

Meeting of the Adult Social Care Select Committee - 5th March 2025

Report of the Interim Director of Adult Social Care

Market Position and Market Sustainability

Purpose of report

1. This report provides the Select Committee with an outline of :
 - the current adult social care market position
 - key market sustainability issues and risks
 - Market Sustainability Plan for 2025/2026

Recommendations

2. It is recommended that Members :-
 - Review and comment on the current adult social care market position, key pressures and market risks.
 - Scrutinise and comment on the Market Sustainability Plan.

Background

3. Dudley adult social care commissioning has 362 contracts with independent social care providers for the provision of regulated social care to meet care act assessed eligible needs of Dudley citizens. There are 3 internal services that provide intermediate care, hospital avoidance community care and supported discharge which are largely funded through the Improved Better Care Fund (iBCF)
4. Dudley council spends c£129m on Care Act eligible care via the independent market through contracted commissioned care. £19.5M is spent via direct payments, much of which however is delivered by the same contracted providers due to a shortage of personal assistants and alternatives to traditional care. 39% of spend is on residential and

- nursing care homes and the remaining 61% is spent supporting people in their own homes.
5. There are an additional 9 contracts with annual spend of c£1.6m with voluntary sector providers, which is being reduced by 34% in relation to Adult Social Care spend in 2025/2026.
 6. The services provide a range of activity including prevention focused support, carers support, advocacy, and direct payment support. There are lots of interdependencies for work undertaken in the voluntary sector and within Adult Social Care and other contracts in Public Health, Childrens services and the Integrated Care Board (ICB).
 7. Equality Impact assessments have been completed in relation to the voluntary sector savings and the impacts will continue to be monitored in the remaining contracts.
 8. The social care market needs to be diverse in its offer to meet the changing needs of people with social care needs and needs to be sustainable in line with section 5 of the Care Act 2014. As people are living longer, the complexity of need and expectations for care have become greater and place increasing demand on the social care workforce. The cost of care increases due to higher acuity of need, increased risks that must be managed in addition to workforce issues and inflation.
 9. A sustainable market is one which has a sufficient supply of services but with provider entry and exit, investment, innovation, choice for people who draw on care, and sufficient workforce supply.
 10. In 2022 the Department of Health and Social Care launched a national programme (Fair Cost of Care) to establish some base line data for care costs within older adult's social care provision. The outcome of this activity identified that for Dudley the social care market has a £20m deficit against the actual cost of care, this funding gap has not been filled, some market sustainability and improvement funding has providing partial relief in some areas, the funding gap continues to grow year on year .
 11. The Fair Cost of Care programme only looked at care costs for people aged 65+. Market Sustainability Improvement funding has been used across all care types to address rates within the uplift process. There has been no national benchmarking for care costs for working age adult's provision; most local authorities are experiencing significant challenges

regarding fees and supply of care home placements and supported living provision.

Market Assessment and Market Position

12. Housing Learning and Improvement Network (LIN) were commissioned to undertake a social care and accommodation needs assessment. The prospectus that summarises the need is now published on the Dudley website within the Market Position Statement. The outcome of the assessment has greatly informed the Market Position Statement 2023-2028 which can also be found <https://www.dudley.gov.uk/residents/care-and-health/dudley-adult-social-care-market-position-statement-2023-2028/> Key commissioning intentions and messages to the market detail where the council has increased demand and where further innovation is sought. There continues to be significant lack of appropriate housing available for people with disabilities which results in increased use of residential care and out of area placements that are far more costly. Work is underway with council housing colleagues to look at and source general needs housing opportunities for people where possible. Estimations of future need in relation to housing and care homes provision over the next 10-15 years total 1450 units of accommodation across all care types.

Housing With Care (Extra Care Housing Schemes)

13. The 4 current extra care schemes in Dudley operate at maximum capacity and further scheme developments would be welcomed as an alternative to care homes and to promote greater independence. The housing responsibility and ownership for 3 of the schemes transferred to a new housing provider in 2024. New care contracts started in October 2024 following a competitive tender process.
14. A proposed Extra Care Housing development that would have offered more than 100 units of care and accommodation was intended to go forward in 2023/24 but did not progress due to market conditions. There are also issues regarding financial commitment and risk share that would need to be addressed, it is therefore unlikely to progress unless the market conditions change, alternative funding is found and or different funding models are developed.
15. Young people with disabilities and complex needs have frequently been placed in high-cost residential colleges out of area to meet their needs.

Work is underway with a housing and care provider to develop an innovative Complex Needs Foyer for young adults with learning disabilities. Initial plans are due to be shared with the council planning team shortly. The development if progressed, would enable young people to have real opportunities and experiences that support their development and can be foundations for their future adult lives.

Care homes

16. There are 90 care homes operating in Dudley, 53 of which support older adults including 16 Nursing Homes, and 37 homes supporting working age adults with disabilities including 1 nursing home. Care Homes sustainability is a key priority for both older adults and working age adults with disabilities. Some care homes for older adults have relied on self-funders compensating for lower fees from public funding, there has been a number of care homes that have changed ownership in the past 12 months and many care homes seeking restructuring to enable VAT charging to offset some of the financial pressures. The council is currently reviewing the position regarding novation for VAT charging purpose, currently this is not generally supported due to resource implications and risk.
17. Financial pressures for smaller care homes and especially those supporting people with disabilities, occurs when there are voids, sustainability is significantly impacted and often means the home cannot survive even with only 1 vacant bed. Dudley is one of the lowest fee payers for older adult's care homes when compared to west midlands average rates
18. The use of residential care for adults, especially older adults is above the national average and comparator councils. However, the use of nursing care is lower. Care home closures often means that people are moved to alternatives that are higher cost, the disruption to people moving can have a significant impact upon their health and wellbeing. In the last 2 years we have lost 68 beds from the market due to care home closures, the introduction of 2 new care homes has lessened the impact.

19. There are 2,244 beds available in Dudley currently (excludes residential college and Intermediate care). The main reason for care home closures is stated as low fees paid that are unsustainable for care providers. Each care home closure creates additional budget pressure and reductions in choice of affordable care homes. Over the past few years there has been an increase on out of area care home placements, especially nursing care where 50% of spend is out of area. Out of area placements are generally more expensive.
20. The Fair Cost of Care exercise in 2022 identified rates for residential care between £858-£942 per week. Current average rate for older adult's residential care is £707 per week
21. For nursing homes, the 2022 Fair Cost of Care rate was reported to be between £1,138 - £1,319. The current nursing rate for older adults is an average of £954 per week.
22. The 2022 cost exercise had many anomalies for care homes and so the data could not be relied upon, this does not alter the pressures that are evident within care homes and benchmarked position for Dudley against other West Midlands average fees; Dudley is consistently in the lower quartile.
23. The low fees paid have a knock-on impact on quality of care and outcomes and sustainability for the care homes. The increased use of out of area care homes for placements creates additional budget pressures. Neighbouring authorities are addressing their fee rates and providing substantial uplifts which in turn Dudley must also pay for those people placed out of area, whilst local provision is challenged with sustainability issues.

Domiciliary Care

24. There are 43 providers delivering a total of 25,700 hours per week of domiciliary care to c1800 people across the Dudley Borough at an annual spend of c£21.86M.
25. The number of people accessing Domiciliary care has increased 12.5% over the last 12 months, this is in line with the strategic principle of supporting people at home for as long as possible to maintain their independence and wellbeing and as an alternative to care home placements.

26. The domiciliary care framework was recently retendered, having an unprecedented 160 bidders to evaluate. Flow within the market has been good for the last 18 months, many providers have taken the opportunity to grow their capacity using international recruitment.
27. The Fair Cost of Care grant received in 2022 was utilised primarily to address the Domiciliary Care market as there were significant supply issues. The rates were increased mid-year utilising the grant to ensure a more competitive and sustainable rate; the impact of the rate increase is that the supply of domiciliary care increased to the point that providers are now seeking additional work with Dudley Council.
28. Fair Cost of Care Domiciliary Care target rate in 2022 was identified as £20.60 since this rate was calculated, there has been a 23.5% increase in National Living Wage (NLW) including the 2025/2026. The rate for 2025/2026 will be £21.92. Dudley is mid table when looking at Domiciliary Care rates across the West Midlands 2024/2025.
29. Following work undertaken in 2022/23, the model for the new domiciliary care framework has taken on board learning from the Discharge to Assess pilot and also engaged the market in developing the new place-based model.

Supported Living

30. Supported living currently has 42 suppliers delivering care and support to people with disabilities within their own tenancies and supported living schemes. Some schemes are out of area due to lack of available accommodation at the time of need. The supported living market in Dudley has never operated as a formal framework and rates paid vary significantly with no real correlation to complexity or specialism. A significant number of fee dispute challenges received in 2024/2025 relate to the supported living market.
31. As with Domiciliary care, 70-80% of costs incurred relate to workforce. Rates will often be historic from when schemes were delivered or tendered and there is also concern regarding market dominance and therefore market failure risk could have a severe impact for people, resources and budgets.

32. In recent years, in an attempt to reduce the range of fees paid for long term supported living, a differential approach has been undertaken when applying uplifts. This is also planned for 2025/2026 ahead of the new framework tender.
33. The average supported living rate for Dudley when compared to other neighbouring authorities' places Dudley at the bottom of the table. The market requires significant investment to ensure there is a sustainable market delivering quality care and independence outcomes.

Direct Payments and Use of Non-Traditional Support

34. Currently many, if not most, Direct payment recipients use traditional care services to meet their needs rather than employing a personal assistant (PA) or non-traditional approach to meeting needs. This reduces the innovation and efficiency and means that people are getting the same services whether contracted or via a direct payment. The low PA rate combined with the use of traditional services to purchase care for people using a direct payment is limiting choice and PA market development.
35. The market position statement signals our intention to increase the number of people with direct payments and to increase and develop the PA market and innovative models to meet people's needs flexibly - for example Individual Service Funds (ISF's)

Market Quality

36. The quality ratings for Dudley Care Quality Commission (CQC) registered services are comparable with West Midlands averages. Dudley has 70% of services rated good or above and 29% rated requires improvement and 0.8% rated Outstanding. This is an improved position from last year. In 2024/25 there were a number of care homes that were suspended from new purchasing whilst improvement plans were completed, In December 2024 all Dudley Suspensions had been lifted following the requisite improvements being made.

Workforce

37. The independent Adult Social Care workforce in Dudley makes up c90% of the total workforce that delivers essential services, support, and advice

to Dudley's Citizens. This includes commissioned services, non-commissioned services, and the voluntary sector.

38. Workforce costs account for 80% of costs for adult social care fees paid, Recruitment, retention and ensuring competitive and compliant staff pay is noted by providers as a key priority and challenge. A short survey undertaken in January 2025 identified that 50% of respondents would only be able to afford to pay National Minimum Wage and would struggle to attract and retain staff. 43% of respondents said they are expected to either breakeven or make a loss in 2024/25 and 26% anticipate significant reduction in activity or potential contract exit.

Market Sustainability Responsibility

39. Under section 5 of the Care Act 2014, the council must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market has a variety of providers to choose from who (taken together) provide a variety of high-quality services. The council is responsible for ensuring the sustainability of the market (in circumstances where it is operating effectively as well as in circumstances where it is not). A sustainable market is one which has a sufficient supply of services but with provider entry and exit, innovation, choice for people who draw on care and sufficient workforce supply. (Market Sustainability Improvement Fund (MSIF) guidance 2023)
40. Annual West Midlands Association of Directors of Adult Social Services (ADASS) survey reports summarise the rates for adult social care across the 14 authorities each year. Dudley fees and median rates are in the bottom quartile for each market area except for domiciliary care.
41. Letters received in December and January from current contracted providers for all care types are seeking an uplift of at least 8.4% minimum and some are requesting as much as 20% increase to ensure their sustainability.

Market Sustainability Plan 2025/26

42. The Published Market Sustainability Plan was written in compliance with the Fair Cost of care grant and subsequent Market Sustainability Fund conditions covering the period 2022/23 to 24/25.
43. A review of key priorities and from feedback from the market has informed a Market sustainability plan for 2025/2026. Given the double impact of National Living Wage increase and employers' National insurance Contributions increase 2025/2026 is expecting to see even more challenges to an already fragility care market. A care Providers alliance survey indicated that 57% of respondents were intending to hand back contracts to local authorities and the NHS, and that 73% will have to refuse packages from the local authorities.

Care Homes - Older Adults

44. Prior to the care homes pilot that commenced January 2024, data and feedback from panel for older adult's care home placements showed that the rates for care placements were rapidly increasing with no real understanding of the correlation of fee level to level of need.
45. The Care Home Sustainability Pilot has enabled clear understanding of fee and needs relationship and value for money judgements. The pilot has 18 care homes and will now be formalised as a model for the new care home contracts for care homes 65+ alongside Spot Contracts for providers that do not opt into the framework.
46. The average weekly fee paid is now much more stable and care homes that opted into the arrangement have seen occupancy levels increase. The benefits for homes that support the council with affordable rates include priority for referrals, enhanced uplift rate and priority support regarding quality assurance.
47. Framework placements and rates will continue to be monitored and reported to Adult Social Care Leadership Team. The framework will commence from 1/4/2025 and will be subject to ongoing review in achieving the key aims.
 - Ensuring people are placed locally – Dudley First
 - Ensure consistency costs for standard and enhanced needs.
 - Focus on sustainability of the market for homes within the framework and the rates applied.
 - Ensure there is client choice within the framework offer.

Where people have complex or joint funded care fees these are excluded from the framework. More integrated approaches to managing the care and supporting the care homes market in Dudley will be developed in partnership with the Integrated Care Board (ICB) and health partners.

Domiciliary Care & Extra Care

48. The framework sets out 2 tiers of activity and is organised geographically/ place based. The advantages once the model is fully mobilised and embedded, will be that travel time is significantly reduced whilst some client choice is still available.
49. Many domiciliary care providers have taken advantage of international recruitment to enable growth so they can meet increased demand, workforce including international recruitment will continue to be monitored.
50. Whilst the model is being mobilised there are more suppliers than demand, this is temporary whilst unsuccessful providers exits are managed. There is a risk that some smaller providers may exit the market.
51. The model has been built based on guarding against market failure, ensuring there is no market dominance but also ensuring a healthy supply of provision and choice within a specified location. Developing greater flexibility and wider use of community resources that complement Domiciliary Care will be a focus during 2025/26.
52. The new model is also focused on promoting independence and focusing on quality of care. In order to ensure the Domiciliary Care market is sustainable, the rates paid must keep pace with the national living wage and remain competitive across the Black Country. The workforce for domiciliary care can be very transient and will move where higher rates are paid.

Supported Living

53. Demand for supported living is increasing, and the current supply requires some reshaping, to align rates and expectations. A new framework model has been developed with various partners and stakeholders and is intended to go out to competitive tender in Spring 2025.

54. The framework will seek a singular rate for each tier and type of care delivered to ensure the focus is on the quality of care delivered and the outcomes for the person receiving support.
55. An outcome reporting model will be implemented from day one of the new framework to ensure specialist resources are not blocked where people no longer require high levels of care or are ready to move to greater independence.
56. The council's brokerage system and function will be utilised to ensure transparency and equity in opportunity for providers working in Dudley. The framework will seek to reduce the risk of market dominance and provider failure by ensure sufficient numbers of providers with the requisite skills to meet the diverse needs of Dudley's adult disability population.

Voluntary Sector

57. The voluntary sector Compact was agreed and launched in June 2024 and is published on the Dudley Council for Voluntary Services (DCVS) website. The compact articulates how public bodies intend to strengthen the relationships and commit to working proactively with the voluntary sector.
58. Due to the financial position and budget challenges the Voluntary and Community Sector savings were initiated in early 2025. Equality Impact Assessments have been completed with most Voluntary organisations impacted by the savings and will continue to be monitored. Adult Social Care commissioning continue to work with providers to look at how the impact of the contract reductions can be best managed or mitigated, seeking out other opportunities that may arise from other funding or ways in which benefits can be realised from greater collaboration.

Direct Payments and PAs

59. Personal Assistant (PA) workforce development and new models for self-directed, more flexible care such as Individual Service Funds are planned to be explored.
60. Commissioning will work in partnership with the direct payment lead, supporting a whole system review and refresh of the direct payment policy and practice.

61. A new non-commissioned Voluntary sector and Direct payment forum has been developed late 2024 and will continue to grow during 2025. A task and finish group has been established looking how the personal budgets and resource allocation is undertaken to ensure a more consistent approach and identify the most approach tools to facilitate Resource allocation.

Workforce

62. The Adult Social Care Workforce strategy is in development and includes commitment, data and plans to support the independent social care workforce. Dudley Adult Social Care Independent and Voluntary sector providers have been consulted on the content and draft plans. The turnover rate in the independent sector is 23.5% for Dudley which is the highest in the black country, the correlation to low fees paid and low staff pay being one of the underlying factors.

Finance

63. The Market Sustainability and Improvement Fund 2025/2026 is being used alongside general fund budget to support rate increases as part of the care home market modelling for new care home placements for older people and wider market sustainability activity totalling £6.8m cumulatively.
64. The approach Dudley takes to support for inflationary pressures, aims to uplift of around 70% of the total pressure, subject to budget availability. Combining the pressures calculated on Employers National Insurance contributions and the changes to National Living Wage, the pressures often exceed the uplift available. Along with the inflationary uplifts, the financial envelope accounts for an additional cost pressure of £8.2m in 2025/26.
65. It is calculated that the funding required to cover the full impact for all contracted providers would be circa £11m. Funding required to cover a proportion of lag of previous years to align with “fair cost of care” would total circa £20m.

Law

66. The Care Act 2014 (Section 5) sets out the local authorities' responsibilities for providing a range of services and ensuring market sustainability.
67. A recent case *SARCP v Stoke-On-Trent City Council (2025) EWHC 18*, The high court Ruled the councils 1.4% fee increase for care homes was unlawful. Key issues included inadequate consultation, Failure to consider the actual costs of care and breaches of statutory duties under the Care Act 2014.
68. In Dudley we have seen an increase in fee disputes and the threat of court proceedings. Commissioning continues to work with colleagues in legal for advice on a case-by-case basis.

Risk Management

69. Adult Social Care risk register notes the risks associated with market failure and the importance of the independent and voluntary market in delivering the health and social care outcomes of Dudley citizens.
70. The fragility of the care market, its workforce and knock on impact for quality and outcomes for people cannot be overstated.
71. The Adult Social Care risk register is regularly reviewed and updated.

Equality Impact

72. This report relates to the adult social care market position and sustainability. There are no impacts that specifically warrant an Equality Impact assessment. In the event of market failure contingency plans are mobilised to ensure continuity of care.

Human Resources/Organisational Development

73. There are no direct Human Resources/Organisational Development implications arising from this report.

Commercial/Procurement

74. Procurement activity planned is undertaken under the guidance of Procurement colleagues and in line with council procedures and procurement regulations.

Environment/Climate Change

75. All providers are encouraged to consider how their services can operate in environmentally and climate friendly ways. The models of care proposed seek to reduce the carbon footprint of services by being place based and reducing unnecessary travel, making use of technology and digital systems.
76. Questions regarding social value, environmental impact and climate change have been added to the provider annual assessment survey – outcomes from the survey will be analysed and reported on through Adult Social Care Leadership Team and Continuous Development Group in June / July 2025.

Council Priorities and Projects

77. Ensuring a sustainable market that can meet peoples assessed care needs is a statutory duty of the council. Encouraging a social care market that delivers high quality care locally supports the borough vision for “A place of healthy, resilient, safe communities where people have high aspirations and the ability to shape their own future”. The sustainability plan also aligns to the priority of delivering for our customers, residents and communities:
- Enhance our customer experience by promoting digital self-service options whilst recognising individual needs and improving engagement.
 - Empower individuals of all ages to make choices and exercise independence in their lives and provide care and support when necessary.
 - While delivering services within communities, provide safe clean spaces, promote healthy lifestyles, support wellbeing and reduce inequality.
78. All Adult Social Care commissioning activity is focused on how commissioned care and services can improve to deliver better outcomes and improve efficiency and therefore produce savings to the council

supporting our sustainability programme by adherence to our financial management, efficiency and continue to provide best value. A key aim is to promote greater independence to reduce people's reliance on commissioned care, especially traditional models of care, commissioning will seek to maximise the digital opportunities and innovations that may support people to manage risks and achieve their outcomes differently working towards the 2024-25 Council Plan priority delivering for our customers, residents and communities.

E. Matthews.

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Appendices

Appendix 1 Market Sustainability Plan 2025/26