

1st April 2019**Agenda Item: 7****REPORT OF THE SERVICE DIRECTOR, STRATEGIC COMMISSIONING,
SAFEGUARDING AND ACCESS****PROPOSED INCREASES 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 inflationary increases for care and support services purchased from independent sector providers.
2. At Full Council on 28th February 2019, Members approved the allocation of £7.483m to meet provider cost pressures arising from the impact of the National Living Wage for 2019/20. This report now seeks Committee approval for the proposed distribution of the £7.483m of fee increases to independent sector care and support providers across the different adult social care services.
3. To seek approval to increase the Older Adults care home fees in line with the 'Fair Price for Care' agreed inflation calculation as detailed in **paragraph 22**.
4. To seek approval to increase Younger Adults residential and nursing care placements.
5. To seek approval to increase the fees for Home Care, Extra Care, Supported Living, Day Care, Shared Lives, Direct Payments and Sleep-in provision.
6. To seek approval to increase the charge for meals and transport from 8th April 2019.
7. To seek approval for the fee increases to be effective from 8th April 2019 to align with the payment cycle for the new financial year.

Information**The Care Act 2014**

8. 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.

9. 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

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

Employer Pension Contribution

11. 3% of gross pay has to be paid by employers. This 1% increase has been taken into account in setting the Council budget and fee increases.

The Budget

12. The Council's net budget for adult social care and health is £203m for 2019/20, with a gross budget of £381m. 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 2019/20 are broken down as follows:

Area of service	Budget
Care Home placements - Older Adults	£80.2m
Care Home placements - Younger Adults	£47.5m
Home care services	£18.5m
Supported Living services	£46.1m
Direct Payments	£41.6m

Care and support services in Nottinghamshire

13. The total number of people funded by the Council in long term residential or nursing care placements was 2,963 as at the end of January 2019. 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.

14. 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 2019, there were 6,515 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.
15. 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 3,164 carers. Many of these services are delivered through a Direct Payment.

Proposals for fee increases from April 2019

16. In April 2019, the National Living Wage (NLW) will increase from £7.83 per hour to £8.21 per hour for people aged 25 years and over. At the same time the NLW for 18-24 year olds will increase from £7.38 to £7.70 per hour. In anticipation of the cost pressures in social care arising from this increase, a further £7.483m has been allocated to the Department's base budget to be applied to adult social care services commissioned from independent sector providers.
17. With the exception of the Older Adults banded Care Homes in Nottinghamshire the inflationary increase relates directly to the increase in NLW and employer pension contributions so the proposed percentage uplifts by service vary from 3.3% up to 5.8% according to the proportion of the current fee that is directly staff related.

Older Adults Residential and Nursing Care Home Provision

18. The department has undertaken a number of exercises over recent years to ensure that it meets its legal duty in taking account of the cost of care and ensuring a sustainable market across the County. 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 based on five quality bandings was 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.
19. In addition, since 2016 additional increases have been approved in line with the cost of the National Living Wage.
20. A further review of the Fair Price for Care was initiated in 2018, with the report received from LaingBuisson in November 2018. The work also includes a review of the Quality Audit Tool (QAT) that determines the fee band that each home will be paid at and the Dementia Quality Mark (DQM) payment.

21. The costs identified are broadly in line with the current fees being paid with the exception of some outliers that cannot be explained and on that basis the Council proposes to continue using the current Fair Price for Care indices previously agreed.
22. Therefore it is proposed that a 4.26% 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 indices. The table below outlines the current weekly fee levels and the proposed weekly fee levels to be applied from April 2019:

Care Home Banding	Proposed Fee 2019/20 Care Home (current fee)	Proposed Fee 2019/20 Care Home including DQM Payment** (current fee)	Proposed Fee 2019/20 *Nursing care (current fee)	Proposed Fee 2019/20 *Nursing care including DQM Payment (current fee)
Band 1	£473 (£454)	£487 (£467)	£514 (£493)	£525 (£504)
Band 2	£525 (£504)	£579 (£555)	£589 (£565)	£635 (£609)
Band 3	£558 (£535)	£609 (£584)	£620 (£595)	£667 (£640)
Band 4	£571 (£548)	£621 (£596)	£633 (£607)	£680 (£652)
Band 5	£588 (£564)	£640 (£614)	£651 (£624)	£696 (£668)

**For all care homes with nursing, the above fee levels are net of Funded Nursing Care contribution which was set at £158.16 per person per week in April 2018 and which may be increased for 2019 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.*

23. The review of the QAT and also the DQM will continue in partnership with the Nottinghamshire Care Association and will come back to Committee to seek approval for any changes.

Younger Adults residential and nursing care home provision

24. Fee levels for younger adults residential and nursing care home provision are negotiated and commissioned via the Dynamic Purchasing System (DPS) 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.

25. Since 2016 additional increases have been approved in line with the cost of the National Living Wage.
26. It is proposed that a 3.4% increase is applied to all younger adults' care home provision to cover the increase in the National Living Wage and employer pension contributions.

Home based care, Extra Care and supported living services

27. Home based 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.
28. Following the completion of the tender for home based care and Extra Care services in 2018/19, new contracts were awarded to four 'Lead providers', each covering a large geographical area based on district council boundaries. 'Additional providers' are also contracted to supply care to supplement the lead providers.
29. The above contracts do not require the Council to apply an annual inflationary increase.
30. Since 2016 increases have been approved in line with the cost of the National Living Wage.
31. It is proposed that a 3.8% increase is applied to 'Lead' and 'Additional' contracted home based care and supported living and 4.13% is applied to Extra Care services.
32. Where a provider's rate is above the upper rate of the 'Lead' or 'Additional' providers operating in the same geographical area no uplift will be applied.

Day Care Services

33. 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 3.49% 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 2019:

	2018/19	2019/20
Complex needs	£34.75 per session	£35.96 per session
High level needs	£17.92 per session	£18.55 per session
Medium level needs	£12.69 per session	£13.13 per session
Low level needs	£8.74 per session	£9.05 per session
1:1 support	£11.17 per hour	£11.56 per hour

34. Since 2016 increases have been approved in line with the cost of the National Living Wage.

Shared Lives Services

35. 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 £8 per night (£56 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 2018/19	Proposed gross payment to carers per week with £15 flat rate increase in 2019/20
Basic	210.68	225.68
Low	322.86	337.86
Medium	455.29	470.29
High	600.85	615.85
Complex	866.80	881.80

36. It is proposed that the payment to carers is increased by a flat rate increase at all bands of £15 per week. This increase recognises increased costs and allows for a slightly higher proportionate increase at the lower bandings. It takes into account that payments at the lower bands have fallen behind the national averages for Shared Lives Carers as described by Shared Lives Plus, the umbrella organisation for Shared Lives schemes. In addition to this it is recommended that the contribution to food and bills which is paid by the service user is increased by £1 per night to £9 per night (£63 per week). This payment made directly from the service user has not been increased since it was first introduced in 2013.

Direct Payments

37. Since 2016 the rates for Direct Payments have been increased in line with National Living Wage.
38. It is proposed that a 5.82% increase is applied to Direct Payment **personal assistant** (PA) 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 2019/20 to £11.16 per hour.
39. 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

40. 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 5.7% to £91.62 per night.

Proposals for charges – non-direct care provision

Meals

41. Acknowledging the increasing costs of providing meals and as the Council moves towards full cost recovery it is proposed to set a charge of £4.50 for all hot meals provided by the Council's Meals at Home service and within the Council's own Day Services from 8th April 2019.

Transport

42. In line with Transport policy and as the Council moves towards full cost recovery, it is proposed to increase the daily charge for transport services from £9 to £9.50 per day from 8th April 2019.

Assistive Technology – Service Charge/Call monitoring

43. It is proposed to retain the existing charge of £2 per week as the service is currently being reviewed.

Assistive Technology – Rapid Response service charge

44. It is proposed to retain the existing charge of £9.55 per week as the service is currently being reviewed.

Deferred Payment Scheme

45. 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

46. Appointeeship is when the Council acts on behalf of an individual; it has responsibility for managing money, making and maintaining benefit claims, 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

47. 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:

Fee Type	Cost
Application Fee	£385
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 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 £16000)
Travel Cost	£40/hr

Brokerage charge

48. For people who fully fund their care but wish the Council to broker their service a charge of £10.26 per month is applied. It is proposed to leave this unchanged for 2019/20.

Other Options Considered

49. 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 NLW are also legally binding.

Reason/s for Recommendation/s

50. 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.
51. 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

52. 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

53. 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

54. £9.297m has been added to the Department's budget for 2019/20 and any costs over and above this will need to be met from within the departmental budget.
55. 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 2019.

Human Resources Implications

56. 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

57. 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 £7.83 to £8.21 per hour, and for 18-24's from £7.38 to £7.70 per hour

RECOMMENDATION/S

That the Committee:

- 1) approves the proposed distribution of £7.483m 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 2019

- 2) approves the increase in Older Adults Care Home fees in line with the 'Fair Price for Care' agreed inflation calculation
- 3) approves the fee increases for younger adult residential and nursing home care placements
- 4) approves the fee increases proposed for Home Care, Extra Care, Supported Living, Day Care, Shared Lives, Direct Payments and Sleep-in provision
- 5) approves the increases for other non-direct care provision
- 6) approves that the fee increases be effective from 8th April 2019 to align with the payment cycle for the new financial year.

Paul Johnson

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Constitutional Comments (AK 13/03/2019)

58. The Adult Social Care and Public Health Committee is the appropriate body to consider the contents of the report by virtue of its terms of reference. Under the Council's financial regulations Committees are responsible for controlling expenditure within approved budgets.

Financial Comments (KAS 14/03/19)

59. The financial implications are contained within paragraphs 54 and 55 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 13th February 2013
Annual budget 2019/20 – report to Full Council on 28th February 2019.

Electoral Division(s) and Member(s) Affected

All.

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