

Report to Cabinet

28 March 2024

Agenda Item: 8

REPORT OF THE CABINET MEMBER, ADULT SOCIAL CARE

ADULT SOCIAL CARE MARKET ANNUAL FEE UPLIFTS AND CHARGING FOR FINANCIAL YEAR 2024/25

Purpose of the Report

- 1. The report:
 - (a) presents the rationale for determining the annual uplifts for Adult Social Care commissioned providers for the 2024/25 financial year.
 - (b) seeks approval to increase Adult Social Care fees in line with the proposed uplifts as outlined in the report with effect from 1 April 2024.
 - (c) seeks approval of the proposed service charges for the financial year 2024/25 for those Adult Social Care services accessed that incur a charge.
 - (d) seeks approval of the increases in the charges for transport, assistive technology, deferred payments, appointeeship and brokerage to be effective from 1 April 2024.
 - (e) seeks approval of the proposals for the use of the Market Sustainability and Improvement Fund 2024/25 in keeping with the Fund conditions.
- 2. This is a Key Decision because it will result in expenditure of £1 million or over and it will have significant effects on two or more electoral divisions.

Information

Background

- 3. The Care Act, 2014, places statutory duties on councils to ensure there are sufficient care and support services in the local care market to meet the needs of all people in the area who require care and support. This includes services for people who arrange and manage their own care and support services, through the use of Direct Payments, and for people who fund their own care and support.
- 4. The Care Act also 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.

- 5. 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.
- 6. Nottinghamshire County Council has committed, through the Nottinghamshire Plan and Annual Delivery Plan, to shaping, developing and managing the adult social care market to improve stability so that residents with care and support needs have appropriate choice to meet their needs.
- 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. A fair cost of care exercise was carried out to evidence the cost of care for 65+ care homes and 18+ domiciliary care markets. These were published and shared with the Department of Health and Social Care (DHSC) according to the conditions of the Fund.

The Budget

- 8. The Council's net budget for the Adult Social Care and Health department in 2024/25 is £278.6m, with a gross budget of £563.7m. 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.
- 9. The department's gross budget allocations for externally provided care and support services for 2024/25 are broken down as follows:

Area of service	Gross Budget
Care Home placements – Ageing Well	£109.5m
Care Home placements – Living Well	£78.8m
Home Care & Extra Care services	£39.4m
Supported Living services	£74.1m
Direct Payments	£59.6m

UPLIFTS

Rationale

10. Each care sector has different pressures upon it that impact upon its financial viability, such as cost of staffing and the impact of increases to the National Living Wage,

competitive hourly rates offered by the non-care sector, fuel, energy, broadband, food, and insurance increases.

- 11. The Council must consider how to support its local care markets in a way that provides assurance to all stakeholders, including care providers, that arrangements for determining fees and uplifts are robust and provide value for money while delivering a balanced budget. The approach allows for uplifts to be considered on an annual basis, with consideration given to changes in business costs or conditions faced by providers.
- 12. The total number of people funded by the Council in long-term residential or nursing care placements was 2,959 as at the end of November 2023. 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.
- 13. 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 2024, there were 8,917 people receiving community-based care and support services (9,178 including those using External Day Care) 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 people will be meeting the full cost of their care.
- 14. 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 4,000 carers. Many of these services are delivered through a Direct Payment.

Proposals for fee increases from April 2024

- 15. Consistent with national legislation the Council uplifts fees in line with the National Living Wage and other statutory changes.
- 16. For the 2024/25 year, in-year uplifts (i.e., those that occur away from the financial year) will not be considered routinely. Should a provider be in financial difficulties, they can request an open-book exercise to consider their position.
- 17. In April 2024 the National Living Wage will increase by 9.8% with the following rates:

	23 and over	21 to 22	18 to 20	Under 18	Apprentice
April 2024 Rates	£11.44	£8.60	£6.40	£6.40	April 2024 Rates

18. 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 5.87% to 9.08% after adjusting for the change in current National Insurance contributions with the detail of the percentage increase for each service.

Ageing Well Residential and Nursing Care Home Fees

- 19. The Council's fee structure for care homes is based on four quality bandings with an additional Dementia Quality Mark**. The quality bandings are known as Band 2 to Band 5. In the 2023/24 year, Band 1 was removed as it was recognised, through the cost of care exercise, to be low. In the same exercise, the higher bands were described as generous. Homes are assigned to bands following an annual quality audit of the homes. Care home contracts include 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.
- 20. 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 forthcoming year.
- 21. It is proposed that a 5.87% uplift is applied to Ageing Well residential and nursing homes' banded care home fees in respect of the increase in the National Living Wage direct costs. Ageing Well care homes will also receive a 2.56% uplift for the Fair Price for Care.

Care Home Banding	Proposed Fee 2024/25 Care Home	Proposed Fee 2024/25 Care Home including DQM Payment**	Proposed Fee 2024/25 *Nursing care	Proposed Fee 2024/25 *Nursing care including DQM Payment
Band 2	£694	£766	£777	£838
Band 3	£737	£805	£818	£882
Band 4	£754	£821	£836	£899
Band 5	£776	£845	£861	£919

22. The table below outlines the proposed weekly fee levels to be applied from April 2024:

*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

- 23. 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. Care Cubed, an online tool that helps determine fair price for care, is also used to assist with the modelling of care costs.
- 24. Since 2016 annual increases have been approved in line with the increase in the National Living Wage and other statutory charges.

- 25. It is proposed that a 6.86% 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, 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 £1,500 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

- 26. 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 provide the Council with the opportunity to test the market through an open and transparent competitive process to seek best value from providers.
- 27. 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 also be used to procure individual packages of care.
- 28. The above contracts do not require the Council to apply an annual inflationary increase.
- 29. Since 2016 annual increases have been approved in line with the increase in the National Living Wage and other statutory changes. The increase in the National Living Wage is only applied to the employees' costs and the profit element and has not included an increase for inflation on other overheads.
- 30. For the 2024/25 year, applying the increase in National Living Wage, it is proposed that a 7.00% increase is applied to:
 - (a) 'Lead', 'Additional' 'Supplementary', Spot and DPS contracted home-based care
 - (b) Supported Living rates (standard, enhanced and non-standard packages)
 - (c) Supported living sleep ins
 - (d) Extra care providers.
- 31. When applying the uplift to the median district rates, this would result in the following median prices for the 2024/25 year for homecare.

Median per district	2023/24	Uplift	The uplift in £	2024/25
Bassetlaw	£22.24	7.00%	£1.55	£23.79
Newark & Sherwood	£22.86	7.00%	£1.60	£24.45
Mansfield & Ashfield	£22.21	7.00%	£1.55	£23.76
Gedling	£22.21	7.00%	£1.55	£23.76
Rushcliffe	£21.37	7.00%	£1.49	£22.86
Broxtowe	£21.38	7.00%	£1.49	£22.87

32. Where home-based care is currently >£25.50 in the 2023/24 year, no uplift is proposed for the provider in the 2024/25 year. Although providers are on the framework with rates >£25.50, none are being used currently.

Day Care Rates

- 33. The Council has established matrix rates for day services, based on the following categories shown in the table below, reflecting their levels of need.
- 34. Since 2016, annual increases have been approved in line with the increase in National Living Wage and other statutory changes.
- 35. Applying the increase in National Living wage, it is proposed that a 7.67% increase is applied to all externally commissioned day services covering direct and indirect costs. The table below outlines the proposed weekly fee levels to be applied from April 2024:

	2024/25
Complex needs	£46.84 per session
High level needs	£24.16 per session
Medium level needs	£17.11 per session
Low level needs	£11.79 per session
1:1 support	£15.06 per hour
2:1 support	£30.12 per hour

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

Shared Lives rates

- 37. 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.
- 38. Applying the increase in the National Living Wage, it is proposed that the current care rates are increased by 7.00% and further recommended that the contribution to food and bills that is paid by the service user, is increased to £11.20 per night (£78.40 per week). The proposed increase to the nightly charge is based on the increase of 6.7% to Universal Credit from April 2024. 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	£289.62
Low	£433.57
Medium	£606.52
High	£790.31
Complex	£1,131.60

Direct Payments

- 39. 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. In Nottinghamshire, some Direct Payment recipients use a self-employed Personal Assistant to support their needs, and there are a number of agencies who also provide care via a Personal Assistant.
- 40. Since 2016 annual increases to the Personal Assistant rates under a Direct Payment have been approved in line with the increase in the National Living Wage and other statutory changes.
- 41. Under a Direct Payment the cost of a Personal Assistant is entirely staffing related so applying the National Living Wage increase, it is proposed to apply a 9.08% uplift to employed Direct Payment Personal Assistant packages.
- 42. There are no uplifts proposed for self-employed or agency employed Direct Payment packages. Should an uplift be required, these are considered on an individual basis using an open-book accounting model to verify the financial need for this.
- 43. 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

44. 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 7.00% to £124.43 per night.

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

45. 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.

- 46. The Market Sustainability and Fair Cost of Care Fund (2024/25) is included within the Adult Social Care and Public Health budget for 2024/25. This will be used to support the care market and for the following:
 - (a) to maintain the increase in fees for home care and supported living agreed by Cabinet on 14 July 2022 (£5.35 million)
 - (b) to mitigate for the National Living Wage uplifts as outlined in this report (£5 million)
 - (c) the remainder of the fund will be used according to the grant settlement categories:
 - 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.

47. Proposed use of the remaining Fund under the categories described in **paragraph 45 (c)** include:

Increasing adult social care capacity	 Increasing capacity to review care packages Roll out of tech at scale Practice leads for Occupational Therapy Support and reduce demand in Multi-Agency Safeguarding Hub (MASH) 	£735,000
Reducing waiting times	 Additional staff to support brokerage of placements in a more efficient way for all types of care, including direct payments and patient data tracking in the system. 	£1,200,000
	 Market shaping, development and support 	£450,000

- 48. Throughout the 2023/24 year care providers could apply to a Market Sustainability Pot to draw down support where business costs and pressures (indirect care costs) were consistently above that typically experienced by the providers prior to Covid, and given recent cost of living pressures, to a maximum of £1,500 per month. The Pot was drawn from a combination of the Contain Outbreak Management Fund (COMF) (£500,000) and the Market Sustainability and Improvement Fund (£800,000). Providers have used the Pot well, with claims of c.£1.3 million over the year. Claims were made for unprecedented fuel and transport costs, energy and food costs and increases to insurance costs for public liability.
- 49. For the 2024/25 year, it is proposed that the remaining Fund (c.£2,6 million) is used to support the care market. Two options are being put to the care market during the February 2024 provider forums and both are described below. Option A is the same model as last year; Option B was recommended by the market as an alternative.
- 50. Option A, the current approach, supports all providers in the County who have struggled with exponential rises in care costs regardless of whether they only have self-funders or out of county placements. Option B would be available for the providers who support Nottinghamshire County Council citizens in their care delivery.

OPTION A	OPTION B
 Apply for up to £1,500 per month, as currently. Smoother process of applying. Supports indirect cost pressures. 	 The allocated grant is divided by the number of citizens supported by adult social care providers in the County – currently 9,178 people. Offer a grant fund that providers apply to based on the number of NCC citizens supported by the provider.

51. It is possible to have either option A or option B or a combination of both, though, if the latter, the budget would be shared proportionately. If the results of the voting is 70% or more in favour or one option, this will be the option chosen. If less, the budget will be split.

Governance of the Fund

- 52. Although it is anticipated that the Fund will be spent on the areas identified above, it also needs to remain flexible in order to support market need. It may be necessary to divert money where need and demand arises.
- 53. On that basis, it is intended that monthly updates including any changes on the proposed use of the Fund will be reported to the Cabinet Member and Corporate Director to ensure ongoing compliance with the Fund conditions at all times and necessary DHSC returns.

Uplifts

- 54. 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.
- 55. 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.

CHARGING

56. The Council provides, or commissions, external services and, in using those services, there is a charge; for some services it is a one-off charge and for others there is a regular charge.

Transport

57. It is proposed that there is a 5% increase in transport charge from £10.85 to £11.39 in line with inflationary cost increase from 1 April 2024.

Assistive Technology – Service Charge/Call monitoring

58. It is proposed that the charges of £2.21 per week for telecare and £3.85 per week for mobile network telecare devices are increased by 5% in line with inflation to £2.32 per week and £4.04 per week from 1 April 2024.

Assistive Technology – 24 Hour Home Care Response service

59. It is proposed that the charge of £10.57 per week is increased by 5% in line with inflation to £11.10 per week.

Deferred Payment Scheme

60. The Deferred Payment Scheme charges a one-off fee of £215 for Legal support and £259 for administration on set up. It is proposed these are increased by 5% in line with inflation to £226 and £272.

Appointeeship charge

61. Appointeeship is when the Council acts on behalf of an individual; it has responsibility for managing money, making and maintaining benefit claims, and reporting change of circumstances. To act as Appointee, the Council charges £13.21 per week if the client has over £1,000 in their account. It is proposed that the charge for this service remains the same for this financial year 2024/25.

Deputyship charge

62. Deputyship has the same responsibility as being an Appointee but also the additional protection of managing someone's assets, savings, or property. These charges are set by the Court of Protection and remain as follows:

Гее Туре	Cost
Application Fee	£371
Work up to date of Order	£745
Work up to 1 st anniversary	£775
Work up to 2 nd and subsequent anniversaries	£650
Property Fee, due on anniversary of Order and on	£300
completion of sale of property	
Annual Report Fee, due on submission of report	£216
Tax Return Fee	Use accountants
Winding Up Fee	£375
Short order	3.5% of net assets (if net
	assets are below £16,000)
Travel Cost	£40/hr

Brokerage charge

63. The current brokerage charge for people needing help with managing their finances is £11.81 for a four-weekly charge equating to £153.53 per annum. It is proposed to increase this by 5% to £12.40. This equates to £161.20 per annum for the financial year 2024/25 from 1 April 2024.

Other Options Considered

64. There is an option of not increasing these charges for this financial year, however this option is not being chosen due to internal inflationary increases aligned to those services listed in this report.

Reason/s for Recommendation/s

Uplifts and charging

- 65. 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.
- 66. 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.
- 67. The Council must ensure that, in all the services and support provided, there is the funding available and for the services highlighted in this report the costs incurred are covered in part, or fully, by the charges set out in this report.
- 68. Consultation has not been undertaken on these uplifts to discretionary charges as they are being uplifted in line with inflation to recover costs which have increased.

Statutory and Policy Implications

69. 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.

Financial Implications

- 70. £24.3m has been added to the Adult Social Care department's budget for 2024/25 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.
- 71. The ongoing cost pressures arising from the impact of the National Living Wage have been built into the Council's Medium Term Financial Strategy and were approved by Full Council in February 2024.

Public Sector Equality Duty Implications

72. The Council must have due regard to the Public Sector Equality Duty implications when making a decision. 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

73. 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) approves the proposed distribution of £24.3 million fee increases to Adult Social Care fees in line with the proposed uplifts as outlined in the report with effect from 1 April 2024.
- 2) approves the proposed service charges for the financial year 2024/25 for those Adult Social Care services accessed that incur a charge with effect from 1 April 2024.
- 3) approves the increases in the charges for transport, assistive technology, deferred payments, appointeeship and brokerage to be effective from 1 April 2024.
- 4) approves the proposals for the use, and distribution, of the Market Sustainability and Improvement Fund 2024/25, in accordance with the grant conditions as outlined in this report.

Councillor Matt Barney Cabinet Member, Adult Social Care

For any enquiries about this report please contact:

Melanie Williams Corporate Director, Adult Social Care and Health T: 0115 8043928 E: melanie.williams@nottscc.gov.uk

Constitutional Comments (CD 16/02/24)

74. The recommendations proposed falls within the remit of Cabinet by virtue of the Terms of Reference set out in the Constitution.

Financial Comments (DG 12/02/24)

75. The financial implications are contained within **paragraphs 70 and 71** of the report. £24.3m has been included within the Department's budget for 2024/25 and any costs over and above will be regularly monitored during the year. Use of the Market Sustainability and Improvement Fund for 2024/25 of £15.4m are contained within **paragraphs 45 to 51**.

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 Improvement Fund 2023 to 2024 - GOV.UK (www.gov.uk)

Published <u>Market Sustainability and Improvement Fund - Workforce Fund - GOV.UK</u> (www.gov.uk)

Published <u>Market sustainability and fair cost of care fund 2022 to 2023: guidance - GOV.UK (www.gov.uk)</u>

Published Social Care Reform White Paper:

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

Published Adult Social Care Reform Impact and Risks Cabinet report dated 14th July 2022

Published Section 5 of the Care Act – shaping the market and support services <u>Care Act</u> <u>factsheets - GOV.UK (www.gov.uk)</u>

Published Care and Support Statutory Guidance (Sec 4.31) <u>Care and support statutory guidance</u> - <u>GOV.UK (www.gov.uk)</u>

Published further background information on Think Local Act Personal (TLAP)

Autumn Statement in Detail - CBP-9315.pdf (parliament.uk)

Published Market Sustainability and Fair Cost of Care | Nottinghamshire County Council

Electoral Division(s) and Member(s) Affected

All.

A0081