

14<sup>th</sup> March 2022

Agenda Item: 8

**REPORT OF THE SERVICE DIRECTOR, INTEGRATED STRATEGIC  
COMMISSIONING AND SERVICE IMPROVEMENT**

**PROPOSED INCREASE IN FEES FOR INDEPENDENT SECTOR ADULT  
SOCIAL CARE PROVIDERS, DIRECT PAYMENTS AND OTHER CHARGES**

**Purpose of the Report**

1. To advise Committee of the application of annual inflationary increases for care and support services purchased from independent sector social care and support providers.
2. At Full Council on 24<sup>th</sup> February 2022, Members approved the allocation of £14.966m to meet provider cost pressures arising from the impact of the National Living Wage, increase in Employers National Insurance and Fair Price for Care inflation for 2022/23. This report now seeks Committee approval for the proposed distribution of £14.966m fee increases to independent sector care and support providers across the different adult social care services.
3. To seek approval to increase the Ageing Well care home fees in line with the 'Fair Price for Care' agreed inflation calculation and National Living Wage increase.
4. To seek approval to increase the fees for Living Well residential and nursing care placements.
5. To seek approval to increase the fees for Home Care, Housing with Care, Supported Living, Day Care, Shared Lives, Direct Payments and Sleep-in provision.
6. To seek approval for the fee increases to be effective from 4<sup>th</sup> April 2022 to align with the payment cycle for the new financial year.

**Information**

**The Care Act 2014**

7. 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.

8. 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**

9. In line with national legislation the Council has uplifted fees in line with the National Living Wage.

### **The Budget**

10. The Council’s net budget for adult social care and health in 2022/23 is £231.4m, with a gross budget of £435m. 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 2022/23 are broken down as follows:

<b>Area of service</b>	<b>Budget</b>
Care Home placements – Ageing Well	£88.9m
Care Home placements – Living Well	£63.3m
Home Care & Extra Care services	£28.6m
Supported Living services	£56.9m
Direct Payments	£46.4m

### **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 2,851 as at the end of January 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.
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 2022, there were 7,941 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.

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 3,425 carers. Many of these services are delivered through a Direct Payment.

### **Proposals for fee increases from April 2022**

14. In April 2022, the National Living Wage will increase from £8.91 per hour to £9.50 per hour for people aged 23 years and over which is a 6.6% increase. At the same time the National Minimum Wage for 21-22 year-olds will increase 9.8% to £9.18. The 18-20 year-olds will increase by 4.1% in 2022 to £6.83 per hour. In anticipation of the cost pressures in social care arising from this increase, a further £12.384m has been allocated to the Department's base budget to be applied to adult social care services commissioned from independent sector providers.
15. In addition to the National Living Wage increase, the government has proposed an increase in Employers National Insurance contributions of 1.25%. In anticipation of the cost pressures in social care arising from this increase, a further £1.985m has been allocated to the Department's base budget to be applied to adult social care services commissioned from independent sector providers.
16. With the exception of the Ageing Well banded Care Homes in Nottinghamshire the inflationary increase relates directly to the increase in National Living Wage and Employers National Insurance contributions, so the proposed percentage uplifts by service vary from 5.58% up to 8.81% according to the proportion of the current fee that is directly staff related.

### **Ageing Well Residential and Nursing Care Home Provision**

17. 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. This method of payment 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 paid to all banded Ageing Well care home providers.
18. In addition to this, since 2016 additional increases have been approved in line with the cost of the National Living Wage.
19. It is proposed that a 4.3% increase is applied across all Ageing Well care home provision within Nottinghamshire. This is the combination of the increase relating to the increase in the National Living Wage for staffing and an increase relating to other inflationary cost pressures in accordance with the Fair Price for Care indices. The table below outlines the current weekly fee levels and the proposed weekly fee levels to be applied from April 2022:

Care Home Banding	Proposed Fee 2022/23 Care Home	Proposed Fee 2022/23 Care Home including DQM Payment**	Proposed Fee 2022/23 *Nursing care	Proposed Fee 2022/23 *Nursing care including DQM Payment
Band 1	£527	£542	£573	£585
Band 2	£585	£646	£656	£707
Band 3	£622	£679	£690	£744
Band 4	£636	£692	£705	£758
Band 5	£655	£713	£726	£776

*\*For all care homes with nursing, the above fee levels are net of Funded Nursing Care contribution which was set at £187.60 per person per week in April 2021 (amount not confirmed for 2022). The Clinical Commissioning Groups 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.*

20. The Ageing Well care homes contract tendering process had been delayed due to the pandemic. The tendering process for the new contracts commenced in September 2021, with the implementation date set for April 2022. The Council still plans to use the standard NHS Contract, as it has done for Home Based Care, with a specification designed to meet local need. In using this standard contract, it will be less burdensome on providers as there is greater consistency and expectations from commissioners when we work together.

### **Living Well residential and nursing care home provision**

21. 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 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.
22. Since 2016 additional increases have been approved in line with the cost of the National Living Wage.
23. It is proposed that a 5.99% increase is applied to all Living Well in county and out of county care home provision 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 the Committee 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 department with the appropriate evidence that an uplift is required in order to meet the National Living Wage requirements.
- b) packages over £3,000 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 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 services**

- 24. 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. The tendering process 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.
- 25. Following the completion of the tender for Home based care and Housing with Care services in 2018/19, new contracts were awarded to a number of 'Lead providers' (with the exception of one scheme that was procured separately and has a different provider), each covering a large geographical area based on district council boundaries. 'Additional providers' are also 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.
- 26. In addition, the Dynamic Purchasing System can be used to procure individual packages of care.
- 27. The above contracts do not require the Council to apply an annual inflationary increase.
- 28. Since 2016 increases have been approved in line with the cost of the National Living Wage.
- 29. It is proposed that a 5.58% increase is applied to 'Lead' and 'Additional' contracted Home-based care and Supported Living services and 6.33% is applied to Housing with Care services. Legacy arrangements will be negotiated in line with the Lead and Additional provider rates.

### **Day Care Services**

- 30. The Council has established matrix rates for internal day services, based on the following categories, reflecting their levels of need. It is proposed that a 5.85% increase is applied to all externally commissioned day services. The table below outlines the current weekly matrix levels and the proposed weekly fee levels to be applied from April 2022:

	<b>2021/22</b>	<b>2022/23</b>
Complex needs	£38.25 per session	£40.49 per session
High level needs	£19.73 per session	£20.88 per session
Medium level needs	£13.97 per session	£14.79 per session

Low level needs	£9.63 per session	£10.19 per session
1:1 support	£12.30 per hour	£13.02 per hour

31. Since 2016 increases have been approved in line with the cost of the National Living Wage.
32. In addition there are some spot purchased arrangements which are negotiated on an individual basis.

### Shared Lives Services

33. 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 currently set at £9.20 per night (£64.40 per week) and is a payment towards food and bills, and payment made for care costs by the County Council. The table below shows the gross payment made up of these elements:

Service User need level	Current gross payment to shared lives carers per week 2021/22	Proposed gross payment to carers per week in 2022/23
Basic	£239.88	£253.27
Low	£359.12	£379.16
Medium	£499.89	£527.78
High	£654.60	£691.13
Complex	£937.29	£989.59

34. It is proposed that the current rates are increased by 5.58%. In addition to this it is recommended that the contribution to food and bills which is paid by the service user is increased to £9.50 per night (£66.50 per week). The proposed increase to the nightly charge is based on the fact that Universal Credit will increase by 3.1% in April 2022.

### Direct Payments

35. Since 2016 the rates for Direct Payments have been increased in line with National Living Wage.
36. It is proposed that an 8.61% increase is applied to Direct Payment Personal Assistant packages. 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. This increase will take the basic rate for 2022/23 to £12.24.
37. 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 point of review.

### **Sleep-in provision**

38. 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 by 7.7% to £107.09 per night.

### **Proposals for charges – non-direct care provision**

#### **Transport**

39. It is proposed that there is a 3.1% increase in transport charge from £9.55 to £9.85 in line with inflationary cost increase from April 2022.

#### **Assistive Technology – Service Charge/Call monitoring**

40. It is proposed that the charges of £2.01 per week for telecare and £3.50 per week for mobile network telecare devices remain the same as 2021/22 for this financial year.

#### **Assistive Technology – 24 Hour Home Care Response service**

41. It is proposed that the charge of £9.60 per week remains the same as 2021/22 for this financial year.

#### **Deferred Payment Scheme**

42. The Deferred Payment Scheme charges a one-off fee of £195 for Legal support and £235 for administration on set up. It is proposed to retain the existing charge.

#### **Appointeeship charge**

43. 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 £12 per week if the client has over £1,000 in their account. The appointeeship service is being separately reviewed so until the conclusion of that review it is proposed to retain the existing charge.

#### **Deputyship charge**

44. 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:

<b>Fee Type</b>	<b>Cost</b>
Application Fee	£385
Work up to date of Order	£745
Work up to 1 <sup>st</sup> anniversary	£775
Work up to 2 <sup>nd</sup> and subsequent anniversaries	£650

Property Fee, due on anniversary of Order and on completion of sale of property	£300
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**

45. The current brokerage charge of £10.73 for a four-weekly charge equating to £128.76 per annum is to remain the same for this financial year 2022/23.

### **Other Options Considered**

46. 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**

47. 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.
48. 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

### **Statutory and Policy Implications**

49. 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.

### **Financial Implications**

50. £14.966m has been added to the Department's budget for 2022/23 and any costs over and above this will need to be met from within the departmental budget.

51. 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 2022.

### **Implications for Service Users**

52. 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 the Committee:

- 1) approves the proposed distribution of £14.966m of fee increases to independent sector social care and support providers across the different adult social care services related to the further increase in the National Living Wage from 4<sup>th</sup> April 2022
- 2) approves the increase in Ageing Well Care Home fees in line with the 'Fair Price for Care' agreed inflation calculation
- 3) approves the fee increases for Living Well residential and nursing home care placements
- 4) approves the fee increases proposed for Home Care, Housing with Care, Supported Living, Day Care, Shared Lives, Direct Payments and Sleep-in provision
- 5) approves that all the fee increases be effective from 4<sup>th</sup> April 2022 to align with the payment cycle for the new financial year.

**Kashif Ahmed**

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### **Constitutional Comments (LPW 23/02/22)**

53. The recommendations fall within the remit of the Adult Social Care and Public Health Committee by virtue of its terms of reference.

### **Financial Comments (KAS 01/03/22)**

54. The financial implications are contained within **paragraphs 50 and 51** of the report.

£14.966m has been included within the Department's budget for 2022/23 and any costs over and above will be regularly monitored during the year.

### **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 13th February 2013](#)

[Annual budget 2021/22 – report to Full Council on 25th February 2021.](#)

### **Electoral Division(s) and Member(s) Affected**

All.

ASCPH797