

# Annual fee review for externally commissioned adult care services 2024/2025

Date: 6<sup>th</sup> March 2024

Report of: Head of Commissioning

Report to: Director Adults & Health

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

The report seeks approval from the Director of Adults and Health for the application of fee increases to externally commissioned services for 2024/2025, for home care services including the new Community Health and Wellbeing contract and community short breaks, care homes, extra care services, shared lives and uplifts for direct payments and providers of services for working age adults.

## Recommendations

The Director of Adults and Health is recommended to:

- a) Note and agree the contents of the report.
- b) Approve an increase in the fee rates as detailed in the table in paragraph 15 ii below for the externally commissioned home care services under the new Interim Homecare contract including the hospital retainer rate, and the new rate for the Community Health and Wellbeing contract the financial year 2024/2025 in paragraph 15 ix.
- c) Approve the fee increase and agree the new cost structure stated in paragraphs 16 ix and 16 x of this report for the independent sector older people's care homes overarching agreement for the financial year 2024/2025.

- d) Approve an increase in the hourly rates for Extra Care and the Direct Payments rate for Personal Assistants, in accordance with the home care rate increases to be applied to the Primary and Framework providers as stated paragraphs 18 and 19 in the report.
- e) Approve an increase in the hourly rates for Community Based Short Breaks Providers to be managed within the overall budget for this service as stated in paragraph 15 xiii of the report.
- f) Approve the inflationary allocation to manage all uplift requests for 2024/2025 for all independent sector Learning Disability and all other working age adult independent sector providers.
- g) Approve the process of uplift offers with providers of services for working age adults, during the course of 2024/25, based on the use of the adapted Care Cost Calculator and on rigorous value for money audits of the Service Cost Analysis Form (SCAF) submitted by the providers.
- h) Agree that all increases in fees shall be applied from, the 8<sup>th</sup> April 2024.
- i) Note the relevant Head of Commissioning will implement this decision immediately following the expiry of the call in period by issuing letters to the care providers to inform them of this decision and updating the Client Information System to allow payments to be made at the new rate or commencing the discussions with providers where relevant.

## **What is this report about?**

- 1 The report seeks approval from the Director of Adults and Health for the application of fee increases to externally commissioned services for 2024/2025, for home care services (including the Community Health and Wellbeing Service), community short breaks, care homes, extra care services, shared lives and uplifts for direct payments and commissioned services for registered providers of services for working age adults..
- 2 Home Care and Community Short Breaks:
  - i. As part of the commissioning process for home care services in 2014, the Council engaged with providers to undertake a cost of care exercise using as its basis the UK Homecare Association pricing template. This was adjusted to take into account travel time for more rural parts of Leeds and formed the basis of the fees set for home care services as part of the procurement and subsequent contract process.
  - ii. The contract was initially awarded in 2016, to 4 primary providers, with 8 other providers also being party to the Framework Agreement however, the number of providers on the Framework Agreement has since reduced to 5 due to mergers and acquisitions. This contract has since been extended through a delegated decision of the Director of Adults and Health, to allow the directorate to work on a significant change programme to develop a completely new home care model for Leeds based on community wellbeing teams. Given the pressures with capacity within the primary and framework contract Adults and Health also commission over 50% of care packages through spot provision with various home care providers in the city.
  - iii. Adults and Health are now in the process of procuring the new Community Health and Wellbeing Service (CHWS) contract which will commence later in 2024 (see delegated

decision Ref D56733) and a new Interim Homecare Framework Contract which will commence on the 1<sup>st</sup> April 2024 (see delegated decision Ref D57175). All existing home care packages which are currently procured under the existing primary and framework agreement or spot placements will transfer to the new Interim Homecare Framework Contract, where appropriate, and all new home care packages, except those falling within the CHWS contract, will be commissioned under the new interim contract.

- iv. Within the new Interim Homecare Framework Contract there is provision for payment of a 1 week retainer rate for people receiving home care who go into hospital to ensure immediate resumption of the service if that person is discharged from hospital during that first week. This retainer payment is shown in the table in section 15 ii.
- v. In March 2021, given the pressures in the home care market, primarily due to the pandemic, the Director of Adults and Health took the decision to undertake a cost of care exercise to help inform fee rates for 2022/23 for home care. This was carried out by ARCC HR Ltd during the summer of 2021 and formed the basis for the fees agreed for the financial year 2022/23 and 2023/24.
- vi. In the main, the hourly rates for home care services commissioned on a spot purchased basis are similar to those of the primary and framework providers. However, in some cases, if an individual requires either a specifically trained staff member or the service is needed in a particularly hard to serve area, there is a need to negotiate a price based on the costs of delivering the package and this may be higher than the usual fee for that geographical area.
- vii. A Community Based Short Breaks Service contract was awarded on 1<sup>st</sup> November 2019 for a period of three years and five months with options to extend the contract up to a further two years, to align with the timelines of the home care contract. The contract was extended for 24 months through delegated decision DN387293 and will now expire on the 31<sup>st</sup> March 2025. This service is funded from the carers budget and any increases in the fees payable will be contained within this budget.

### 3 Care Homes:

- i. Adults and Health went through a commissioning exercise in 2017 for a new framework (overarching agreement) for the provision of local authority funded placements in independent sector older people's care homes for a five year period until the 31<sup>st</sup> March 2023. As part of the commissioning exercise, Adults and Health commissioned a firm of accountants, Mazars, to conduct a cost of care exercise which resulted in the Director agreeing the fee levels for the first year of the new contract by delegated decision on the 18<sup>th</sup> April 2018. These fees have been subject to an annual review implemented from the 1<sup>st</sup> April 2019 and on or about the same date each subsequent year thereafter.
- ii. The current framework contract was modified and extended through a delegated decision of the Director of Adults and Health in February 2023 (DN339954) for a period of 12 months from the 1<sup>st</sup> April 2023 with the option to extend for a further period of 12 months. The further extension period of 12 months is currently being considered by the Director.

- iii. The Director of Adults and Health took the decision in March 2021 to undertake a cost of care exercise to help inform fee rates for 2022/23 for older people's care homes in the city. This cost of care exercise was carried out by C.Co Ltd (a trading arm of CIPFA) during the summer of 2021 and formed the basis of the agreed fees for the 2022/23 and 2023/24 financial years.

#### 4 Working Age Adults:

- i. In addition to the Adults and Health budget for working age adults, the Council and the Leeds Integrated Commissioning Board (ICB) operate the Learning Disability Pooled Budget under Section 75 of the National Health Service Act 2006. All expenditure for the provision of services for adults with learning disabilities is through this Pooled Budget. LCC and the ICB are responsible for paying for different elements of care, and LCC is responsible for the financial running of the Pooled Budget.
- ii. The Council commissions a range of care and support services for working age adults including residential and nursing care, supported living services and day services and a shared lives service, all of which are personalised on the basis of an individual's care and support needs and their stated outcomes. The fees for these services are also based on the needs of individuals rather than through the application of 'standard' hourly rates.
- iii. These care and support services are subject to rigorous value for money audits based on the Service Cost Analysis Form (SCAF) submitted by providers. In previous years, fee requests from providers are considered through the application of our own adapted Care Cost Calculator and through an audit process based on providers' costs, with consideration given to the type and amount of support provided as part of the core hourly rate and any other factors such as the use of additional staffing support including 1 to 1 support.
- iv. Adults and Health also commission part of the shared lives service through an independent sector provider and the increase in fee for this service will be dealt with through negotiation with the provider.

#### 5 Extra Care:

- i. Extra Care housing is primarily designed for people who have care and support needs as well as a housing need. Extra care provides on-site access to 24/7 emergency or unplanned care (the core element of the model) which is an additional feature that separates it from other forms of retirement living.
- ii. Currently the directorate commissions 10 extra care schemes with the independent sector with a new scheme set to open this year and further schemes in the following years. These are commissioned through a mix of different approaches including block contracting where the directorate will contract for the whole care service at the scheme through to a core and add on model where individuals pay for the core service and their care and support needs are funded through individual personal budgets where the council is responsible for payment of their care. Fee increases for Extra Care Schemes that are paid on an hourly rate basis will increase in line with the increases applied to home care, as relevant. Fee increases for those schemes that are commissioned on a

different basis will be subject to negotiation with the relevant provider however, any increases will be contained within the overall budget for extra care.

6 Direct payments:

- i. Some people choose to have a Direct Payment to arrange and manage their own care and support services by employing a Personal Assistant. The minimum hourly rate for care workers under the primary and framework contract operates as a guide for the Personal Assistant pay rate and this will increase in line with the rates stated in this report for home care staff.

**What impact will this proposal have?**

- 7 2023 has seen a drop inflationary pressures within the UK with the CPI index falling from a high of 10.1% in January 2023 to 4% in the corresponding month in 2024. The National Living Wage set by the government is set to rise by 9.8% from April 2024, with the Real Living Wage set by the Living Wage Foundation set to rise by 10.1% during 2024.
- 8 Under Section 5 of the Care Act 2014, the local authority has a duty to promote diversity and quality in provision of services and in performing this duty, must have regard to ensuring the sustainability of the care market in its area.
- 9 The increase in fees proposed in this report will contribute to ensuring the Council is meeting this duty under the Care Act.

**How does this proposal impact the three pillars of the Best City Ambition?**

- Health and Wellbeing       Inclusive Growth       Zero Carbon

- 10 This proposal supports the ambitions of the Better Lives Strategy, the Council’s strategy for people with care and support needs, which helps the Council deliver overarching Health and Wellbeing Strategy aim for Leeds to be: “A healthy and caring city for all ages, where people who are the poorest improve their health the fastest”.
- 11 The proposal will also support the Inclusive Growth pillar of the Best City Ambition by increasing the staffing element of fee review by a percentage increase equivalent to the real living wage and ensuring the real living wage is paid to care staff who undertake home care services in the independent sector on behalf of the council, this will contribute to the ambition that Leeds will have an economy that works for everyone, and ensure that the benefits of economic growth are distributed fairly across the city, creating opportunities for all.

**What consultation and engagement has taken place?**

Wards affected:
Have ward members been consulted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

- 12 The impact of this proposal will have a benefit across all wards within Leeds therefore the Executive Member for Adult Social Care, Public Health and Active Lifestyles has been informed of the fee increases to be applied to commissioned services.
- 13 The Leeds Care Association, who are the representative body for registered care providers in the city, have been consulted about the decision.

### What are the resource implications?

14 Adults and Health are required to work within an overall financial inflation allocation for fee increases which has been set at £20.7m.

15 Home Care:

- i. Using the accepted methodology of the ARCC costing model from the cost of care exercise undertaken in 2021, an increase is calculated based on the Real Living Wage increase plus a discretionary £0.40, with the percentage difference applied to staffing elements of the fee (including direct care, travel time, training (staff time), holiday pay, sickness/maternity & paternity pay, notice/suspension pay, NI (direct care hours), pension (direct care hours)), with the December CPI rate applied to all other costs. However, given the significant budgetary pressures in 2024/25, an efficiency line will be sought from providers therefore, the proposal will apply a negative % rate of between 0.25% and 1.46% for CPI against other costs.
- ii. The table below shows the percentage uplift and the new hourly rates proposed and compares against the current hourly rate:

Contract Area	Framework Rate 2023-24	Proposed 2024-25	% uplift
Homecare – Urban (per hour)	£22.35	£23.91	7%
Homecare – Rural (per hour)	£23.78	£25.44	7%
Homecare Super Rural (per hour)	£24.96	£26.71	7%
New retainer rate for hospital discharge	n/a	£20.41	n/a

- iii. Overall, the strategy assumes a 6.8% increase in the budget for homecare, rising to £49.7m. This budget supports 1.960m hours of home care provision. The figures have factored into them both trend and demographic pressures. However, each year we are acutely aware that a small percentage variance can have a large financial impact and ongoing detailed monitoring will continue to be in place.
- iv. The new fees will apply to all care packages which are at the 2023/24 Framework rate on the current Primary and Framework contract and spot provision, as well as all new packages going forward commissioned under the new Interim Homecare Framework Contract.
- v. All providers being paid at the new 2024/25 rate will be required to ensure that all their care staff engaged in delivering care services for the Council will be paid a minimum of

£12.00 per hour, which is the Real Living Wage. All Providers will be required to ensure the additional discretionary £0.40 provided as part of the fee is used to address recruitment pressures in the home care market and is only spent on staffing related costs.

- vi. All providers under the new Interim Homecare Framework Contract will be contract monitored to ensure that they are complying with the contract and paying a minimum basic hourly rate to staff of £12.00 in addition to payment to staff for travel time and cost incurred and are also delivering improved terms and conditions for their staff in accordance with Unison’s Ethical Care Charter and the GMB Ethical Home Care Commissioning Charter.
- vii. It is proposed that the fees for the provision of home care will be increased to the proposed hourly rates stated in 15 ii above from 8<sup>th</sup> April 2024, where that care is currently being purchased at the 2023/24 hourly rate or below and on the strict proviso that the providers pass on a £12.00 per hour pay rate, as a minimum, to their care staff. Where a provider is receiving a fee above the 2023/24 hourly rate or refuses to pass on the minimum rate stated above to staff, the directorate will negotiate the 2024/25 rate with them, by exception.
- viii. It is proposed that the hourly fee rates for the Community Short Breaks Service will be increased by 7% from 8<sup>th</sup> April 2024, in order to enable these providers to cover inflationary increases in costs and pass on a £12.00 per hour minimum to their care staff, however, this increase will be managed within the overall budget for this service.
- ix. The new Community Health and Wellbeing Service contract currently has a fee rate of £24.50 included in the tender documents however, this will be increased in line with the increase given for the urban rate stated in 15 ii above and will apply when the new contract commences. The fee for the CHWS is shown in the table below:

Contract	Rate stated in the tender document	Proposed 2024-25	% uplift
Community Health and Wellbeing Service	£24.50	£26.22	7%

- x. Any homecare fees which are currently above the 2024/25 rate will not automatically be offered an uplift but will be subject to further negotiation with the provider. Any current fee which is above the 2023/24 framework rate but will be below the new 2024/25 will be offered an increase up to the new 2024/25 framework rate.

## 16 Older People’s Care Homes:

- i. The Care Act 2014 places a duty on local authorities to ensure there is a viable and sustainable market of social care provision to meet needs. The Care Act also requires local authorities to ensure that there is sufficient capacity, and a choice of quality services for local citizens. Within Leeds, there are adequate supplies of residential, residential dementia and nursing provision however, there is only a limited supply of nursing dementia bed availability. Whilst there is sufficient capacity to meet needs, at

times people are having to wait for longer periods of time to access a long-term placement in a nursing dementia bed.

- ii. In setting the 2022/23 fees, Adults and Health gave due regard to the cost of care as highlighted by the C Co. report and also considered bed capacity and demand for nursing and nursing dementia provision, the make-up of the market and feedback from providers as part of the consultation process. Adults and Health determined that a significant proportion of the market was servicing Health and self-funders at a rate above the cost of care as outlined by C Co. On that basis the directorate reviewed what was necessary to sustain the market in line with the Care Act. These factors are still currently relevant, and the directorate is mindful of the current inflationary pressures affecting the care home sector.
- iii. Using the accepted methodology of the C.Co costing model from the cost of care exercise undertaken in 2021, an increase is calculated based on the Real Living Wage increase applied to staffing elements of the fee, with the December CPI rate applied to all other costs. However, given the significant budgetary pressures in 2024/25, an efficiency line will be sought from providers therefore, the proposal will apply a rate between 0% and 2.08% for CPI against other costs.
- iv. On this basis, the directorate has proposed the following weekly core fees for residential and nursing care:

Setting	Framework Rate 2023-24	Proposed 2024-25	% uplift
Residential (per week)	£655	£694	6 %
Residential – Dementia (per week)	£713	£756	6%
Nursing (per week)	£754*	£799*	6%
Nursing – Dementia (per week)	£806*	£854*	6%

\*excluding Funded Nursing Care (FNC)

- v. In addition to the core fee, the current contract provides for a payment of a Quality Premium Payment where providers are meeting enhanced standards defined in the contract. These fees are uplifted at the same rate as the core fee. The table below sets out the proposed weekly QPP rates:

Setting Core plus QPP	Framework Rate 2023-24	Proposed 2024-25 £	% uplift
Residential (per week)	£682	£723	6 %
Residential – Dementia (per week)	£741	£785	6%
Nursing (per week)	£784*	£831*	6%
Nursing – Dementia (per week)	£836*	£886*	6%

\*excluding Funded Nursing Care (FNC)

- vi. During the extension period of the current framework agreement, consultation will take place with the provider market about the removal of the QPP rate from the contract.
- vii. Any care home fees which are currently being paid above the 2023/24 framework rate will not automatically be offered an uplift but will be subject to further negotiation with the provider. The only exception to this will be where Adults and Health have specifically agreed a rate with a provider for a particular type of care. In this case, the relevant percentage uplift mentioned in iv above will be applied to that agreed fee.



- viii. Any fees for people placed outside the Leeds City Council boundary are paid at the rate set by the host local authority and increased in line with that host local authority recommendation.
- ix. The proposed rates stated above are affordable within the current budget strategy and consider current demand and allow for demographic growth. As with home care a small percentage variation can have significant financial impact. There will be ongoing monitoring of this area of spend. Overall, the strategy assumes an 7.5% increase in the budget for residential care, increasing the budget to £82.5m.

#### 17 Working Age Adults:

- i. In December 2018 colleagues from LCC Internal Audit team undertook a review regarding the Learning Disability Pooled budget, and one of the areas of this looked at the monitoring and reporting arrangements in place for contract uplifts and savings. Whilst the controls in place to manage contract price changes (both savings and uplifts) were found to be overall satisfactory, a key recommendation from Internal Audit was that once the budget for contract uplifts has been agreed for the year, a Key Decision should be created for all spend within this budget. Therefore, this Key Decision can be used in the event that there is a requirement to award a single provider more money than the Head of Commissioning's delegated amount as per the Adults and Health Sub Delegation Scheme.
- ii. All fees for Working Age Adults are agreed based on the individuals needs therefore any increase to these fees will need to be agreed on an individual provider basis. Adults and Health value for money team will work with each provider to determine the relevant uplift for their particular service using the adapted Care Cost Calculator with rigorous value for money audits of the Service Cost Analysis Form (SCAF) submitted by the providers.. All fee increases will be contained with the overall budget available.
- iii. In 2024/25 the available budget for Learning Disability Contract uplifts is £6,585,657 for all independent sector uplifts (excluding direct payments). This budget is to manage uplift requests from all Learning Disability providers. It should be noted that the Learning Disability pooled budget also includes payments to providers for people who have Continuing Health Care (CHC) funding. The Council has provided £6,585,657 for contract uplifts, and health colleagues have been advised that they should plan for CHC costs that could be 54% of this figure (this is in addition to the provision made by the Council). All expenditure within the £6,585,657 is to manage all uplift requests for 2024/25 for all independent sector learning disability providers and as is a direct consequence of this Key Decision.
- iv. Where the cost of an existing package of care exceeds £100k per annum solely as a result of the negotiated fee uplift and arising from this Key Decision, this will not require further approval via a separate Delegated Decision Notification until the package of care and support is subject to a review.
- v. In 2024/25 the available budget for increases to fees for working age adults services (other than learning disability services) is £2,692,355. All expenditure within the £2,692,355 is to manage all uplift requests for 2024/25 for all independent sector working age adults providers and as is a direct consequence of this Key Decision.

#### 18 Extra Care:

- i. There are a number of extra care schemes within Leeds which are funded on the basis of different costing models. It is proposed that the same percentage increase

recommended for the home care providers delivering care in the Urban area is also applied to the Extra Care Providers, from the 8<sup>th</sup> April 2024 where fees are being paid on an hourly rate basis. Where contracts are let on a different contractual basis, e.g. block payments, these schemes will be subject to further negotiation with the relevant providers but will be kept within the overall budget available for price increases. This would apply an increase of 7% to the current extra care rates being paid on an hourly rate basis.

19 Direct payments:

- i. Some people choose to have a Direct Payment to arrange and manage their own care and support services by employing a Personal Assistant. The minimum hourly rate for care workers under the primary and framework contract operates as a guide for the Personal Assistant pay rate. Again, it is proposed that the same percentage increase recommended for home care providers delivering care in the Urban area is also applied to the Direct Payments, from the 8<sup>th</sup> April 2024. This would apply an increase of 7% to the current Direct Payment rates being paid. The overall budget for Direct Payments and Personal Assistants rates (including learning disability direct payments) is £23.876m and this increase will be contained within this overall budget.

- 20 There is provision within the Adults and Health Budget to cover all fee increases mentioned in sections these costs.

**What are the key risks and how are they being managed?**

- 21 There is a significant risk that current inflationary pressures continue to rise, and the fee increases mentioned here may not be sufficient for some providers to remain operating and delivering their services within Leeds. There is a greater risk that some providers of services may seek further negotiation on the fee proposal due to increasing cost pressures with the possibility of requests to hand back contracts to the council unless greater fees are paid. Adults and Health will continue to build strong working relationships with service providers and an individualised approach with providers, where required.
- 22 Risk management for contracts with externally commissioned care is undertaken as part of the normal contract management process.

**What are the legal implications?**

- 23 The decision highlighted in this report will be taken by the Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 24 This is a Key Decision which is subject to call-in as the overall value the increases mentioned in the report is greater than £500k. A notice has been published on the List of Forthcoming Key Decisions.
- 25 The report does not contain any exempt or confidential information.
- 26 There are no specific legal implications regarding the increase of fees as part of this report as the existing terms and conditions allow for fee reviews throughout the life of the different contracts..

## **Options, timescales and measuring success**

### **What other options were considered?**

27 There were no other options considered at this stage.

### **How will success be measured?**

28 The success of these proposals will be measured by complying with its duty under the Care Act 2014 to ensure there is a viable and sustainable market of social care provision to meet needs and that there is sufficient capacity, and a choice of quality services for local citizens.

### **What is the timetable and who will be responsible for implementation?**

29 The relevant Head of Commissioning will implement this decision immediately following the expiry of the call in period by issuing letters to the care providers to inform them of this decision and updating the Client Information System to allow payments to be made at the new rate or commence the relevant discussions with providers where relevant.

### **Appendices**

- Appendix 1 - Equality Impact Screening Tool.

### **Background papers**

None.