

**Report of** - Deputy Director, Integrated Commissioning, Adults and Health.

**Report to** - Director of Adults and Health

**Date:** 11 July 2018

**Subject:** Fee increases for Externally Commissioned Home Care, Extra Care and Direct Payments.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. The contract for externally commissioned homecare which runs from 1 June 2016 to 31 May 2021 contains a requirement to use the UKHCA costing template as adjusted and published in the tender documentation in any reassessment of the hourly rate paid to contractors for the delivery of homecare.
2. Leeds is a highly competitive labour market. Increasing the fee per hour paid for both contracted and spot purchased domiciliary care is intended to improve the terms and conditions for care workers, increase the retention and recruitment capability of contracted homecare providers, as well as improving the availability and flexibility of care.
3. Leeds City Council has committed to the principles of the Ethical Care Charter and seeks to ensure through developing monitoring capacity that companies working with Leeds City Council to deliver domiciliary care clearly embrace the improvements to staff terms and conditions and pay which the Ethical Care Charter and Leeds City Council require.

### Recommendations

4. The Director of Adults and Health is recommended to approve an increase in the externally commissioned homecare hourly rates for the Primary and Framework

Providers in accordance with the specified costing template within the terms and conditions of the contract and set out in paragraph 3.17 of this report

5. The Director of Adults and Health is recommended to approve an increase in the hourly rates for Extra Care and Direct Payments in accordance with the home care rate increases to be applied to the Primary and Framework providers.
6. The Director of Adults and Health is recommended to approve a 2% increase in the rates budget provision for spot purchased homecare.
7. The Director of Adults and Health is recommended to approve the establishment of 3 FTE posts at SO2 grade within the staff structure of Adults and Health Commissioning, at a cost of approximately £116,292 per annum, including on-costs and initial overheads. The post holders will be required to undertake routine monitoring of home care providers regarding their terms and conditions and pay rates of their care staff in relation to the Ethical Care Charter.

## **1 Purpose of this report**

The purpose of this report is to seek approval from the Director of Adults and Health to:

- 1.1 Increase the external homecare hourly rates in accordance with process specified within the terms and conditions of the primary and framework contracts and by negotiation with spot providers.
- 1.2 Increase the focus within the contract on home care providers' compliance with the Ethical Care Charter through the development of additional monitoring and commissioning capacity within Adults and Health Commissioning specifically in relation to staff terms and conditions and pay rates.

## **2 Background information**

- 2.1 On 7 January 2016 following a procurement exercise the Director of Adults and Health awarded contracts to 4 primary providers and 12 providers were appointed to the framework. The tender contained a commitment to the Ethical Care Charter requiring providers to improve employment conditions such as encourage non zero hour employment contracts, pay travel time, travel expenses and an hourly rate above the National minimum wage
- 2.2 As part of the original commissioning process for the new contract in 2014, Leeds City Council engaged with providers to undertake a "Fair Rate for Care" exercise using as its basis the UK Homecare Association pricing template. The rate was revised in February 2016 following the Executive Board decision to sign up to the Ethical Care Charter, which was undertaken on 1 May 2015, and the establishment of the Leeds Living Wage<sup>1</sup>.
- 2.3 With the introduction of the Leeds Living Wage a decision was made to increase the overall homecare contract rate to support the increased staff hourly rate. The successful contractors were encouraged to accept a contract variation which

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<sup>1</sup> Minimum pay rate agreed with Leeds Home Care framework providers

inserted into the contract a requirement to pay care staff a minimum of £8.01 per hour.

- 2.4 Homecare already has difficulty attracting sufficient good recruits into the industry and offer the best hourly rate achievable to attract staff as well as many “soft” benefits to staff. An increase in national living wage rates decreases the differential between the rates for homecare and the rates paid for general retail or other work. The National Living Wage increased by 4.4%, from £7.50 to £7.83 on 1 April 2018. The minimum rate paid by Leeds City Council to its own staff has risen in April 2018 to £8.45. An example of the competition within communities for workers is a new supermarket operating 500 metres from a current homecare provider offers hourly rates from £8.45 to £9.79 per hour to shop floor recruits. The neighbouring homecare provider offers £8.70 to £9.00 per hour. Recruitment in Leeds with a prosperous and growing economy continues to be challenging.
- 2.5 The contracts for primary contractors and framework contractors state that the Council has an option to enter into good faith negotiations with the Service Provider on any anniversary of the contract, or any other date agreed between the parties, with a view to varying the Contract Price which will be based on the UKHCA template as amended and set out in the Price Review Schedule. The contract also states that negotiations will run for a maximum period of 30 working days.
- 2.6 The Primary and Framework providers will be informed of the proposed fee increase and will be engaged with to negotiate the maximum hourly staff pay rate increase and benefit to staff achievable, during the 30 day negotiation period,. It will be part of the negotiation that providers need to pay care staff a minimum of £8.25 per hour and if already doing so will be required to evidence how the increased fees will be applied to directly benefit the terms and conditions for delivery staff.

### 3 **Main issues**

- 3.1 Leeds is a highly competitive labour market. Increasing the fee per hour paid for domiciliary care and improving the terms and conditions for care workers, is intended to increase the retention and recruitment capability of contracted homecare providers. Primary providers have recognised the difficulty operating in such a competitive environment and are committing increasingly to partnership work as a way to improve recruitment effectiveness and improvement in the quality of the staff working in the sector.
- 3.2 In April 2017, the government implemented an auto enrolment system for pension contributions. At the same time, the government required employers to increase their pension contribution by a minimum of 1%, with further increases to be applied from April 2018 and April 2019. In recognising this additional cost pressure to home care providers, the Council proposes a contribution within the fee calculation for 2018-19 to meet the statutory minimum figure of 2% employer contribution from April 2018.
- 3.3 Whilst there is no research focussed upon the companies operating within the Leeds homecare market, research among large employers by the Department for Work and Pensions (DWP) found that of those eligible jobholders that were automatically enrolled in workplace pension, the average opt-out rate was only 9%, which represents a lower figure than anticipated and has led to a downward revision of the overall estimated opt out rate of between 9 to 15%. The assumption is

therefore that this is a cost for employers which will relate to the majority of employees.

- 3.4 The Ethical Care Charter seeks to encourage improvements for staff and service users through better employment arrangements. Compliance with the Ethical Care Charter by home care providers can be seen as an indicator of best practice in employment practice and is in accordance with the Council's objective of being the best city.
- 3.5 In order to monitor compliance, the Council is proposing to commit resources for three additional officer posts at SO2 grade to engage with the home care providers to develop a clear analysis of the current levels of employment practice which comply with the Ethical Care Charter and which offers staff undertaking work commissioned by Leeds City Council basic rates of pay at or above £8.25 per hour.
- 3.6 Leeds City Council sees the proposal of an enhanced level of fees above the rate of inflation as a conditional offer to providers that in return for the fees they will commit to adopt best practice employment processes which comply with the requirements of the Ethical Care charter which are set out in three main areas:
  - Stage One- seeks to focus the commissioning of visits onto client need and not time/tasks, that 15 minute calls will only exceptionally be agreed, travel time and work expenses are paid to staff, statutory sick pay available for staff where appropriate, and that adequate time is scheduled for visits.
  - Stage Two- aims for improved staff consistency during visits, reduction in zero hour contracts, as well as improvement in training, supervision and staff support.
  - Stage Three – seeks the introduction of occupational sick pay schemes and that homecare workers will be paid at least the Leeds Living Wage.
- 3.7 Leeds City Council has provision within the contract to enter into good faith negotiations with the Service Provider on any anniversary of the contract, or any other date agreed between the parties, with a view to varying the Contract Price which will be based on the UKHCA template as amended and set out in the Price Review Schedule. The contract also states that negotiations will run for a maximum period of 30 working days
- 3.8 Leeds City Council commissions approximately 75% of its domiciliary care from twelve providers which have been selected through a formal tender process as Primary or Framework providers, whilst the remainder is commissioned on a spot purchase basis from approximately sixty smaller providers either requested by service users directly or who are able to offer capacity in areas where the main contractors have insufficient staff available at that time to deliver care as requested by the service user.
- 3.9 The Primary and Framework service providers have committed to ensuring that increases in the contract fees will be used to improve the pay rates and terms and conditions for their staff. The Primary and Framework providers will be monitored to ensure that they are in compliance with the contract and paying a minimum basic hourly rate to staff of £8.25 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 the Ethical Care Charter.

- 3.10 Leeds City Council does not have a similar agreement regarding the Ethical Care Charter and minimum rates of pay for care staff with the smaller providers who constitute the spot market. Leeds City Council therefore proposes to negotiate with providers to ensure that any additional fees received by providers are directed towards supporting the improvement of terms and conditions for staff in line with the good employment practice principles of the Ethical Care Charter.
- 3.11 The Council's officers have engaged with Primary and Framework contractors to gather information regarding initial provider compliance with the Ethical Care Charter, covering confirmed rates of pay for frontline carers matching or exceeding contractual requirements, types of contract on offer to staff, length and types of support available to staff who are ill and needing occupational health support. Their responses also confirm that generally very few providers have invested in comprehensive occupational health support which is highlighted within Stage Three of the Ethical Care Charter. This will be proposed as an area of development for providers over the duration of the contract period.
- 3.12 It is proposed that three posts at SO2 grade are established to provide the capacity within Adults and Health Commissioning to analyse current compliance with the Charter by commissioned homecare providers, monitor improvements in terms, pay and conditions and actively work to ensure commissioned providers become compliant with the Ethical Care Charter. The information requested from providers who are seeking to demonstrate their compliance will include pay scales, contract types and take up rates as well as rates of access to statutory and occupational health support. The providers will also be supported to introduce improvements in terms and conditions and better employment practice to provide a long term improvement in the homecare market in Leeds. This is an approach which once commenced with homecare would be able to be extended to other sectors such as residential care and sectors working in Mental Health support and Learning Disability support. Providing both the information on the performance of providers but also a resource to support wider improvement. The cost of these staff, including on-costs and initial overheads will be £116,292. Leeds City Council considers the principles within the Ethical Care Charter to constitute improved practice for care providers and would wish to commission care from providers who can demonstrate they operate to such good practice.
- 3.13 The expectation is that improved employment terms and conditions will support the recruitment and retention of care workers in a very competitive employment market. The ambition is to enlarge the pool of staff working to deliver homecare. Increasing staff numbers is seen as an important ingredient in the move to develop the availability and flexibility of homecare to service users. It is therefore important that staff receive pay and conditions which are competitive against other sectors of the Leeds economy and viable for staff to be able to earn a living wage.
- 3.14 It is anticipated that the increase in capacity within Adults and Health commissioning can be utilised with other care sectors and providers over time.
- 3.15 The UKHCA costing template as adjusted within the tender supports the following allocation of costs.

<b><u>Home Care Contract Rates using the original UKHCA template as adjusted in the contract.</u></b>		
	<b>%</b>	<b>£:p</b>
Workers Basic Hourly rate - contact time		<b>£8.25</b>
Workers hourly travel time	19.0%	£1.57
Workers hourly travel cost		£1.40
NI	9.5%	£0.88
holiday	12.1%	£1.31
training	1.7%	£0.19
pension	2.0%	£0.20
Total of costs		£5.55
Total Care worker costs		£13.80
<b><u>Other Operational Costs</u></b>		
Management overheads	27%	£2.88
Contribution to reserve (Profit)	3%	£0.32
Total overheads		<b>£3.20</b>
Total cost per Hour		<b>£17.00</b>

3.16 The contract also incorporates a further adjustment to recognise the amount of travel by home-care staff between care visits. The zones are designated “Urban” – densely populated, “Rural” which is less densely populated and “Super Rural” which is significantly less densely populated.

<b><u>Adjustments</u></b>	<b>Urban</b>		<b>Rural</b>		<b>Super Rural</b>	
	<i>'LOT' D E &amp; F</i>		<i>'LOT' A&amp;C</i>		<i>'LOT' B</i>	
Management costs	-£0.17	<b>-6%</b>	£0.00	<b>0%</b>	£0.00	<b>0%</b>
Travel time	-£0.47	<b>-30%</b>	£0.31	<b>+20%</b>	£0.47	<b>+30%</b>
Travel cost	-£0.42	<b>-30%</b>	£0.28	<b>+20%</b>	£0.42	<b>+30%</b>
Total adjustment	<b>-£1.06</b>		<b>£0.59</b>		<b>£0.89</b>	
<b>Hourly fee rate per hour</b>	<b>£15.94</b>		<b>£17.59</b>		<b>£17.89</b>	

3.17 Leeds City Council has reassessed the fee rate in accordance with the cost template specified in the terms of the contract and is recommending that there should be an increase in the hourly rates within the home care contracts. Under the recommendation the revised hourly fee rates for Primary and Framework contractors will increase for each of the three priced areas, Urban, Rural and Super Rural for 2018 to 2019 as follows:

- The current urban hourly rate will increase from £14.94 to £15.94, equating to a fee increase of 6.7%
- The current rural hourly rate will increase from £16.59 to £17.59, equating to a fee increase of 6%
- The super rural hourly rate will increase from £16.88 to £17.89, equating to a fee increase of 6%

- 3.18 The Primary and Framework service providers have committed to ensuring that increases in the contract fees will be used to improve the pay rates and terms and conditions for their staff. The Primary and Framework providers will be contract monitored to ensure that they are in compliance with the contract and paying a minimum basic hourly rate to staff of £8.25 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 the Ethical Care Charter.
- 3.19 Discussions have been held with the four Primary providers about their current pay rates for care staff and their terms and conditions of employment. A couple of the providers have already increased their staff pay rates earlier in the calendar year due to difficulties in recruiting and retaining care staff. The other providers have been waiting for a decision from the Council in terms of the percentage increase that is to be applied to the contracted rates for 2018/19. The providers have stated that they will allocate a higher pay increase for their care staff as a result of the Council's proposed fee increase and that they will backdate the increase to 1 April 2018. Each of the four primary providers have committed to ensuring that the pay rates of their care staff will be set above £8.25 per hour. The two providers that have already increased their staff pay rates have stated that they will look to improve other terms and conditions of employment including applying an increase to staff pay specifically to take account of the significant rise in the cost of fuel over the past few months. Discussions are due to be held with the 8 Framework providers to ensure that they also are willing and able to increase their pay rates for care workers to or above £8.25 per hour. The proposed increase will be applied from 1 July 2018 but will be backdated to 1 April 2018 where the providers commit to and evidence that they will backdate their pay increase to their care staff to 1 April 2018.
- 3.20 Spot contracted home care services are commissioned as and when care is unavailable from the primary and framework providers or when service users request a particular provider or a particular skill or specialism is required which cannot be sourced from our primary or framework providers. Home care providers who deliver home care services on behalf of the Council on a spot purchasing basis have the opportunity if a package of care requires either a specifically trained staff member or is in a particularly hard to access locality to negotiate a price based on the costs of delivering the package which can be higher than the usual fee for that geographical area. The Council has in the past selected providers based both on their ability to meet the requirements of the service users and their fee rate.
- 3.21 These providers have hitherto not been required to evidence that they are compliant with the Ethical Care Charter in relation to staff terms and conditions and pay. It is proposed that the fees for the provision of spot purchased care will be increased by 2% in order to enable these providers to cover inflationary increases in costs. This will increase expenditure from the budgeted £5,579,945 to £5,691,544 resulting in an additional cost for spot provision of £111,599.
- 3.22 Individual care packages purchased from non - Primary and Framework providers are individually negotiated. Providers may seek within the negotiations to raise their price if they either feel there is a shortage of homecare in that area or they can evidence that they are fully compliant with the requirements of the ethical care charter. This raises a small additional risk of increased pressure on the budget should we purchase care from them which will be monitored during each price negotiation.

- 3.23 **Direct Payments:** The hourly rate for homecare operates as a guide price to the rates paid when a service user elects to utilise a direct payment to purchase their care or employ a personal assistant. An increase to the homecare hourly rates would produce an anticipated increase in expenditure for direct payments / personal assistants to a cost of £553,000. A budget provision for inflation has been made of £365,000 resulting in a budget pressure for adult direct payments of £188,000. It is noted for information that Children and Families follow the Adults and Health guide rate for direct payments for their service users. It is anticipated that this could produce an additional budget pressure for Leeds City Council regarding their service users of £55,000. Children's and Families Commissioning have been advised of the proposal to increase fees.
- 3.24 **Extra Care:** Leeds has a number of extra care schemes operating on different costing models. Whilst the majority of placements would be unaffected by the recommended increase, two schemes do link their staff rates to the basic Leeds City Council hourly homecare rate, currently £8.01. Whilst negotiations are currently underway and partial provision has been made, it is anticipated that a rise in the basic hourly homecare rate to £8.25 would produce a potential budget pressure of £17,800.

## 4 **Corporate Considerations**

### 4.1 **Consultation and Engagement**

- 4.1.1 The Lead Executive Member has been consulted about the proposals contained within this report.
- 4.1.2 Officers have engaged with Primary and Framework providers to gather information regarding the compliance with the Ethical Care Charter, covering confirmed rates of pay for carer workers matching or exceeding contractual requirements, types of contract on offer to staff including offering a range of hours, and support available to staff who are ill and needing occupational health support as contained within Stages 1 and 2 of the Ethical Care Charter. Their responses also confirm that generally very few providers have invested in comprehensive occupational health support which is contained in Stage 3 of the Charter. This will be proposed as an area of development for providers over the remainder of the contract term.

### 4.2 **Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality and Diversity Impact Assessment has been undertaken and is attached at Appendix 1.

### 4.3 **Council Policies and the Best Council Plan**

- 4.3.1 The proposals outlined in this report will help to deliver a number of crucial elements of the Adult Social Care 'Better Lives' strategy by helping local people with care and support needs to enjoy better lives. With a focus on: promoting choice, helping people to stay living at home, joining up health and social care services. These in turn support the ambition of the Best Council Plan 2018/19 to 2020/21 for Leeds to be the Best City in the country, promoting inclusive growth, challenging low pay and inequality. In addition the proposals will contribute to the achievement of the objectives set out in the city's Health and Well-Being plan: people will live full active and independent lives, people's quality of life will be improved by access to quality services, people will be involved in decisions made about them and the city's



Priority Plan by contributing to the indicators for: best city for health and wellbeing, best city for business, best city for communities.

#### 4.4 Resources and value for money

4.4.1 **Homecare:** It is proposed that a fee increase of between 6% - 6.7% is applied to the Primary and Framework provider hourly rates to enable the providers to pay their staff a minimum of £8.25 per hour. It is proposed that this increase is backdated to 1 April 2018. This would raise the expenditure of £17,835,959 against the current budget of £16,739,835.

4.4.2 To implement a 2% increase in fees for spot purchased care packages from June 1<sup>st</sup> 2018 would produce expenditure of £5,691,544 against a budget of £5,579,945

4.4.3 This would produce a combined expenditure of £23,527,503 against a budget of £22,319,780

4.4.4 An inflationary budget provision has been made of £464,840 which would reduce the anticipated budget pressure on the homecare budget to £742,833.

4.4.5 **Direct Payments:** To implement a linked increase in Adult Direct Payment and Personal Assistant rates would produce expenditure of £553,000. A budget provision for inflation has been made of £365,000 resulting in a budget pressure for adult direct payments of £188,000

4.4.6 **Extra Care:** Whilst negotiations are currently underway and partial provision has been made, it is anticipated that a rise in the basic hourly homecare rate to £8.25 would produce a potential budget pressure of £17,800

4.4.7 **Ethical Care Charter monitoring:** The cost of 3 FTE SO2 posts to monitor compliance with the Ethical Care Charter in relation to pay rates, contract types and take up rates, as well as rates of access to statutory and occupational health support, would be approximately £116,292 per annum. This will offer providers support to introduce improvements in terms and conditions and better employment practice to provide a long term improvement in the homecare market in Leeds. This is an approach which once commenced with homecare would be able to be extended to other sectors, providing both the information on the performance of providers but also a resource to support wider improvement in residential care and sectors working in Mental Health support and Learning Disability support.

4.4.8 Funding of adult social care related spend for 2018/19 will be met from Social care reserves , and future years funding will be addressed through the Councils Medium Term Financial Strategy, which is currently in development.

4.4.9 **Children's and Families Direct Payments:** The report notes for information that Children and families follow the Adults and Health guide rate for direct payments for their service users. It is anticipated that this could produce an additional budget pressure for the Council regarding their service users of £55,000.

#### 4.5 Risks

4.5.1 The home care spend is demand-led and therefore the volume of hours is variable. However on estimated volumes this will produce a budget expenditure of £23,344,815 resulting budget pressure of £742,833 on the homecare budget, with associated budget pressure regarding direct payments and extra care.

- 4.5.2 Should the Primary and Framework providers, through better terms and conditions, succeed at recruiting additional staff and thereby increasing their market share the 25% of care delivered at the lower spot fee level may reduce and instead be invoiced at the Primary and Framework based rate causing additional pressure on the budget.
- 4.5.3 Similarly although individual care packages purchased from non Primary and Framework providers are individually negotiated at a lower rate, providers may seek within the negotiations to raise their price to keep their workforce or if they evidence they meet the requirements of the Ethical Care Charter.
- 4.5.4 This budget pressure would need to be resolved either by applying the inflationary increase from other areas to the Framework and Primary contracts or by seeking additional funds within the budget.

#### **4.6 Legal Implications, Access to Information and Call In**

- 4.6.1 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.
- 4.6.2 There are no specific legal implications regarding the increase of fees as part of this report because the existing terms and conditions allow for financial uplifts throughout the life of the contract. Discussions have already been held with, and agreements sought from, the Primary providers to ensure the proposed fee increase results in an increase in pay to a minimum of £8.25 and improved terms and conditions of employment for care workers. Discussions are planned with the 8 Framework providers.
- 4.6.3 The requirement to undergo monitoring of compliance with the Ethical Care Charter and staff terms, conditions and pay will be the subject of negotiation with spot providers.
- 4.6.4 This decision has been placed on the list of forthcoming key decisions and is subject to call-in. The report does not contain any exempt or confidential information.

#### **4.7 Risk Management**

- 4.7.1 Risk management for the contract for externally commissioned care is undertaken as part of the contract management process and is governed under the oversight of Home Care/Personal Assistance Commissioning Board.

### **5 Conclusions**

- 5.1 Local home care providers have indicated strongly that securing a sustainable and sufficient workforce is a challenge and concern for the health and care economy in Leeds.
- 5.2 Assurance of the implementation of the Ethical Care Charter under the contracts for homecare will improve the terms and conditions for staff and secure a consistent standard of pay and conditions across the sector, including offering a competitive wage. This supports the local authority's duty under the Care Act to ensure sufficient provision of services in the care market to meet local needs, but introduces significant budget pressures to the provision of homecare.

### **6 Recommendations**

- 6.1 The Director of Adults and Health is recommended to approve an increase of the externally commissioned homecare hourly rates for the Primary and Framework Providers in accordance with the specified costing template within the terms and conditions of the contract and set out in paragraph 3.17 of this report.
- 6.2 The Director of Adults and Health is recommended to approve an increase in the hourly rates for Extra Care and Direct Payments in accordance with the home care rate increases to be applied to the Primary and Framework providers.
- 6.3 The Director of Adults and Health is recommended to approve a 2% increase in the budget provision for spot purchased homecare.
- 6.4 The Director of Adults and Health is recommended to approve the establishment of 3 FTE posts at SO2 grade within the staff structure of Adults and Health Commissioning, at a cost of approximately £116,292 per annum, including on-costs and initial overheads. The post holders will be required to undertake routine monitoring of home care providers regarding their terms and conditions and pay rates of their care staff in relation to the Ethical Care Charter.

7 **Background documents<sup>2</sup>**

- 7.1 None.

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.