

Report of Head of Service, Adults and Health

Report to The Director of Adults and Health

Date: 19 May 2020

Subject: 14 Care Plans Now Exceeding £100k, Due To the Impact of National Living Wage Increases

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 type="checkbox"/> Yes <input checked="" 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 14 Care Plans Now Exceeding £100k, Due To the Impact of National Living Wage Increases

1. Main issues

The National Living Wage is implemented via an amendment to the National Minimum Wage Act 1998. The National Living Wage has been phased in between April 2016 and April 2020 with the aim of reaching 60% of median UK earnings by 2020. For independent Learning Disability provider services, issues of National Living Wage are addressed by contract uplift requests from providers to the Council.

Under Key Decision D49879 taken on 10.07.19, the Director of Adults & Health approved the allocation of £2.276M to manage all uplift requests for 19/20 for all independent sector Learning Disability providers. The Director of Adults & Health agreed the process previously followed by the Head of Commissioning, Working Age Adults, and Learning Disability Contracts Value for Money team for managing these uplifts.

Whilst the new monies to be spent have already been approved Under Key Decision D49879 taken on 10.07.19, the impact of the implementation of the National Living Wage means that the costs of support for some individuals will increase to over £100,000 per annum. This report outline is a Significant Operational Decision to highlight 14 Care Plans now exceeding £100,000 per annum; it is important to note that there is no change in presentation or need, the increase is solely related to the National Living Wage.

This Significant Operational Decision is a direct consequence of the Key Decision D49879 taken 10.07.19.

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

- This Significant Operational 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 Significant Operational 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 Learning Disability providers (not including Aspire or direct payments).
- All expenditure within the £2.276M is to manage all uplift requests for 19/20 for all independent sector Learning Disability providers and is approved by a Key Decision taken by the Director of Adults & Health 10.07.19, Key Decision D49879.
- Whilst there has been approval of £2.276M for the uplift amounts overall, there are 14 individuals whose individual Care Plan will exceed £100,000 per annum once the uplift for their independent sector provider is approved for 19/20, and require this Significant Operational decision.
- It is important to note that there is no change in presentation or need of the individuals, the increase is solely related to the National Living Wage increase.
- In 18/19 the combined annual cost of the 14 Care plans was £1,358,377.14 and for 19/2020 the combined annual cost of the 14 Care plans will be £1,447,718.03, an increase across the 14 Care plans of £89,340.89 per annum.
- The increased spend of £89,340.89 per annum is met within the approved uplift amount of £2.276M covered by Key Decision D49879 taken 10.07.19.

Recommendations

It is recommended that the Director of Adults and Health approves the £89,340.89 per annum to manage the uplift requests for the 14 individuals whose individual Care Plan will exceed £100,000 per annum once the uplift for their provider is approved for 19/20, which requires this Significant Operational decision.

1. Purpose of this report

- 1.1 To approve the increase in funding associated with 14 care plans where the impact of the National Living Wage means that the costs of support for these individuals will increase to over £100,000 per annum each due to this single measure.
- 1.2 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. Background information

- 2.1 There is currently a Key Decision in place used to award uplifts for Learning Disability independent sector providers, approved by the Director of Adults & Health, Key Decision D49879 taken 10.07.19.
- 2.2 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.
- 2.3 In 2019/20 the available budget for Learning Disability Contract uplifts is £2.276M for all independent sector Learning Disability providers (not including Aspire nor direct payments).
- 2.4 This report is to approve the increase in funding associated with associated with 14 Care plans where the impact of the National Living Wage means that the costs of support for these individuals will increase to over £100,000 per annum for each Care plan due to this single measure.
- 2.5 It is important to note that there is no change in presentation or need, the increase is solely related to the National Living Wage.

3. Main issues

- 3.1 The Learning Disability Pooled Budget is a partnership agreement between Leeds City Council 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. 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.
- 3.2 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.
- 3.3 In 2015 the 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 has been phased in between April 2016 and April 2020 with the aim of reaching 60% of median UK earnings by 2020.
- 3.4 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.
- 3.5 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.

- 3.6 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.
- 3.7 Learning Disability Contracts Value for Money Team negotiate with providers over the information provided ensuring robust challenge.
- 3.8 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 Finance colleagues.
- 3.9 Providers are informed of contract changes. Learning Disability Contracts Value for Money Team follow agreed process of updating support plans and, where appropriate, PLAGS on CIS to make payment changes and this is shared with Finance colleagues.
- 3.10 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).
- 3.11 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.
- 3.12 There is currently a Key Decision in place used to award uplifts for Learning Disability independent sector providers, approved by the Director of Adults & Health, Key Decision D49879 taken 10.07.19.
- 3.13 All expenditure within the £2.276M is to manage all uplift requests for 19/20 for all independent sector learning disability providers and as is a direct consequence of this Key Decision.
- 3.14 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
- 3.15 This report is a Significant Operational Decision to approve the increase in funding associated with 14 Care plans where the impact of the National Living Wage means that the costs of support for these individuals will increase to over £100,000 per annum for each Care plan due to this single measure.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 There are no implications for consultation and engagement

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no implications for equality and diversity / cohesion and integration

4.3 Council policies and the Best Council Plan

- 4.3.1 This Significant Operational 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 When services are commissioned for people with learning disabilities through revised service specifications we will send them the Council's requirement to minimise the environmental impact and make use of the Social Value Act to ensure this. In all circumstances we will look to reduce carbon emissions through, for example greater reliance on electric vehicles, looking for ways to reduce mileage, increasing biodiversity and using renewable energy.

4.4 Resources, procurement and value for money

- 4.4.1 In 2019/20 the available budget for Learning Disability independent sector provider uplifts is £2.276M (not including Aspire nor direct payments). There is currently a Key Decision in place used to award uplifts for Learning Disability independent sector providers, approved by the Director of Adults & Health, Key Decision D49879 taken 10.07.19.
- 4.4.2 The services being provided by independent sector Learning Disability providers are all Individual Service Agreements in relation to usually supported living or residential home placements.
- 4.4.3 There are no procurement requirements in relation to this Significant Operational Decision. For each of the individuals whose Care plans 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 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. for each provider and each individual Care plan.
- 4.4.5 Learning Disability Contracts Value for Money Team negotiate with providers over the information provided ensuring robust challenge.
- 4.4.6 Learning Disability Contracts Value for Money Team seek approval from Head of Service for Commissioning Working Age Adults, to award any contract uplift to a single provider, ensuring uplifts are within budget, and this is shared with Finance colleagues.
- 4.4.7 Whilst there has been approval for the uplift amounts overall by the Key Decision, D49879 taken 10.07.19 and met within the value of this approval, there are 14 individuals whose individual care package will exceed £100,000 per annum once the uplift is approved for 19/20, this requires this Significant Operational decision.
- 4.4.8 In 18/19 the combined annual cost of the 14 Care plans was £1,358,377.14 and for 19/2020 the combined annual cost of the 14 Care plans will be £1,447,718.03, an increase of £89,340.89 per annum.
- 4.4.9 Appendix one contains the line by line detail of the 14 Care plans and under Access to Information Procurement rule 10.4, is exempt and should not be made public

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 its responsibility to pay National Living Wage to independent sector Learning Disability providers, in accordance with the National Minimum Wage Act 1998.

4.5.2 This Significant Operational Decision is not 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 that total £4.5M, although 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 has been acknowledged within the Learning Disability Pooled Budget forum that independent sector Learning Disability providers have never had an uplift awarded since 2009/10 in relation to non-staffing costs and that this will be the last financial year that the Learning Disability Value for Money Team are able to manage and contain this pressure.

4.6.4 Financial planning in the Learning Disability Pooled Budget forum needs to take account of the pressure to award Learning Disability independent sector providers some non-staffing related uplift in 2020/21 and it is envisaged that this is also done on a case by basis with scrutiny by 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.

6. Recommendations

6.1 It is recommended that the Director of Adults and Health approves the £85,384.19 per annum to manage the uplift requests for the 14 individuals whose individual Care Plan will exceed £100,000 per annum once the uplift for their provider is approved for 19/20, which requires this Significant Operational decision.

7. Background documents¹

7.1 Key Decision D49879 taken 10.07.19.approved by the Director of Adults & Health.

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.