

12 March 2018

Agenda Item: 8

REPORT OF THE SERVICE DIRECTOR, STRATEGIC COMMISSIONING, SAFEGUARDING AND ACCESS

PROPOSED INCREASES IN FEES FOR INDEPENDENT SECTOR ADULT SOCIAL CARE PROVIDERS AND CHARGES FOR MEALS AND TRANSPORT

Purpose of the Report

1. To advise Committee of the application of inflationary increases for care and support services purchased from independent sector providers.
2. At Full Council on 28th February 2018, Members approved the allocation of £6.5m to meet provider cost pressures arising from the impact of the National Living Wage for 2018/19. This report now seeks Committee approval for the proposed distribution of the £6.5m of fee increases to independent sector care and support providers across the different adult social care services.
3. To seek Committee approval to increase Older Adults' Care Home fees in line with the 'Fair Price for Care' agreed inflation calculation.
4. To seek Committee approval for the fee increases to be effective from 1st April 2018 to align with the payment cycle for the new financial year.
5. To seek Committee approval to increase the charge for meals and transport from 1st April 2018.

Information

The Care Act 2014

6. 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.
7. 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.

Implementation of the National Living Wage from April 2016

8. In response to the announcement by the Chancellor of the Exchequer, in July 2015, of the introduction of the National Living Wage (NLW) from April 2016, the Council completed detailed analysis of the financial implications of this across the range of externally commissioned care and support services. This was in recognition that large proportions of the adult social care workforce are employed at or just above National Minimum Wage levels. The Council's analysis of the cost implications was subject to independent evaluation and validation which was completed by PwC in December 2015.
9. Following the detailed evaluation of the NLW cost pressures, and following approval at Full Council in February 2016, the Council made provisions within its Medium Term Financial Strategy to meet the anticipated cost pressures arising from the NLW, from April 2016 through to 2019/20.

The Budget

10. The Council's net budget for adult social care is £204m for 2018/19, with a gross budget of £365m. 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. The Council's gross budget allocations for externally provided care and support services for 2018/19 are broken down as follows:

Area of service	Budget
Care Home placements - Older Adults	£73.9m
Care Home placements - Younger Adults	£43.4m
Home care services	£16.7m
Supported Living services	£42.6m
Direct Payments*	£42.1m

**Direct Payments are used by service users and carers to purchase all types of community based services including home care, supported living, day time activities and carers' breaks. This includes one-off Direct Payments.*

Care and support services in Nottinghamshire

11. The total number of people funded by the Council in long term residential or nursing care placements was 2906 as at the end of January 2018. 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.
12. The Council also 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. As at the end of January 2018, there were approximately 6770 people who are 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.
13. 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 4672 carers. Many of these services are delivered through a Direct Payment.

Application of fee increases in recent years including the increase applied in April 2017 in relation to the National Living Wage

Older Adults' Residential and Nursing Care Home Provision

14. During 2012, the Council completed a comprehensive review of its 'Fair Price for Care' framework and fee levels for independent sector older persons' care homes. Subsequently, a new fee structure and fee levels were approved by Policy Committee in February 2013. At the same time, Members approved the application of an annual inflation-linked fee increase to be applied annually to independent sector older persons' care home fees.
15. In accordance with the above, financial provisions have been built into the Medium Term Financial Strategy for an annual inflation linked increase.
16. In addition, since 2016 additional increases have been approved in line with the cost of the National Living Wage.

Younger adults' residential and nursing care home provision

17. Fee levels for younger adults' residential and nursing care home provision have historically been negotiated 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 through the use of 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. The tool also provides a robust framework for

agreeing a fair and transparent price for each placement based on the needs of the individual service user.

18. In 2016/17, the Council developed a Dynamic Purchasing System (DPS) as a means of selecting care home placements for younger adults based on their specific needs. The DPS is a process whereby providers can apply to become accredited so that they are able to deliver services in Nottinghamshire on behalf of the County Council. Successful accreditation onto the DPS does not automatically enable the provider to deliver services for the Council but it is a means by which contracts can subsequently be awarded to them following a tender process. When a new service is required, the Council can inform all the providers on the DPS that they can submit a bid for the delivery of the service. The preferred provider will then be selected following evaluation of their tender submission against a set of criteria relating to quality and price.
19. The DPS is open throughout its duration allowing new providers to apply to join the DPS and bid for contracts thereby allowing new providers to enter the local market and gain a contract with the Council. This offers greater flexibility to the commissioners in the event that existing providers cannot sufficiently meet demand or in the case of concerns about the quality of the care services. The DPS will also permit contracts to be awarded with different start and finish dates. All new care home placements for younger adults are now sought through the DPS and providers are required to submit their fee as part of the competitive bidding process.
20. Due to the financial pressures experienced by the Council in recent years, the specialist care home providers have not been allocated an annual inflationary increase whilst the Care Funding Calculator has been implemented.
21. However, since 2016 additional increases have been approved in line with the cost of the National Living Wage.

Home Care, Extra Care and supported living services

22. Home Care, Extra Care and supported living services are subject to market testing through competitive tender processes on a regular basis, usually every 3 – 5 years. Tendering provides the Council with the opportunity to test the market through an open and transparent competitive process in order to seek best value from providers.
23. Following the completion of the tender for home based care and support services in 2013/14, new contracts were awarded to four core providers for home based care and support services (home care), each covering a large geographical area based on district council boundaries.
24. These contracts, with a revised specification, are out to tender and will be awarded during 2018/19. The outcome of this tender will inform the pricing thereafter.
25. The above contracts do not require the Council to apply an annual inflationary increase.
26. However, since 2016 increases have been approved in line with the cost of the National Living Wage.

Day Care Services

27. The Council has established matrix rates for internal day services, based on the following categories, reflecting their levels of need, as follows:
- Complex needs
 - High level needs
 - Medium level needs
 - Low level needs
 - 1:1 support.
28. The matrix considers both physical disabilities and cognitive impairment and people's ability to engage with the service and the score indicates the level of staff supervision likely to be required. Therefore people with complex needs may need one member of staff to every two service users whereas low needs may be one member of staff to 10 service users depending on the activity being undertaken and size of the service.
29. Since 2016 increases have been approved in line with the cost of the National Living Wage.

Shared Lives Services

30. As the Council has developed and expanded its Shared Lives scheme, the fee rates payable to Shared Lives carers were reviewed during 2013/14 and the new fee structure implemented at this time involved aligning fee levels with individual needs. In April 2016, an increase of 6% was applied to Shared Lives carers to meet NLW cost pressures. Benchmarking data shows that the rate paid to Shared Lives Carers in Nottinghamshire is above the average paid by neighbouring authorities. No uplift was made in 2017/18.

Direct Payments

31. Prior to April 2016, the rates for paying Personal Assistants (PAs) have been in effect since April 2010 and were set at £9.10 per hour from Monday to Saturday and £13.30 on Sundays. This rate includes overhead costs such as National Insurance and pension contributions as well as the hourly rate paid to the PAs.
32. Since 2016 the rates for Direct Payments have been increased in line with National Living Wage.

Sleep-in provision

33. In February 2016, Full Council approved the allocation of £3.8m to enable an increase to be applied to the rate paid for sleep-in provision. This was based on detailed analysis of the numbers of sleep-ins being commissioned during late 2014 and the rates paid for the sleep-in provision. This enabled the Council to increase the flat rate from £35 per night to a rate of £70 per night, which has then been increased for the National Living Wage increases.

Proposals for fee increases from April 2018

34. In April 2018, the NLW will increase from £7.50 per hour to £7.83 per hour for people aged 25 years and over. At the same time the NLW for under 25s will increase from £7.05 to £7.38 per hour. In anticipation of the cost pressures in social care arising from this increase, a further £6.5m has been allocated to the Department's base budget to be applied to adult social care services commissioned from independent sector providers. As the inflationary increase relates directly to the NLW increase, the proposed distribution of this funding has been determined based on the staffing requirements and levels across the respective service area.
35. The proposed uplifts also take into account the increased employer contribution for pension provision from 1% - 2% effective from 1st April 2018.

Older adults' residential and nursing care home provision

36. It is proposed that a 3.00% increase is applied across all older adults' care home provision within Nottinghamshire. This is the combination of the increase relating to the increase in the NLW for staffing and an increase relating to other inflationary cost pressures in accordance with the Fair Price for Care fee framework. The table below outlines the current weekly fee levels and the proposed weekly fee levels to be applied from April 2018:

Care Home Banding	Proposed Fee 2018/19 Care Home (current fee)	Proposed Fee 2018/19 Care Home including DQM Payment** (current fee)	Proposed Fee 2018/19 *Nursing care (current fee)	Proposed Fee 2018/19 *Nursing care including DQM Payment (current fee)
Band 1	£454 (£441)	£467 (£453)	£493 (£479)	£504 (£489)
Band 2	£504 (£489)	£555 (£539)	£565 (£549)	£609 (£591)
Band 3	£535 (£519)	£584 (£567)	£595 (£578)	£640 (£621)
Band 4	£548 (£532)	£596 (£579)	£607 (£589)	£652 (£633)
Band 5	£564 (£548)	£614 (£596)	£624 (£606)	£668 (£649)

**For all care homes with nursing, the above fee levels are net of Funded Nursing Care contribution which was set at £156.25 per person per week in April 2017 and which may be increased for 2018 in line with inflation related costs. The Clinical Commissioning Groups (CCGs) fund and 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 residents whose primary care requires complex dementia care.*

Younger adults' residential and nursing care home provision

37. It is proposed that a 2.92% increase is applied to all younger adults' care home provision to cover the increase in the National Living Wage and employer pension contributions.

Home Care and Extra Care services

38. It is proposed that a 3.25% increase is applied to all core home care and extra care providers. Any other provider being paid at or below the core provider will also receive an increase up to the core provider rate.

Supported living services

39. It is proposed that a 3.25% increase is applied to all supported living services.

Day services

40. It is proposed that a 3.27% increase is applied to all externally commissioned day services.

Direct Payments

41. It is proposed that a 5.05% increase is applied to Direct Payment personal assistant (PA) packages. This will take the basic rate for 2018/19 to £10.55 per hour.
42. 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 core 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 point of review.

Shared Lives services

43. It is proposed that a 3.25% increase is applied to all Shared Lives services.

Sleep-in provision

44. In order to ensure that the National Living Wage and overheads can be paid for all hours covered by sleep-in provision, it is proposed to increase the rate to £86.68 per night.

Proposals for increases to charges

Meals

45. To help cover the increasing costs of providing meals it is proposed to set a charge of £4.35 for all hot meals provided by the Council's Meals at Home service and within the Council's own Day Services from 1st April 2018.

Transport

46. In line with Transport policy and to help recover increased costs of providing the service, it is proposed to increase the daily charge for transport services from £8 to £9 per day from 1st April 2018.

Other Options Considered

47. At Full Council in February 2018, Members had approved the allocation of £6.5m to meet provider cost pressures arising from the impact of the NLW for 2018/19 and provisions were made at that time in the Medium Term Financial Strategy to fund this pressure. The purpose of this report is to propose to Members the most appropriate way of allocating this funding based on the fees already allocated across the different services and based on information about provider costs.

Reason/s for Recommendation/s

48. 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 are able to deliver the required services.
49. 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 NLW. The proposed fees 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.

Statutory and Policy Implications

50. 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 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.

Implications for Service Users

51. 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.

Financial Implications

52. £7.7m has been added to the Department's budget for 2018/19 and up to £0.55m is available from contingency, any costs over and above this will need to be met from within the departmental budget.
53. The ongoing cost pressures arising from the impact of the NLW have been built into the Council's Medium Term Financial Strategy as approved by Full Council in February 2018.

Human Resources Implications

54. The information and proposals contained in this report relate to externally provided care and support services and do not have a direct impact on internal staffing. Any increases in staff pay across the social care sector will help to ensure that the Council is able to commission appropriate levels of care and support services from independent sector care and support providers.

Public Sector Equality Duty Implications

55. This allocation of fee increases to meet NLW cost pressures should help to ensure that the services continue to be sustainable and that providers remain financially viable following the further increase in the NLW for over 25's from £7.50 to £7.83 per hour, and for under 25's from £7.05 to £7.38 per hour

RECOMMENDATION/S

That the Committee:

- 1) approves the proposed distribution of £6.5m of fee increases to independent sector care and support providers across the different adult social care services related to the further increase in the National Living Wage from April 2018.
- 2) approves the increase in Older Adults' Care Home fees in line with the 'Fair Price for Care' agreed inflation calculation, as detailed in paragraph 36.
- 3) approves that the fee increases be effective from 1 April 2018 to align with the payment cycle for the new financial year.
- 4) approves the increase in charges for meals and transport effective from 1 April 2018.

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Constitutional Comments (LM 27/02/18)

56. The Adult Social Care and Public Health Committee is the appropriate body to consider the contents of the report.

Financial Comments (DG 27/02/18)

57. The financial implications are contained within paragraphs 52 and 53 of this report.

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.

Fair Price for Care – Older Persons' Care Home Fees – report to Policy Committee on 13 February 2013

Annual budget 2017/18 – report to Full Council on 28 February 2018

Electoral Division(s) and Member(s) Affected

All.

ASCPH533