeguarding system is in place to protect vulnerable adults.*

6. 'Promoting Independence: Our Vision for Transforming Adult Social Care in Worcestershire' is a three year business plan that sets out how we will deliver our core offer, our key strengths and areas for development, the outcomes we will achieve and our key performance indicators so we know if we are making progress.

7. This business plan will be reviewed on an annual basis and we also intend to produce a local account of how well, or otherwise, we are making progress on the business plan on an annual basis. This will be a publicly available document and will therefore bring additional transparency and scrutiny to the Directorate. The business plan is set out in Appendix B to this report.

8. As part of a statutory requirement the Directorate should, and does, engage with the market so that local providers understand what outcomes, and therefore what services, we are likely to commission and procure in the future. We have now produced a refreshed Market Position Statement (MPS) which also includes some material from our Clinical Commissioning Group (CCG) colleagues, so that local, regional and national providers can begin to shape their businesses to provide what we are likely to need over the next 3-5 years. Again, the MPS will be refreshed on a regular basis to inform the market about demographic and trend changes and information. The MPS is set out in

Appendix C to this report.

9. In the interests of transparency and establishing consistent practice standards, a set of policies is set out at Appendix D. The relevant policy statements and purpose of these documents are included in paragraphs 10-22 below. These policies cover:

- Carers
- Choice of Accommodation
- Integrated care
- Transport
- Charging for services - *including financial assessment, deferred payment agreements and disability-related expenditure.*

Carers Policy

10. This policy outlines Adult Services' key responsibilities in relation to carers as prescribed in legislation and provides local guidance as to how we expect staff to discharge those responsibilities.

11. Under Care Act 2014 guidance, a carer is 'Somebody who provides support or who looks after a family member, partner or friend who needs help because of their age, physical or mental illness, or disability. This would not usually include someone paid or employed to carry out that role, or someone who is a volunteer.'

Choice of Accommodation Policy

12. The purpose of this policy is to provide guidance on supporting people with choice of accommodation, and contains essential information on the legislation related to the Council's responsibilities for people entering specified types of care accommodation.

13. Moving into care accommodation is a major decision in anyone's life, and it is important both for the individuals involved and their families that they receive appropriate support with decision making, and adjusting to significant life change.

Integrated Care Policy

14. The National Framework for the NHS Continuing Healthcare (2012) guides the NHS and Local Authorities to consider the need for integrated packages of care for those people found not eligible for NHS Continuing Healthcare (CHC). This policy sets out the process and funding arrangements in place when agreeing an integrated package of care and the underpinning governance arrangements required to support this agreement.

Transport Guidance and Procedures

15. The aim of the Adult Social Care Transport Guidance and Procedures is to give clear and concise guidance on eligibility for transport assistance to ensure Worcestershire County Council ("the Council") is consistent in its approach and complies with the statutory duties set out in the Care Act 2014.

16. The guidance sets out clear criteria which front line staff responsible for assessment and support planning will use to determine whether an adult will be provided with transport assistance from the Council and how transport will generally be provided.

17. The overarching principle of the guidance is to promote safe and independent travel wherever possible using an adult's own strengths and community assets. Where transport assistance is assessed as needed, the aim is to ensure it is cost effective and offers good value for money in line with the Council's strategic aims.

Deferred Payment Agreement Policy

18. This policy aims to support the financial assessment process, making charging fair and consistent for all service users in accordance with guidelines, set out by Central Government. The Council must comply with the Department of Health's Care and Support Statutory Guidance, issued under the Care Act 2014, ensuring that there is equitable charging, taking into consideration a person's assets; this may be both their capital and income.

19. When undertaking a financial assessment, the Council may identify circumstances that may suggest a person may have deliberately deprived themselves of assets in order to reduce the level of contribution they make towards their care and support, or secure assistance in paying for their care and support from the Council.

20. Where the Council considers that deliberate deprivation may have occurred, the Council will have regard to this policy, which is written in accordance with Annex E of the Department of Health Care and Support Statutory Guidance, issued under the Care Act 2014.

Charging Policy for Care and Support

21. This policy aims to make charging fair and consistent for all service users in accordance with guidelines, set out by Central Government. The Council must comply with the Department of Health's Care and Support Statutory Guidance, issued under the Care Act 2014 and ensure that there is equitable charging and is written in line with The Care and Support (Charging and Assessment of Resources) Regulations 2014.

22. Full cost charging is applied to those who can afford it and service users will only ever be charged their maximum assessed charge for means tested services. The policy applies equitable charging for service users whether using a personal budget as a direct payment or receiving Council-commissioned services.

23. Cabinet is requested to note and endorse these policies, appended at Appendix D and summarised above - this is important to enable Adult Services to ensure that there is consistent application of the policies and makes clear to the public the detail of how decisions are reached.

Financial Position

24. Nationally, the 152 Councils with statutory responsibility for adult social care are overspending by about £1bn annually. To date Government has responded by allowing Councils to raise a precept for adult social care (of up to 6% over 3 years) and by one-off

grants such as the Improved Better Care Fund (iBCF). However, these funds are not recurrent. The iBCF can be used to meet social care needs, reduce pressures on NHS services and stabilise the social care provider market in the short-term. Whilst these sums of money have been useful this does nothing to enable longer-term planning around the future of adult services.

25. The challenges facing adult services at a local level are known and acknowledged. The Leader of the Council and Cabinet Member with Responsibility for Finance highlighted these in the Budget and Council Tax report to Cabinet in February 2018. Cabinet will also be aware of the very significant in-year pressures that were reported to Cabinet on 27 September 2018. The Adult Social Care budget for 2018/19 is forecast to overspend, before management action is taken, by around £15m. This overspend has arisen due to a combination of:

- demographic and market pressures across the service
- Market Forces Factors, and
- Accumulated savings targets not achievable in 2018/19.

Demographic and market pressures across the service

26. This is expressed in two different ways, volume and complexity:

Increasing volume due to:

- An ageing population,
- People who previously funded their own care, becoming eligible for care due to depleting resources, and
- Younger people with disabilities becoming eligible for Council funding or later in life as their own parents become infirm.

Increasing complexity due to:

- Increased frailty of older people needing more intensive care
- People with more profound disabilities living longer into adulthood and needing more intensive care as they get older.

Going forward, the number of older adults (aged 65+) is projected to increase substantially. The increase is accounted for by a rise in the number of people in the very oldest age groups coupled with the fact that people in Worcestershire are generally living longer. The number of people in the oldest 75+ age group is projected to increase from 60,000 to 79,000 between 2018 and 2025. People in the oldest age group are likely to have higher needs associated with frailty, comorbidity and living alone. This is an increase of 19,000 people or a percentage increase of 32%. The Health and Well-being Board received a detailed report and joint strategic needs assessment on 25 September 2018 which clearly laid out the demographic pressures.

27. In addition to the general rise in older population numbers, there is the impact of older people who have been financing their own care and because of depleting resources, become eligible for state funded care. In 2017/18, there were 274 people in self-funding care that became eligible for local authority care from the Council.

28. There is also the impact of those people who were previously funded by health under Continuing Health Care (CHC). Under the CHC regulations, those with a primary

health need are funded by Health. If they are assessed as having a primary social care need, they are funded by Social Care. However, depending on the assessment criteria, people do pass between health and social care funding. In 2017/18 there were 97 people who transferred from CHC to Social Care funding.

29. In Learning Disability Services, using the data from the current 18-25 year old cohort, there are on average 37 new packages per year as a result of young people transitioning into Adult Services. During 2017/18 there were 29 deaths of people with Learning Disabilities.

30. As an estimate, there are therefore an **additional 8 service users** each year. Due to the changing needs of the Learning Disability population with younger service users tending to have more complex needs and new packages likely to be at a higher cost than more established packages, there are also forecast to be higher average costs for the 37 new packages than the 29 ended packages.

Market forces factors

31. Market forces affect the ability of providers to offer care packages and placements at the Council's standard rates – including from 2016/17 the rise in national living wage. Appendix A sets out these pressures in more detail.

Savings Overview

32. We are working on the assumption that there will be a need to rebase the Adult Care budget in setting the 2019/20 budget to reflect the current level of spend. The services will continue to face significant pressures from demand and complexity also in future years that could grow faster than our funding. As such the service is looking at ways it can curtail costs and make efficiencies through reforms. Further details on this will be set out in the budget setting papers presented to Council in February 2019. This forward looking strategy sets out the pathway to manage costs.

Project	Savings Target
	£000's
Securing CCG funding for S117 service users – unable to secure CCG agreement.	900
Reduce further spend on external contracts – double counting of corporately set target against Directorate commissioning targets	882
Supported Living – opportunities are diminishing as time progresses due to reduction in suitable service users with Learning Disabilities.	310
LD Day Services (inc Replacement Care) – due to consultation findings endorsed at Cabinet June 2018.	350
Outcomes Based Commissioning – Domiciliary Care – savings opportunity diminished as a significant increase in lower cost providers in the market	775

33. The following table sets out the current forecast savings plan including delivery of £6.1m savings against the existing plan for 2018/19 and additional savings/efficiencies of £0.9m identified to offset the in-year budget pressure:

Project	2018/19 £000's	2019/20 £000's	2020/21 £000's	2021/22 £000's
Supporting service users to move to Extra Care residences	140	140		
Review of LD Day Services (inc. Replacement Care)	100	511	261	
Supporting services users to move to Supported Living residences	297	300	130	130
Secure grant funding to support provision of aids and equipment	375			
Commissioning in House Residential Care	120			
Case Management Approach for Continuing Health Care Funding	1,000	500	500	500
Roll Out of 3 Conversation Model, strengths based approach to social work	649	1830		
Use of Technology to promote independence of service users within home, residential and supported living environments	115	235		
Reviews of current care packages – with a view to increasing independence	820	380		
Ensuring appropriate application of the Choice Policy	379			
Review and Manage Provider Fees within Budget	1,500			
Joint Commissioning Advocacy Services	50	50		
Cessation of Housing Support provision for Mental Health	288			
Full cost recovery for external provider training	90	90		
Maximising benefits income for service users	171	165	170	
Introduce charging for brokerage support for self-funders	10	35		
Further spend control activities within adults social care – inc. vacancy management and procurement card spend.	465	465		
Capitalisation of transformation resource	250	250		
Reduce commissioning unit	106	163		
Review of staffing structures related to integrated teams	60	180		
Review of rapid response and out of hours service provision		200		
Review of sensory impairment support		45		
Review of non-statutory advocacy support for people with learning disabilities	18	54		
Totals	7,003	5,854	800	630

Additional Budget Risks

34. In November 2017 the Competition and Markets Authority (CMA) published a report on the care home market, which is worth £15.9bn a year nationally, The Care Act 2014 places a duty on the Council to shape the local provider market by facilitating and promoting markets for the whole population i.e. those who are state funded and those who are 'self-funders'. The CMA report states that the current model of service provision is unsustainable without extra public funding and that providers of local authority-funded residents could not continue on current payment levels. The CMA estimates that the national cost of paying the true cost of care is around £1bn nationally, which is the estimated overspend of social care authorities.

35. The Worcestershire context is slightly different to the national picture with more small family-owned businesses which are arguably less likely to be able to weather any financial problems as they may not have reserves or be able to use assets in the way that a larger provider could. Any provider with more than 25% Council funded residents faces risks about covering more than operating costs and capital borrowing.

36. There remains significant risk around the national provider market, as illustrated by the very recent collapse of Allied Health Care. Over the last 12 month period there has been a net loss of 48 residential care home beds that are considered to be within the adult social care's affordability range. There are mechanisms in place to both track potential market failure and to mitigate risks to service users in the event of closure.

37. Further work is needed to understand the business risks involved and this report recommends that the care sector is recognised as an important sector within the local economy - rather than view the sector as 'problematic' there should be a concerted attempt to engage with the sector at a strategic level. This would involve developing a greater understanding of the value of the care sector as wealth generating businesses and as a significant employer in Worcestershire, currently in the region of 15,500 jobs.

38. We have a well-developed relationship with large sectors of the Provider Market and will continue to co-produce safe, cost effective care and support solutions to maintain high quality services.

Green Paper

39. The Government has recognised that there is a fundamental problem with the way in which care for older people and vulnerable working age adults is currently funded. The iBCF, for example, was a much needed cash injection into local Councils but is non-recurrent expenditure and represents an approach of one-off monies meaning long-term planning is difficult. Overall there is an estimated £2.3bn national funding gap by 2020/21. The current system is confusing for the public (many of whom do not understand that social care is not, and never has been, free at the point of delivery – unlike health care). Since 1998 there have been 12 green papers, white papers and other consultations, as well as 5 independent commissions attempting to grapple with the problem of securing a sustainable social care system – this latest Green Paper therefore represents an opportunity to make a solution 'stick'.

40. Reaching a sustainable system involves answering three key questions:

- Where does the balance of risk and responsibility lie between the state and the individual?
- How does Government finance its social care funding?
- How is social care finance then allocated and managed?

41. The principal decision about where the balance of responsibility lies between the state and individuals and their families will determine what Government offers in terms of social care and is linked to broad questions about equity and fairness. There are a broad range of options available, from the state funding the vast majority of care (like health services) through to individuals assuming full responsibility. At the moment the system sits somewhere between these two extremes. Presuming that at least some costs continue to be met by the state the next question which arises is how the state should raise the funds to do so. Again there are a number of options:

- Hypothecation – the introduction of a dedicated tax to meet social care costs
- General taxation system (as now)
- Redirecting other elements of spending for older people towards social care i.e. winter fuel allowance, removing the triple lock on pensions
- Free personal care with no means testing for personal care but 'hotel' costs remaining means tested (model currently used in Scotland).

42. Individual costs of care could also take different forms:

- Direct payment to providers (as now) – with potential to move the means test and a potential cap on the lifetime costs of care (but to note this would not mean any further money available for the system - this would be protecting individual assets against catastrophic costs)
- Deferred payment schemes (as now whereby the Council pays the cost of care and property is sold post death to recoup the charges)
- Equity release schemes
- Developing a private bond/insurance system (an immediate needs annuity scheme already exists but is expensive and not well known).

43. The third aspect of the system of social care funding is how this is administered – the management of funding within the system. Two key models have been put forward:

- Single health and social care budget (being trialled in some areas of the country such as Manchester)
- Joint budgets (using S75 agreements) as in place now. This is an agreement made under Section 75 of National Health Services Act 2006. Section 75 agreements can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.

44. Some commentators (notably the Institute for Fiscal Studies) have suggested the Government may also be considering moving adult social care services into a joint and national model with health services. This is predicated on the inherent dichotomy in the Care Act 2014 (standardised responses and removal of post code lottery) and the removal of Revenue Support Grant will make it increasingly difficult for Councils to fund care costs through council tax and business rates.

45. The local government sector has, however, expressed a clear view that the potential national models do not take account of the local knowledge and expertise of locally elected members and would only deepen the 'democratic deficit' in the health economy. The Council remains committed to integrated service provision, where this drives either efficiencies or gain for local residents.

Legal Implications

46. Legal advice will be provided to support any changes in service delivery in accordance with the requirements of the Council's policies and procedures. The Council will remain under an obligation to meet its statutory duties.

Financial Implications

47. Financial implications are set out in paragraphs 24 to 38 above and in the Resources Report to Cabinet on 27 September 2018.

HR Implications

48. HR advice will be provided to support any changes in service delivery in accordance with the requirements of the Council's policies and procedure.

Equality Duty Considerations

49. In the development of the appended policies and procedures, outlined in paragraphs 10 to 22 above, due regard has been taken to the requirements to ensure equity, included in the Care Act 2014. Individual equality screenings have also been completed, as required, and are appended to the relevant policies and procedures provided at Appendix D.

50. The Council will continue to have due regard to proactively addressing the three elements of the Public Sector Equality Duty in all relevant areas – in particular the planning and delivery of Adult services.

Public Health Impact Assessment

51. This report is mainly about the national policy debate about social care finance and how the Adult Services Directorate is responding to the financial challenges at local level.

52. Due regard has been taken to health impacts and the requirements of the Care Act 2014 in the development of the appended policies and procedures

Supporting Information

The following Appendices are available electronically:

- Appendix A – Demand and Growth Report
- Appendix B – Adult Services Business Plan
- Appendix C – Market Position Statement
- Appendix D – Policies and Procedures

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Interim Director of Adult Services) the following are the background papers relating to the subject matter of this report:

Agenda and background papers for the meetings of the Cabinet held on 8 February 2018 and 27 September 2018

Agenda for the Health and Well-being Board held on 25 September 2018

Competition and Markets Authority report (November 2017) into the viability of the adult care market

National Audit Office report 'Financial Sustainability of local authorities 2018