

Report of Aidan Smith, Head of Commissioning, Working Age Adults

Report to Director, Adults and Health

Date: 10th July 2019

Subject: Learning Disability Pooled Budget 2019/20 Fee Uplifts

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<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
Will the decision be open 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

1. Main issues

- The Learning Disability Pooled Budget is a partnership agreement between Leeds City Council (LCC) and the Clinical Commissioning Group (CCG) within Leeds Primary Care Trust, 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.
- The impact of the National Living Wage means that the costs of support for some individuals will increase due to this single measure, it is important to note that there is no change in presentation or need, the increase is solely related to the National Living Wage.
- Since 2016/17 the Learning Disability Value for Money team have worked on a case by case basis with the Head of Service Working Age Adults to award uplifts for Learning Disability contracts only with regard to National Living Wage and not non staffing related costs. They follow an agreed internal process to manage, negotiate on and approve uplift requests to the independent sector.
- A Key Recommendation from Internal Audit, in December 2018 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.

2. Best Council Plan Implications (click [here](#) for the latest version of the Best Council Plan)

- This Key Decision fits with the Inclusive Growth strategy, part of the Best Council plan 19/20 as it is supportive of providers paying National Living Wage or above, tackling low pay and investing in good quality jobs. Analysis by the Learning Disability Value for Money team recognises the career progression paid by providers in direct care roles and uplifts are awarded accordingly.
- This Key Decision also fits with the Health and Wellbeing strategy part of the Best Council plan 19/20 as it is supportive of understanding how providers are deploying staff to meet the individual care needs of Leeds Citizens and ensuring that staff are paid effectively in order to give good and outstanding quality care.

3. Resource Implications

- In 2019/20 the available budget for Learning Disability Contract uplifts is £2.276M for all independent sector uplifts (excluding the Aspire contract and direct payments).
- The £2.276M is allocated for all fee uplift requests for 2019/20 for all independent sector Learning Disability providers and is a direct consequence of this Key Decision.

Recommendations

- It is recommended that the Director, Adults and Health approves the allocation of £2.276M to manage all uplift requests for 2019/20 for all independent sector Learning Disability providers.
- It is recommended that the agreed process already followed by the Head of Commissioning, Working Age Adults, and Learning Disability Contracts Value for Money team for managing these uplifts, is a direct consequence of this Key Decision.
- To note that further updates and breakdown of this expenditure will be made available, once all uplift agreements for 2019/20 have been reached with providers.

1. Purpose of this report

- 1.1. The purpose of this report is to ensure appropriate challenge and transparency around the decisions to agree uplifts to Learning Disability contracts and approve the allocation of £2.276M to manage all uplift requests for 2019/20 for all independent sector Learning Disability providers.

2. Background information

- 2.1. The Learning Disability Pooled Budget is a partnership agreement between Leeds City Council and the Clinical Commissioning Group (CCG), 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 CCG are responsible for paying for different elements of care, and LCC is responsible for the financial running of the Pooled Budget.

2.2. From 2009/10 to 2015/16 there were no inflationary uplifts awarded at all to Learning Disability contracts, which was an agreed part of the Budget Action Plans in this work area.

2.3. In 2015 the then Chancellor of the Exchequer announced the National Living Wage. The National Living Wage is implemented via an amendment to the National Minimum Wage Act 1998. The National Living Wage is being phased in between April 2016 and April 2020 with the aim of reaching 60% of median UK earnings by 2020.

2.4. The impact of the National Living Wage means that the costs of support for some individuals will increase due to this single measure, it is important to note that there is no change in presentation or need, the increase is solely related to the National Living Wage.

2.5. The current process for uplifts to Learning Disability contracts is follows:

- Providers make a request for an uplift to the Head of Service for Commissioning Working Age Adults.
- Learning Disability Contracts Value for Money Team request relevant financial information and breakdowns relating to cost of contract, hours delivered, breakdown of hourly rate etc.
- Learning Disability Contracts Value for Money Team negotiate with providers over the information provided ensuring robust challenge of the information supplied.
- Learning Disability Contracts Value for Money Team seek approval from Head of Service for Commissioning Working Age Adults Monitoring to award any contract uplift to a single provider, ensuring uplifts are within budget, and this is shared with Leeds City Council Finance colleagues.
- Providers are informed of contract changes. Learning Disability Contracts Value for Money Team follow agreed process of updating support plans and where appropriate amend the IT payments system (CIS) to make payment changes and this is shared with Finance colleagues.
- Learning Disability Contracts Value for Money Team produce monthly reports for the Pooled Budget meeting to share with colleagues within both Commissioning and Finance in Leeds City Council (LCC) and the Clinical Commissioning Group (CCG).

3. Main issues

3.1. Since 2016/17 the Learning Disability Value for Money team have worked on a case by case basis with the Head of Service Working Age Adults to award uplifts for Learning Disability contracts only with regard to National Living Wage and not non staffing related costs. They follow an agreed internal process to manage, negotiate on and approve uplift requests to the independent sector.

3.2. 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.

3.3. 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.

- 3.4. 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.
- 3.5. In 2019/20 the available budget for Learning Disability Contract uplifts is £2.276M for all independent sector uplifts (excluding the Aspire Contract and direct payments). At the time of writing this is to manage uplift requests from 52 providers.
- 3.6. All expenditure within the £2.276M is to manage all uplift requests for 2019/20 for all independent sector learning disability providers and as is a direct consequence of this Key Decision.
- 3.7. There are 14 providers who are likely to be awarded an uplift of £100k or more from this Key Decision, totalling £1.4M. There are a further 9 providers who are likely to be awarded an increase up to £50K from this Key Decision, totalling £500K. There are 29 providers who are likely to be awarded an increase of up to £40K from this Key Decision, totalling £378K.
- 3.8. 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.

4. Corporate considerations

4.1. Consultation and engagement

4.1.1. Budget setting for Learning Disability uplift requests fall outside this key decision. As part of the ongoing work to negotiate and implement uplift requests, continued consultation takes place with Adults and Health senior leaders and the Executive Member for Adults, Health and Wellbeing.

4.1.2. Ongoing consultation and engagement will take place with all of the providers with whom the uplift requests are to be negotiated.

4.2. Equality and diversity / cohesion and integration

4.2.1. An Equality, Diversity, Cohesion and Integration screening paper has been completed and included as background information to this report. The screening tool indicates that at this time a full equality assessment is not required.

4.3. Council policies and the Best Council Plan

4.3.1. This Key Decision fits with both the Inclusive Growth Strategy and the Health and Wellbeing Strategy as part of the Best Council Plan 19/20.

Climate Emergency

4.3.2. There are no implications for climate emergency. This key decision relates to the implementation and allocation of funding in 2019/20 to pay Learning Disability provider uplift requests.

4.4. Resources, procurement and value for money

- 4.4.1. In 2019/20 the available budget for Learning Disability Contract uplifts is £2.276M for all independent sector uplifts (excluding Aspire and direct payments).
- 4.4.2. The services delivered by independent sector Learning Disability providers are all individual service agreements in relation to supported living or care home placements in the main.
- 4.4.3. There are no procurement requirements in relation to this Key Decision. For each of the individuals whose contract prices are increased by the contract uplift award, there has been no change in need, no change in support plan and no changes to any of the support that the individual is receiving from the provider.
- 4.4.4. The Learning Disability Value for Money Team are highly practiced at value for money negotiations. In 2018/19, requests by 47 different providers were made for uplifts, which would have cost LCC £5.8M. Following detailed negotiation work, the requests are projected to cost an estimated £2.8M. As such, for 2018/19 there were £3M non cash savings on the work completed.

4.5. Legal implications, access to information, and call-in

- 4.5.1. It is important that Leeds City Council and the Clinical Commissioning Group meet their responsibilities to pay fees at levels which will enable independent sector Learning Disability providers to pay their staff at least at National Living Wage, in accordance with the National Minimum Wage Act 1998.
- 4.5.2. This is a Key Decision as it relates to the allocation of budget over £500k per annum. This key decision is eligible for call in.

4.6. Risk management

- 4.6.1. To date there have been requests made by 52 providers for uplifts in 19/20 and this includes requests for packages paid for by the CCG for Continuing Healthcare users (CHC). There is £2.276M available from LCC. Negotiated and uplifted packages in relation to CHC users are subsequently recharged to the CCG in accordance with current Pooled Budget protocol. Whilst the size of uplifts requested by providers is a risk, it is envisaged that the Learning Disability Value for Money Team will be able to successfully negotiate on the requests to manage them within the financial envelope of £2.276M and the contributions from the CCG for Continuing Healthcare packages.
- 4.6.2. At the time of writing, a total of £21.337M cash and non-cash savings have been made by the Learning Disability Value for Money Team since 2009/10.
- 4.6.3. It is important to note that independent sector Learning Disability providers have not had an uplift for non-staff related costs since 2009/10 and that this is likely to become a financial risk going forward. This risk will be addressed on a case by basis through the work of the Learning Disability Value for Money Team.

5. Conclusions

- 5.1. Leeds City Council and the Clinical Commissioning Group must meet their legal responsibility to pay National Living Wage to independent sector Learning Disability providers, in accordance with the National Minimum Wage Act 1998.
- 5.2. There is an established agreed internal process for the Head of Commissioning Working Age Adults and the Learning Disability Value for Money Team to scrutinise, negotiate on and approve Learning Disability contract uplift requests.
- 5.3. If approved, Adults and Health Commissioning Team will continue the scrutiny, negotiation and allocation of the approved budget for provider uplifts for 2019/20.

6. Recommendations

- It is recommended that the Director, Adults & Health approve the allocation of £2.276M to manage all uplift requests for 19/20 for all independent sector Learning Disability providers.
- It is recommended that the agreed process already followed by the Head of Commissioning, Working Age Adults, and Learning Disability Contracts Value for Money team for managing these uplifts, is a direct consequence of this Key Decision.
- To note that further updates and breakdown of this expenditure will be made available, once all uplift agreements for 2019/20 have been reached with providers.

7. Background documents¹

- 7.1. Equality, Diversity, Cohesion and Integration Screening tool

¹ 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.