

REPORT OF THE CABINET MEMBER, ADULT SOCIAL CARE AND PUBLIC HEALTH

NOTTINGHAMSHIRE'S COST OF CARE REPORTS, ADULT SOCIAL CARE MARKET SUSTAINABILITY PLAN, MARKET POSITION STATEMENT AND FEE UPLIFTS

Purpose of the Report

1. The report brings together the work of the Fair Cost of Care exercise in adults that took place in the summer 2022. It presents the:
 1. Cost of Care report for care homes (65+)
 2. Cost of Care report for domiciliary care (18+)
 3. Market Sustainability Plan
 4. Market Position Statement refresh (2023-2025)
 5. Proposed fee increases for independent sector adult social care providers for 2023/24.
2. In relation to the above points, the report:
 - provides an update to Cabinet on the final submission of the cost of care reports made to the Department for Health and Social Care (DHSC) on 1 February 2023
 - presents the final Market Sustainability Plan for approval ahead of publishing and sharing with the DHSC, on 27 March 2023
 - seeks approval for the refreshed Market Position Statement (2023-25)
 - seeks Cabinet approval for the proposed distribution of £20.280m fee increases to independent sector care and support providers across the different adult social care services.

Information

3. The Care Act 2014 requires local authorities to manage and develop the market for care in their area and many use a local cost of care exercise to ensure they are paying their providers appropriately to have sufficient good quality local care.
4. A report was taken to Cabinet in July 2022 describing the immediate financial pressures faced by the care market, notably the impact on the homecare market. Increasing provider instability and challenges in recruitment were having an impact on the supply of carers needed to meet increasing demand. Cabinet agreed further investment in Homecare and Supported Living that was funded from a combination of the Market Sustainability and Fair Cost of Care Grant 2022/23 and the Market Reserve to recognise the cost of care exercise, the labour market position in Nottinghamshire and the pressures on providers.

5. The care market is a significant employer within the County. There are an estimated 25,000 social care jobs in Nottinghamshire of which 23,500 are delivering direct care and support. The Market Position Statement (**Appendix 4**, page 13) describes the workforce as predominantly white and female (84%). Fifty-seven per cent of the workforce works full time (37 hours) and the average age of a worker is 43 years old, with 26% of workers being over 55 years old. Skills for Care estimates that the turnover rate for 2021-22 was 30.7% (across all social care job roles). In the independent sector this rate is 32.5% - with the regional average for the independent sector at 33.1%
6. The homecare market has seen improvement since the decision in July and this measure has been proven to have had a positive impact on the homecare market, though the overall adult social care market remains vulnerable.
7. The government released a grant, the Market Sustainability and Fair Cost of Care Fund, for 2022/23, to support local authorities to prepare for paying providers a fair cost of care. As a condition of receiving the fund, local authorities were required to evidence the cost of care exercises for 65+ care homes and 18+ domiciliary care markets alongside a provisional market sustainability plan and a spend report detailing how funding allocated for 2022/23 was being spent. The draft documents were shared with DHSC in October 2022.
8. The final cost of care exercises were to be published on each Council's website. In accordance with this grant requirement, Nottinghamshire County Council published the Cost of Care report for care homes (65+) (**Appendix 1**) and the Cost of Care report for domiciliary care (**Appendix 2**) on its adult social care website on 1 February 2023 and submitted these to DHSC.
9. The Care Act 2014 states that 'high quality, personalised Care and Support can only be achieved where there is a vibrant, responsive market of services available'. Each local authority has a duty, under section 5 of the Care Act, to shape and maintain an efficient and effective market of services for meeting care and support needs in the local area is firmly placed with them. This work is carried out in Nottinghamshire County Council by the Strategic Commissioning Team. Commissioners are expected to fulfil the Council's duty to the Act as well as influencing and driving the pace of change required in the market, using innovative approaches to ensure there is sufficient choice and control while delivering cost-effective outcomes and high-quality provision of services.
10. Commissioners will consider any gaps in the market and develop a plan to address this locally or working regionally with other commissioning organisations.
11. DHSC have also been interested in market stability and required councils to produce a Market Sustainability Plan (**Appendix 3**). The draft plan was shared with the department in October 2022 on a departmental template. This template was changed in February 2023 to reflect the delay to charging reform and the resulting new template comprised three sections:
 - Section 1: Revised assessment of the current sustainability of local care markets
 - Section 2: Assessment of the impact of future market changes between now and October 2025, for each of the service markets

- Section 3: Plans for each market to address sustainability issues, including fee rate issues, where identified.
12. The government guidance stated that Market Sustainability Plans can provide local authorities with an opportunity to signal their assessment of current market sustainability and intended direction of travel to local markets and the public. DHSC advised that these plans should support other existing documents such as Market Position Statements and Joint Strategic Needs Assessments.
 13. Commissioners annually undergo a cost of care exercise and produce a plan to ensure there is sufficient provision to meet need; this is then considered against the local market position statement. Where the commissioning need has changed, the statement is changed.
 14. The Council's Market Position Statement has been refreshed (**Appendix 4**). The aim of Market Position Statements is to bring together information and analysis about the local market for the benefit of the local market so that current and prospective providers understand the local context, what is likely to change and where the opportunities might be in the future.
 15. The Care Act places a duty on councils to ensure provider sustainability and viability. Section 4.31 of the Care Act statutory guidance relates to the role of councils, as part of their market shaping duties, in ensuring that fees paid to providers are sufficient to enable them to meet their employer duties and responsibilities:

“When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages of care and agreed quality of care. This should support and promote the wellbeing of people who receive care and support and allow for the service provider ability to meet the statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow for retention of staff commensurate with delivering services to the agreed quality and encourage innovation and improvement. Local authorities should have regard to guidance on minimum fee levels necessary to provide this assurance, taking account of the local economic environment.” (p48).

The Budget

16. The Council's net budget for the Adult Social Care and Health department in 2023/24 is £259.6m, with a gross budget of £497.1m. The vast majority of this is spent on care and support services that are commissioned externally from both private and voluntary sector providers through contractual arrangements.
17. The department's gross budget allocations for externally provided care and support services for 2023/24 are broken down as follows:

| Area of service | Gross Budget |
|------------------------------------|--------------|
| Care Home placements – Ageing Well | £98.6m |
| Care Home placements – Living Well | £73.4m |
| Home Care & Extra Care services | £31.2m |

| | |
|---------------------------|--------|
| Supported Living services | £62.2m |
| Direct Payments | £52.4m |

Care and support services in Nottinghamshire

18. The total number of people funded by the Council in long term residential or nursing care placements was 2,939 as at the end of November 2022. This includes those individuals who are residents of the County but who have chosen to live in a care home in another part of the country.
19. The Council commissions a range of care and support services such as Home Care, Supported Living and Day Care services from independent sector providers to help people to remain living independently in their own homes. At the end of January 2022, there were 8,391 people receiving community-based care and support services, based on their eligible needs, across all service user groups. People accessing care and support services are required to contribute to the cost of these services in accordance with their financial circumstances and based on a financial assessment. Some service users will be meeting the full cost of their care.
20. The Council also commissions a range of carers support services which aim to help carers to continue with their caring duties. These services include information and advice and one-off support or on-going services, including short breaks provision, to approximately 4,310 carers. Many of these services are delivered through a Direct Payment.

Proposals for fee increases from April 2023

21. Consistent with national legislation the Council uplifts fees in line with the National Living Wage and other statutory changes. In April 2022 the uplift agreed for 2022/23 included the planned increase to National Insurance Contributions of 1.25% for the Adult Social Care Levy.
22. In October 2022 the government announced that the Adult Social Care Levy increase was being reversed from 6 November 2022 for the remainder of this financial year, therefore employers are no longer incurring this additional cost. However, the Council made no consequent adjustment to the fees paid to providers. The proposed fee increases for 2023/24 take account of the fact that providers are no longer incurring this additional cost, and this has been factored into the proposed uplifts for 2023/24.
23. In April 2023 the National Living Wage will increase by 9.7% with the following rates:

| | 23 and over | 21 to 22 | 18 to 20 | Under 18 | Apprentice |
|-------------------------|--------------------|-----------------|-----------------|-----------------|-------------------|
| April 2023 Rates | £10.42 | £10.18 | £7.49 | £5.28 | £5.28 |

24. In anticipation of the cost pressures in social care arising from the increase in National Living Wage adjusted for the removal of the National Insurance levy, a further £16.018m has been allocated to Adult Social Care department's base budget for 2023/24 to be applied to adult social care services commissioned from independent sector providers.

25. In Nottinghamshire the inflationary increases proposed have been calculated by directly applying the percentage increase in National Living Wage to the proportion of the current fee that is directly staff related. As a result, the proposed percentage uplifts by service vary from 6.87% to 10.49% after adjusting for the change in National Insurance contributions with the detail of the percentage increase for each service provided in the follow sections.

Ageing Well Residential and Nursing Care Home Fees

26. The Council has a proactive approach to ensuring that it meets its legal duty in taking account of the cost of care and ensuring a sustainable market across the whole County. It currently has a fee structure that is based on five quality bandings that are determined by an annual quality audit of the homes. The contract includes an inflation-linked fee increase to be applied annually using indices that were agreed as a part of a previous 'Fair Price for Care' exercise. This increase is applied to all banded Ageing Well care home fees.
27. Since 2016 and the introduction of the National Living Wage, in addition to the inflation indices, the annual inflationary increase for Ageing Well Residential and Nursing Care home fees has also included an amount for the increase in the National Living Wage for the forth coming year.
28. In addition, this year it is proposed that quality band 1 is removed. The quality bands were introduced in 2011 and, despite the fees being increased each year, the recent cost of care exercise has demonstrated the band 1 fees are now too low. The proposal would be to have quality bands 2 to 5 only and for the care homes on the current band 1 to be moved to band 2. The expected additional cost of this would be up to £350,000, for long term, new and short-term placements. It is proposed that this is funded through use of the Market Sustainability and Improvement Grant for 2023/24 and 2024/25.
29. Combining the increase relating to the increase in the National Living Wage as per **paragraph 23** with the contractual inflation linked increase for these services it is proposed that a 9.32% increase is applied across all Ageing Well banded care home fees within Nottinghamshire.
30. The table below outlines the proposed weekly fee levels to be applied from April 2023:

| Care Home Banding | Proposed Fee 2023/24 Care Home | Proposed Fee 2023/24 Care Home including DQM Payment** | Proposed Fee 2023/24 *Nursing care | Proposed Fee 2023/24 *Nursing care including DQM Payment |
|-------------------|--------------------------------|--|------------------------------------|--|
| Band 2 | £640 | £706 | £717 | £773 |
| Band 3 | £680 | £742 | £754 | £813 |
| Band 4 | £695 | £757 | £771 | £829 |
| Band 5 | £716 | £779 | £794 | £848 |

**For all care homes with nursing, the above fee levels are net of Funded Nursing Care Contribution. The Integrated Care Board (ICB) administer this element of the fee.*

*** DQM – Dementia Quality Mark Payment – those homes which provide high quality care and meet the Council's Dementia Quality Mark will receive an enhanced payment for those people whose primary care requires complex dementia care.*

Living Well residential and nursing care home rates

31. Fee levels for Living Well residential and nursing care home provision are negotiated and commissioned via the Dynamic Purchasing System with the care home providers on an individual basis based on the specific needs of the service user. In many cases, the fees have previously been determined using the 'Care Funding Calculator' which is a widely recognised tool used by many health and social care commissioners, as it enables value for money considerations and provides a useful means of benchmarking the cost of complex care across the region.
32. Since 2016 annual increases have been approved in line with the increase in National Living Wage and other statutory changes, as per **paragraph 23** above.
33. It is proposed that an 8.05% increase is applied to all Living Well in county and out of county care home fees to cover the increase in the National Living Wage, as per **paragraph 23**, except in the following circumstances, where the uplift will be decided on an individual basis:
 - a) packages negotiated in the three months prior to this Cabinet decision. For these packages an uplift will not be automatically applied as the fees will reflect up to date costings. Where this is not the case, providers can contact the Adult Social Care department with the appropriate evidence that an uplift is required in order to meet the National Living Wage requirements.
 - b) packages over £1,900 per week. For these packages an uplift will not be automatically applied as fees should already be covering an enhanced pay level for the staff required to deliver these specialist services. Where this is not the case, providers can contact the Adult Social Care department with the appropriate evidence that an uplift is required in order to meet the National Living Wage requirements.

Home-based care, Housing with Care and Supported Living rates

34. Home-based care, Housing with Care and Supported Living services are subject to market testing through competitive tender processes on a regular basis, usually every 3 - 5 years, and the current Home-based care contract has recently been extended for up to 5 years. Tendering processes provides the Council with the opportunity to test the market through an open and transparent competitive process to seek best value from providers.
35. Since 2018/19, the Council has been working with a 'Lead providers' model with each covering a large geographical area based on district council boundaries. 'Additional providers' are contracted to supply care to supplement the lead providers. There are also a small number of spot contracts from legacy arrangements that are reducing over time. The Dynamic Purchasing System can be used to procure individual packages of care.

36. The above contracts do not require the Council to apply an annual inflationary increase.
37. Since 2016 annual increases have been approved in line with the increase in National Living Wage and other statutory changes, as per **paragraph 23** above.
38. The additional investment in the rates, approved by Cabinet in July 2022, resulted in improved stability in the market and it is proposed that this is maintained through use of the Market Sustainability and Improvement Grant for 2023/24 at an estimated cost of up to £5m.
39. Applying the increase in National Living wage, as per **paragraph 23** above, it is proposed that a 6.87% increase is applied to 'Lead', 'Additional' 'Supplementary', Spot and DPS contracted Home-based care and Supported Living rates, and 7.66% is applied to Housing with Care rates. All other legacy contract arrangements will be negotiated in line with the new Lead and Additional provider rates.

Day Care Rates

40. The Council has established matrix rates for day services, based on the following categories, reflecting their levels of need.
41. Since 2016, annual increases have been approved in line with the increase in National Living Wage and other statutory changes, as per **paragraph 23** above.
42. Applying the increase in National Living wage as per **paragraph 23** above, it is proposed that a 7.43% increase is applied to all externally commissioned day services. The table below outlines the proposed weekly fee levels to be applied from April 2023:

| | 2023/24 |
|--------------------|--------------------|
| Complex needs | £43.50 per session |
| High level needs | £22.44 per session |
| Medium level needs | £15.89 per session |
| Low level needs | £10.95 per session |
| 1:1 support | £13.99 per hour |
| 2:1 support | £27.97 per hour |

43. There are some spot purchased arrangements which are negotiated on an individual basis.

Shared Lives rates

44. Payments to Shared Lives carers are made at banded rates which are based on the complexity of the needs of the person placed with them. Nottinghamshire has a five banded rate schedule shown in the table below. For long term placements the payment to the carer is made up of three elements. These are room rent, which is usually paid through housing benefit; a personal contribution, which is a payment towards food and bills; and the payment made for care costs by the County Council.
45. Applying the increase in National Living Wage, as per **paragraph 23** above, it is proposed that the current care rates are increased by 6.87% and further recommended that the

contribution to food and bills, that is paid by the service user, is increased to £10.50 per night (£73.50 per week). The proposed increase to the nightly charge is based on the increase of 10.1% to Universal Credit from April 2023. The table below shows the gross payment made up of these elements:

| Service User need level | Proposed gross payment to carers per week in 2023/24 |
|--------------------------------|---|
| Basic | £270.67 |
| Low | £405.21 |
| Medium | £564.04 |
| High | £738.61 |
| Complex | £1,057.57 |

Direct Payments

46. A Direct Payment is where the service user receives an amount of money directly from the Council for their care costs. They then employ Personal Assistants directly to support them.
47. Since 2016 annual increases to the Personal Assistant rates under a Direct Payment have been approved in line with the increase in National Living Wage and other statutory changes, as per **paragraph 23**.
48. Under a Direct Payment the cost of a Personal Assistant is entirely staffing related so applying the National Living Wage increase, as per **paragraph 23**, it is proposed that a 10.49% increase is applied to Direct Payment Personal Assistant packages
49. The amount of increase applied for Direct Payments provided through home care agencies, or Supported Living providers, may vary depending on the providers' existing hourly rates, so where a home care provider's rate is above the rate of the Lead or Additional provider operating in the same geographical area, the Council will not automatically apply the rate increase. Any increase to be applied will be determined on a case-by-case basis depending on the needs and circumstances of the individual service user, at the point of review.

Sleep-in provision

50. To ensure that the National Living Wage and on costs can be paid for all hours covered by sleep-in provision, it is proposed to increase the rate by 8.59% to £116.29 per night.

Use of the Adult Social Care Market Sustainability and Improvement Grant 2023/24

51. The Care Act 2014, places a general duty on local authorities to oversee the care market, ensuring that services are sustainable and can continue to meet the care and support needs of adults and their carers when a registered care provider becomes unable to carry on a regulated activity because of business failure.

52. It is important to reduce the likelihood of business failure by paying a fair cost of care. The Council's recent investment in the market helped the homecare market, the overall adult social care market remains vulnerable in the County.
53. The cost of care exercise, and resulting benchmarking against all East Midlands Councils, will provide valuable insight into regional issues. This is important to consider as what is emerging or prevalent in one local area could well emerge in another.
54. The Council's intention, subject to funding over the next three years, is to move towards a local Cost of Care that covers costs in line with inflation, that supports local conditions, improves market sustainability, and supports the social care market in Nottinghamshire.
55. The plan is to develop the external market making a clear commitment to ensure that future funding will be used to move toward a cost of care that is deemed to be fair.
56. The Market Sustainability and Improvement Grant (2023/24) is included within the Adult Social Care and Public Health budget for 2023/24. This will be used for the following:
- (a) to maintain the increase in fees for home care and supported living agreed by Cabinet on 14 July 2022 (£5 million)
 - (b) to remove the quality band 1 fees scale for Ageing Well Care Homes as stated at **paragraph 28** above (£350,000)
 - (c) the remainder of the fund will be used according to the grant settlement categories as follows:
 - a. Increasing adult social care capacity;
 - b. reducing waiting times; and
 - c. increasing workforce capacity and retention

and decisions on the amount of the fund used for each category will be made by the appropriate decision maker.

Other Options Considered

57. Other options are not being considered as the Council is following national guidance for the grant and the annual process for the application of annual inflationary increases for care and support services purchased from independent sector social care and support providers.
58. The Council has a legal duty under the Care Act 2014 to ensure a sustainable social care market across the County. The increases in the National Living Wage are also legally binding.

Reason/s for Recommendation/s

59. The Council has a statutory duty to have in place a range of care and support services for people who meet national eligibility criteria, either directly through its internal services or through commissioned services from external providers. This statutory duty extends to

ensuring that there is a viable and sustainable market of social care providers who can deliver the required services.

60. Consideration has been given to the current fee levels paid to care and support providers within the context of the increasing cost pressures arising from the impact of the National Living Wage. The proposed fee increases should help providers to continue to deliver care and support services at a time when they are facing substantial increases in their costs, most of which relate to staff pay and terms and conditions of employment.
61. At Full Council on 9 February 2023, Members approved the Council's budget which included the allocation of £20.280m to meet provider cost pressures in Adult Social Care arising from the impact of the National Living Wage, and the Fair Price for Care inflation for 2023/24. This has been calculated after mitigating for the reversal of the National Insurance levy which was provided for in last year's uplift. This report now seeks Cabinet approval for the proposed distribution of £20.280m fee increases to independent sector care and support providers across the different adult social care services. In addition, the Council's budget included the Council's share of the Market Sustainability and Improvement grant for 2023/24.

Statutory and Policy Implications

62. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS (National Health Service) Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability, and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Consultation and Informal Dialogue with the Select Committee

63. The Fair Cost of Care exercise has involved consultation with providers in the market.
64. Informal dialogue has also been undertaken with the Select Committee. On 7 February, members of the Adult Social Health and Public Health Select Committee received an introductory briefing on the Fair Cost of Care, Market Sustainability Plan, Market Position Statement and the Fee Increases 2023/2024 from the Interim Service Director Strategic Commissioning and Integration.
65. At the briefing, members received a presentation and were provided with information on:
 - How The Market Sustainability and Fair Cost of Care Fund ('the fund') [2022] had set funding parameters for local authorities to prepare their markets for reform, including the further commencement of Section 18(3) of the Care Act 2014 in October 2023, and to specifically support local authorities to move towards paying providers a fair cost of care and how as a condition of receiving future funding, local authorities were required to evidence the work undertaken to prepare their markets for wider charging reform and thereby increase market sustainability.
 - The Fair Cost of Care, including:

- how Care Analytics, a specialist in financial analysis of care markets and the cost of care, had been commissioned to undertake an independent 'Fair Cost of Care' detailed cost analysis exercise
 - how the Council had engaged with the local and national care forums regarding the cost of care exercise using a range of engagement processes
 - how responses to the consultation were received directly by Care Analytics to address any concerns about business anonymity
 - that Care Analytics had provided the Council with two reports (18+ home care and one 65+ care homes).
- The initial Cost of Care reports that had been submitted to the Department for Health and Social Care.
 - A summary of the key findings from the reports of 18+ home care and one 65+ care homes.
 - The Market Sustainability Plan that was being developed and how the findings of the cost of care exercise had identified high level themes and key lines of enquiry in advance of the plan being shared with the Department for Health and Social Care on 27 March 2023.
 - How a Market Position Statement was required to be produced to ensure that the Council could meet its market shaping duties under the Care Act 2014 and how the document would summarise the supply and demand in Nottinghamshire and signal business opportunities within the care market in Nottinghamshire.
66. Having received and considered the information contained in the presentation, members took the opportunity to ask questions and discuss the issues raised.
67. On 23 February, members of the Adult Social Care and Public Health Select Committee received a second briefing from the Corporate Director, Adult Social Care and Health, and the Interim Service Director, Strategic Commissioning and Integration, on the Cost of Care Reports, Adult Social Care Market Sustainability Plan, Market Position Statement and the Fee Uplifts 2023/2024.
68. At the meeting, members received a presentation and were provided with information on:
- How the cost of care exercises (18+ homecare and 65+ care homes) had been completed and had been submitted to the Department for Health and Social Care and published on the Council's website.
 - That the draft Market Sustainability Plan had now been completed. It was noted that the Plan would signal the Council's assessment of market sustainability and intended direction of travel to local markets and the public.
 - How the draft Market Sustainability Plan:

- showed a high-level profile of the 'hot spots' for 18+ homecare and 65+ care homes
- had used analysis from the cost of care exercise to highlight areas for reconsideration by commissioners who would use this information to re-think delivery in certain areas.
- The Cost of Care exercise.
- How it was good practice for each local area to have a Market Position Statement. This is the Council's message to each Adult Social Care market sector about what the Council was hearing and seeing and how it stated what the Council was doing to support the market.
- How the report to Cabinet was seeking approval for fee uplifts for commissioned adult social care services with effect from 3 April 2023 as follows:
 - the increase in the Ageing Well care home fees in line with the 'Fair Price for Care' agreed inflation calculation and National Living Wage increase
 - the increase in the fees for Living Well residential and nursing care placements
 - the increase in the fees for Home Care, Housing with Care, Supported Living, Day Care, Shared Lives, Direct Payments and Sleep-in provision.
- The future of the Adult Social Care Market, noting:
 - the investment in the market in 2022 has helped to stabilise the homecare market
 - that the overall Adult Social Care market was still vulnerable
 - how the report to Cabinet sought approval to use the Market Sustainability and Improvement Grant 2023/24 to continue to stabilise and improve the market position.
- The approvals being sought by Cabinet regarding the Market Sustainability and Improvement Grant 2023-24.

69. Having received and considered the information contained in the presentation, members took the opportunity to ask questions and discuss the issues raised.

70. The outcome of the informal dialogue carried out was that those members of the Adult Social Care and Public Health Select Committee that attended the two meetings were supportive of the proposed recommendations around the Cost of Care reports, the Adult Social Care Sustainability Plan, the Market Position Statement, and the proposed fee uplifts. In addition, members requested that further scrutiny activity takes place through the Adult Social Care and Public Health Select Committee to enable members to scrutinise and examine the impact of the proposals on the social care market in Nottinghamshire.

Financial Implications

71. National funding was made available to support the Fair Cost of Care exercise of £162m for 2022/23. Of this, Nottinghamshire's allocation was £2.31m. The spend report was submitted to the DHSC in October 2022.
72. At least 75% of 'the fund' for 2022/23 must be spent on uplift of care fees. The spend report submitted to the DHSC on 14 October 2022 set out that the Council expected to use £1,929,447 (81%) to partially fund the £1 per hour increase in rates paid to homecare providers from September 2022 as agreed by Cabinet in July 2022, with the remaining 19% being used for implementation activity.
73. £20.280m has been added to the Adult Social Care department's budget for 2023/24 to cover the cost of the annual rate increases arising from the National Living Wage increase adjusted for the reduction in National Insurance contributions and Fair Price for Care inflation for Ageing Well care homes.
74. The ongoing cost pressures arising from the impact of the National Living Wage have been built into the Council's Medium Term Financial Strategy as approved by Full Council in February 2023.
75. The cost of maintaining the £1 per hour fee increase for Homecare and Supported Living providers and removing quality band 1 for Ageing Well Care Homes is expected to cost up to £5.3m and will be funded from the Market Sustainability and Improvement Grant in 2023/24 and the remaining grant funding for 2023/24 will be spent as set out in **paragraph 56**.

Public Sector Equality Duty Implications

76. The Council must have due regard to the Public Sector Equality Duty implications when making a decision. An Equality Impact Assessment has been completed. The outcomes are expected to be broadly positive for those with protected characteristics. By increasing the rates, the likelihood of providers serving notice on those citizens they support is reduced and there are opportunities within the Market Sustainability and Improvement Grant, cited in the report, to continue to support the market, as necessary.

Implications for Residents

77. The Council has a statutory duty to ensure there is sufficient provision of a diverse range of services to meet people's social care and support needs. An increase in fees paid by the Council to independent sector care and support providers will help to ensure that there are sufficient and viable services within the local market to meet current and future needs.

RECOMMENDATION/S

That Cabinet:

- 1) notes the final submission of the cost of care reports (**Appendices 1 & 2**) made to the Department for Health and Social Care on 1 February 2023.

- 2) approves the final Market Sustainability Plan (**Appendix 3**) for publication and submission to the Department for Health and Social Care on 27 March 2023.
- 3) approves the refreshed Market Position Statement (2023-25) (**Appendix 4**).
- 4) approves the fee uplifts for commissioned adult social care services with effect from 3 April 2023 and to approve the use of the Market Sustainability and Improvement Grant (2023/24) as outlined in **paragraph 56** above.

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Constitutional Comments (CEH 28/02/23)

78. The report and recommendations can be considered by Cabinet under its terms of reference.

Financial Comments (KAS 01/03/23)

79. The financial implications are contained within **paragraphs 71 to 75** of the report.
80. In accordance with the Market Sustainability and Fair Cost of Care Fund grant conditions for 2022/23 at least 75% of the £2.31m received will be used to partially fund the in-year uplift to homecare and supported living rates from September 2022.
81. £20.280m has been added to the Adult Social Care department's budget for 2023/24 to cover the cost of the annual rate increases arising from the National Living Wage increase adjusted for the reduction in National Insurance contributions and Fair Price for Care inflation for Ageing Well care homes.
82. The Market Sustainability and Improvement Grant for 2023/24 is within the approved Adult Social Care and Public Health department budget for 2023/24. The cost of maintaining the current Homecare and Supported Living rates and applying the annual uplifts to these rates and removing quality band 1 for Ageing Well Care Homes is expected to cost up to £5.3m and will be funded from this grant with the remainder of the grant for 2023/24 spent as per **paragraph 56**.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Published [Market Sustainability and Fair Cost of Care Fund: purpose and conditions 2022 to 2023 - GOV.UK \(www.gov.uk\)](#)

Published [Market sustainability and fair cost of care fund 2022 to 2023: guidance - GOV.UK \(www.gov.uk\)](#)

Published Social Care Reform White Paper:
<https://www.gov.uk/government/publications/people-at-the-heart-of-care-adult-social-care-reform-white-paper>

Published [Adult Social Care Reform Impact and Risks Cabinet report dated 14th July 2022](#)

Published [Adult Social Care Market Pressures Cabinet Report dated 14th July 2022](#)

Published Section 5 of the Care Act – shaping the market and support services [Care Act factsheets - GOV.UK \(www.gov.uk\)](#)

Published Care and Support Statutory Guidance (Sec 4.31) [Care and support statutory guidance - GOV.UK \(www.gov.uk\)](#)

Published further background information on [Think Local Act Personal \(TLAP\)](#)

Autumn Statement in Detail - [CBP-9315.pdf \(parliament.uk\)](#)

[Market Sustainability and Fair Cost of Care | Nottinghamshire County Council](#)

[Market Pressure Report July 2022 Nottinghamshire County Council](#)

[Fair Price for Care – Older Persons Care Home Fees – report to Policy Committee on 13th February 2013](#)

[Annual Budget Report 2023-24 - report to Full Council on 9 February 2023](#)

Equality Impact Assessment

Electoral Division(s) and Member(s) Affected

All.

A0037