

**Report of the Deputy Director, Integrated Commissioning, Adults and Health, Leeds City Council**

**Report to Director of Adults and Health**

**Date:** 10 April 2019

**Subject:** Fee increases for externally commissioned adult care services

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 Council commissions a range of adult care and support services for people who have eligible needs. The services are arranged through contractual frameworks and service agreements, and are delivered by a large number of providers. Many of the contracts are let for a specific period of time and they contain clauses which require the Council to consider inflationary and other provider cost pressures.
2. The Council has a Framework Agreement in place with a number of home care providers. The Agreement commenced on 1 June 2016 and is due to expire on 31 May 2021. Within the terms of the Agreement, there is requirement for the Council to consider the fee levels in accordance with the United Kingdom Home Care Association (UKHCA) cost model.
3. For its home care and Extra Care services, the Council is committed to the principles of the Unison Ethical Care Charter and places a requirement on the contracted providers to deliver home care in accordance with these principles, including in their terms and conditions of employment and staff pay rates.
4. For people who choose to arrange and manage their own care and support services through a Direct Payment, and through the employment of a Personal Assistant (PA), the

Council allocates a minimum hourly rate for Personal Assistants, at the same rate as the minimum staff pay rate allocated for home care.

5. The framework arrangement with older people's care homes was awarded in April 2018 for a five year period. The Framework contains a clause to annually review and determine fee levels on the basis of an agreed formula which takes account of sector specific cost pressures.

## **Recommendations**

### **The Director of Adults and Health is recommended to:**

6. Approve an increase of 5% and 5.3% in the hourly rates for the externally commissioned home care services with the Primary and Framework Providers, backdated to 1 April 2019, in accordance with the specified costing model contained within the terms and conditions of the contract,.
7. Approve an increase in the hourly rates for Extra Care and the Direct Payments rate for Personal Assistants, backdated to 1 April 2019, in accordance with the home care rate increases to be applied to the Primary and Framework providers.
8. Approve an increase of 2% in the hourly rates for home care services commissioned on a spot purchase basis, backdated to 1 April 2019.
9. Approve the process of individual fee negotiations with providers of services for working age adults, during the course of 2019/20, based on the use of the Care Cost Calculator and on rigorous value for money audits of the Service Cost Analysis Form (SCAF) submitted by the providers.

## **1 Purpose of this Report**

- 1.1 To seek approval from the Director of Adults and Health for the application of fee increases to externally commissioned services for 2019/20, backdated to 1 April 2019, as detailed in paragraphs 1.2 – 1.5 below.
- 1.2 Approval is sought for a fee increase of 5.0% and 5.3% to be applied to home care services commissioned from the primary and framework contracted providers, to enable the providers to pay their care staff a minimum rate of £8.75 an hour, in accordance with the Leeds Living Wage<sup>1</sup>.
- 1.3 Approval is sought to apply a fee increase of 2% for home care services commissioned on a spot purchase basis from other external home care providers.
- 1.4 Approval is sought for an increase to be applied to the hourly rates for Extra Care services in accordance with the home care rate increases to be applied to the Primary and Framework providers.
- 1.5 Approval is sought for an increase to be applied to the hourly rate for people who have a Direct Payment, where they employ Personal Assistants to deliver their care and support services, in accordance with the home care rate increases to be applied to the Primary and Framework providers.
- 1.6 Approval is sought for fee increases for care and support services for Working Age Adults to be negotiated on an individual basis, based on the application of the Care Cost Calculator and on providers' Service Cost Analysis Forms (SCAFs).

## **2 Background information**

- 2.1 As part of the commissioning process for new home care services in 2014, the Council engaged with providers to undertake a "Fair Rate for 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.
- 2.2 During the course of the procurement of the home care services, the Council made a commitment to the Ethical Care Charter, requiring the contracted providers to improve employment conditions such as reducing the use of zero-hour employment contracts, payment for travel time, travel expenses and an hourly rate above the National Minimum (Living) Wage. This resulted in the Council establishing a local Leeds Living Wage which is set above the NLW and closer to the Real Living Wage as set by the Joseph Rowntree Foundation (also known as the Foundation Living Wage).
- 2.3 The contract was awarded in 2016, to 4 primary providers, with 8 other providers also being party to the Framework Agreement. The number of providers on the Framework Agreement has since reduced to 6 due to mergers and acquisitions.
- 2.4 With the introduction of the Leeds Living Wage, Members approved an increase in the home care hourly rates as set out in the tender, to enable the providers to pay their care staff a higher hourly rate. The successful contractors were encouraged to accept

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

a variation to the contract requiring them to pay their care staff a minimum of £8.01 per hour.

- 2.5 The contract with the primary and framework providers enables the Council to enter into good faith negotiations with the providers at any point in the contract period with a view to varying the tendered contract price.
- 2.6 There were further legislative changes to be implemented from April 2017, when the government introduced 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.
- 2.7 For 2018/19 the Council approved fee increases of between 6% and 6.7% for primary and framework home care providers to enable them to pay their care staff a minimum of £8.25 per hour. Where the providers were already paying their care staff at least this rate, they were required to evidence how the increased fees would be applied to further enhance the terms and conditions of the care staff. This fee increase also covered the additional cost pressure to home care providers of the statutory minimum figure of 2% employer contributions from April 2018.

### **3 Main issues**

- 3.1 In November 2018, there was a further increase in the Foundation Living Wage from £8.75 to £9.00. There has also been an increase in the NLW rates from £7.83 to £8.21, to be implemented from 1 April 2019.

#### **Home care services**

- 3.2 Within the approved budget for 2019/20, provisions have been made for a further fee increase of between 5% and 5.3% to providers for home care and Extra Care to enable them to pay their staff a minimum of £8.75 per hour.
- 3.3 This enhanced increase in fees, above the rate of inflation, is to be made to the contracted home care providers with the clear expectation that they will continue to adopt best practice in their employment of care workers and will 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.

- 3.4 The Adults and Health Directorate commissions approximately 65% of its home care from the primary and framework providers, whilst the remainder is commissioned on a spot purchase basis from up to sixty smaller providers, either at the request of service users and their carers or due to the insufficient capacity from the contracted providers.
- 3.5 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 £8.75 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.
- 3.6 The 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. It is therefore proposed that a negotiation process is undertaken with providers to ensure that any additional fees allocated to 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.
- 3.7 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 increase 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.
- 3.8 In 2018, the Adults and Health Directorate established three monitoring officer posts at SO2 grade order to undertake routine monitoring of compliance with the Ethical Care Charter. Two of the three posts are in place and the officers have been undertaking detailed work initially with the four primary providers to develop a clear analysis of the current levels of employment practice which comply with the various stages of the Ethical Care Charter. The officers are now due to extend this work to include the six framework providers and subsequently some of the other providers who deliver a significant volume of services under a spot purchase basis. A further recruitment process is underway to appoint to the vacant monitoring officer post.
- 3.9 It is proposed that a fee increase of between 5% and 5.3% is applied to the primary and framework providers, backdated to 1 April 2019. This will be allocated to the three defined areas, Urban, Rural and Super Rural for 2019/20 as follows:
- an increase of 5.3% for urban areas, increasing from £15.94 to £16.78
  - an increase of 5% for rural areas, increasing from £17.59 to £18.48
  - an increase of 5% for super rural areas, increasing from £17.89 to £18.79
- 3.10 The table below outlines the way in which the increase is calculated, based on the UKHCA costing template, as adjusted within the tender:

<b><u>Home Care Contract Rates 2019/20, using the original UKHCA template as adjusted in the contract</u></b>
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	%	£:p
Workers Basic Hourly rate - contact time		<b>£8.75</b>
Workers hourly travel time	19.0%	£1.66
Workers hourly travel cost		£1.40
NI	9.0%	£0.94
holiday	12.07%	£1.41
training	1.7%	£0.20
pension	3.0%	£0.31
Total of costs		£5.92
Total Care worker costs		£14.67
<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>£17.87</b>

- 3.11 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” which is 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	-£0.50	<b>-30%</b>	£0.33	<b>+20%</b>	£0.50	<b>+30%</b>
Travel cost	-£0.42	<b>-30%</b>	£0.28	<b>+20%</b>	£0.42	<b>+30%</b>
Total adjustment	<b>-£1.09</b>		<b>£0.61</b>		<b>£0.92</b>	
<b>Hourly fee rate per hour</b>	<b>£16.78</b>		<b>£18.48</b>		<b>£18.79</b>	

- 3.12 The Primary and Framework service providers have committed to ensuring that increases in the hourly rates 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 £8.75 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.
- 3.13 Some home care services are commissioned on a spot purchase basis when the primary and framework providers are unable to provide capacity at the required times, 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.
- 3.14 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.

- 3.15 It is proposed that the fees for the provision of spot purchased care will be increased by 2%, backdated to 1 April 2019, in order to enable these providers to cover inflationary increases in costs. Currently the full year cost of spot providers is £7,765,491. Applying a 2% increase to spot providers would produce a cost of £7,923,317. This is an increase of £157,826.
- 3.16 Some of these providers may request a higher increase than 2% particularly where there is limited capacity and there are difficulties in recruiting care workers. In such circumstances, it is proposed that commissioners have the option to negotiate an increase above 2% however, this will be linked to the providers' ability to evidence that they are compliant with the requirements of the Ethical Care Charter. This raises a small risk of increased pressure on the budget however this will be monitored during each price negotiation.

### **Extra Care**

- 3.17 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 increase to be applied to the primary and framework home care providers is also applied to the Extra Care Providers, backdated to 1 April 2019.

### **Direct Payments**

- 3.18 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. An increase to the homecare hourly rates would produce an anticipated increase in expenditure for Direct Payments, Personal Assistants rates at a cost of £1,500,526 – A budget provision for inflation has been made that equals this so there would be no budget pressure.
- 3.19 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 the Council regarding their service users of £100,000. Children's and Families Commissioning have been advised of the proposal to increase fees.

### **Older People's Care Homes**

- 3.20 Following an extensive cost of care exercise, a new contractual arrangement was put in place with older people's residential and nursing care home providers in April 2019. The contractual framework contains an annual inflation-linked formula which determines the fees to be applied for the year ahead. Therefore separate or further fee negotiations for 2019/20 are not required.

### **Care and Support Services for Working Age Adults**

- 3.21 The Council commissions a range of care and support services for working age adults. This includes residential and nursing care, supported living services and day services, 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.

- 3.22 These care and support services are subject to rigorous value for money audits based on the Service Cost Analysis Form (SCAF) submitted by providers. Fee requests from providers are considered through the application of the 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 1:1 support.
- 3.23 It is proposed that any requests for fee increases continue to be negotiated with providers on an individual basis, through the application of the Care Cost Calculator, and with consideration of the care and support required by the relevant individuals receiving the service.

## **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 continue to engage care and support providers through various meetings and provider forums to consider the factors that impact on the services they provide. This includes workforce issues such as recruitment and retention, support to access training and development, and the support they require to enhance and continuously improve the quality of the services they provide.
- 4.1.3 Engagement with care and support providers also involves consideration of their cost pressures, the sustainability of their services and their financial viability. These are considered both on an individual basis and across the care sector.
- 4.1.4 Specific consultation has been undertaken with the home care primary and framework providers in relation to their continued compliance with the Ethical Care Charter and in relation to the proposed increase in the Leeds Living Wage and, in turn, on the pay rates of their care staff.

### **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 have fulfilling 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. It also supports Leeds in being an age friendly city.
- 4.3.2 The proposals will contribute to the achievement of the objectives set out in the city's Health and Care 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. Additionally the proposals will be in accordance with 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.



4.3.3 The Ethical Care Charter seeks to support improvements for care staff and for people who use service and their carers, 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.

#### **4.4 Resources and value for money**

4.4.1 **Homecare:** It is proposed that a fee increase of between 5% - 5.3% is applied to the Primary and Framework provider hourly rates to enable the providers to pay their staff a minimum of £8.75 per hour. It is proposed that this increase is backdated to 1 April 2019. This will raise the annual expenditure to £15,980,234 from £15,205,944.

4.4.2 To implement a 2% increase in fees for spot purchased care packages from 1<sup>st</sup> April 2019 would produce expenditure of £7,923,317 from £7,765,491

4.4.3 This would produce a combined expenditure of £23,903,551 against current expenditure of £22,971,435. This is a pressure of £932,116

4.4.4 An inflationary budget provision has been made of £1,168,855. Therefore £236,739 of the inflation may not be required. This saving can be achieved because a 2% increase has been applied for packages commissioned on a spot basis. However, where the providers are complying with the Ethical Care Charter they may seek an increase similar to the fees for the contracted services to enable them to pay their staff a minimum of £8.75 so there would be provision in the budget allocation in case of any additional cost arising from negotiations with other providers outside the primary and framework contract.

4.4.5 **Direct Payments:** To implement a linked increase in Adult Direct Payment and Personal Assistant rates would produce expenditure of £1,500,526. A budget provision for inflation has been made to cover the increase to £8.75 so there is no pressure.

4.4.6 **Extra Care:** It is anticipated that a rise in the basic hourly rate to £8.75 would produce a potential budget pressure of £71,654

4.4.7 Increases for Direct Payments and Homecare framework rates have been built into the base budget for 2019/20 to allow for an increase to £8.75. No inflationary increase was added for Extra Care so the £71,654 is a pressure. However, as it is recommended to only increase spot provider rates by 2% this mean inflation provision of £236,739 is available for alternative uses. This could be used to cover the Extra Care costs and still leave a sum of £165,085 inflation that was not committed.

4.4.8 **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 £100,000.

#### **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 £23,903,551 resulting in a saving against inflation budgets of £236,739. This is because by increasing spot providers by a maximum of 2% we are reducing by a smaller

percentage than the £8.75 would have required. The increase in direct payments is fully funded. Extra Care would have a pressure of £71,654.

- 4.5.2 Individual care packages commissioned from providers on a spot purchasing basis are individually negotiated usually at a lower hourly rate, however some providers may seek within the negotiations to raise their fees in order to remain competitive employers and to retain their workforce or if they evidence they comply with the requirements of the Ethical Care Charter.
- 4.5.3 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 different contracts. Discussions have already been held with, and agreements sought from, the Primary and framework providers to ensure the proposed fee increase results in an increase in pay to a minimum of £8.75 and improved terms and conditions of employment for care workers.
- 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 Care and support providers continue to raise concerns about the challenges they face in relation to the recruitment and retention of their care staff and to ensure the staff are suitably trained and supported so that they can continue to deliver high quality services. Providers are supportive of passing the fee increases directly to their staff both in terms of pay and improved terms and conditions of employment.
- 5.2 The continuation of home care providers' compliance with 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.

### **6 Recommendations**

The Director of Adults and Health is recommended to:

- 6.1 Approve an increase of 5% and 5.3% in the hourly rates for the externally commissioned home care services with the Primary and Framework Providers, backdated to 1 April 2019, in accordance with the specified costing model contained within the terms and conditions of the contract.
- 6.2 Approve an increase in the hourly rates for Extra Care and the Direct Payments rate for Personal Assistants, backdated to 1 April 2019, in accordance with the home care rate increases to be applied to the Primary and Framework providers.
- 6.3 Approve an increase of 2% in the hourly rates for home care services commissioned on a spot purchase basis, backdated to 1 April 2019.
- 6.4 Approve the process of individual fee negotiations with providers of services for working age adults, during the course of 2019/20, based on the use of the Care Cost Calculator and on rigorous value for money audits of the Service Cost Analysis Form (SCAF) submitted by the providers.

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

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.