

Report of Deputy Director, Integrated Commissioning

Report to Director of Adults and Health

Date: 17 March 2021

Subject: To seek authority to procure cost of care exercises for older people's care homes and for home care. The total budget available is £120,000.

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

1. Main issues

- The Council has contractual frameworks and service agreements in place with a large number of providers for the delivery of care and support. Contracts for older people's care homes and for home care are let for a specific period of time and they contain clauses which require the Council to consider inflationary and other provider cost pressures.
- The fee rates for older adults care homes were reviewed in 2017/18 following a comprehensive cost of care exercise undertaken by an independent organisation, Mazars. The review informed a revised fee structure and fee levels, and established a formula to be used to determine subsequent annual fee increases.
- Since 2018, fee increases have been applied based on the rise in the National Living Wage and on CPI for non-staff related cost pressures, in accordance with the agreed formula. Fee increases for 2021/22 are being set on this basis.
- The Council has a Framework Agreement in place with nine home care providers. Within the terms of the Agreement, there is requirement for the Council to review the fee levels in accordance with the United Kingdom Home Care Association (UKHCA) cost model (amended to reflect local conditions).
- The Framework Agreement for home care comes to an end in June 2021 and plans to remodel these services are underway. Approval for an extension of the current contract are being sought to enable the remodelling to be completed.

- It is timely to undertake a further cost of care exercise to determine future fee rates for older people's care homes, and to undertake a similar exercise for home care to inform the re-provisioning of these services.
- It is proposed that a procurement is completed to commission an external agency to undertake two open book cost of care exercises simultaneously, to help inform fee rates for 2022/23, for both older people's care homes and for home care, and to identify a formula to inform future fee rates.

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

- The proposals outlined in this report will enable the Adults and Health Directorate in delivering the 'Better Lives' strategy by working with high quality care and support providers to help people 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 2020 to 2025 for Leeds to be the Best Council in the country, promoting inclusive growth, challenging low pay and inequality. It also supports Leeds in being an age friendly city.
- The proposals will contribute to the achievement of the objectives set out in the city's Health and Care Plan in improving the quality of care, tackling inequalities, delivering value for money and building a sustainable system within available resources
- The Ethical Care Charter, which has been applied to the home care Framework Agreement seeks to support improved terms and conditions of employment and pay rates for care staff. 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 as the best city by being compassionate and caring with a strong economy.

3. **Resource Implications**

- It is anticipated that the cost of commissioning an external agency to deliver a comprehensive cost of care exercise for older people's care homes and for home care will cost in the region of £100k - £120k
- Financial contributions towards the cost of the work will be sought from the NHS Leeds Clinical Commissioning Group (CCG) and Leeds Care Association (LCA). The Adults & Health contribution will be funded from Directorate's reserves.

Recommendations

The Director of Adults and Health is recommended to:

- a) Approve the procurement to commission an external agency to undertake two open book cost of care exercises simultaneously, to help inform fee rates for 2022/23, for older people's care homes and for home care, and to identify a formula to inform future fee rates.

1. **Purpose of this report**

- 1.1 To seek approval to undertake a cost of care exercise for older people's care homes in partnership with NHS Leeds Clinical Commissioning Group (CCG) and Leeds Care Association (LCA).
- 1.2 To seek approval to undertake a cost of care exercise for home care in partnership with the CCG and local home care providers.
- 1.3 The older people's care homes and home care cost of care exercise will be subject to an open tendering exercise.

2. Background information

- 2.1 The Care Act 2014 places a duty on local authorities to ensure there is a viable and sustainable market of social care provision to meet needs. The Care Act also requires local authorities to make available sufficient capacity, and a choice of quality services for people who fund their own care as well as for people who are state funded.
- 2.2 Fee rates for Older Adults care homes were reviewed in 2017/18 following a comprehensive cost of care exercise undertaken by an independent organisation, Mazars. The review resulted in revised fee levels and established a formula to be used to inform subsequent annual fee increases.
- 2.3 Since 2018, the older people's fee increases have been applied based on the rise in the National Living Wage and on CPI for non-staff related cost pressures, in accordance with the agreed formula. Fee increases for 2021/22 are being set on this basis.
- 2.4 The Covid 19 pandemic has placed additional cost pressures on care homes providers and whilst many of these cost pressures are likely to be short term and have in part been funded, it is not yet known how these will impact care homes in the medium to longer term.
- 2.5 Fee rates for home care have broadly been set on the basis of the UK Home Care Association (UKHCA) home care cost model, with some modifications in relation to travel time.
- 2.6 Leeds City Council's Framework Agreement for home care comes to an end on 31 May 2021 and approval is being sought to extend the period of the Agreement whilst work is underway to test a new community well-being service and delivery model.

3. Main issues

Fees for older people's care home provision

- 3.1 The Covid 19 pandemic has brought about a number of additional cost pressures for care home providers which have, in part, been met through additional non recurrent funding from Central Government. Whilst the longer term impact of the pandemic on care homes is not yet known, care home providers are reporting longer term trends including: increased cost of insurance and liability cover; ongoing requirements on use of PPE; increased staffing requirements and costs, including sick pay; and reported reductions in occupancy levels.
- 3.2 The Leeds Care Association (LCA) has instructed David Collins Solicitors to challenge the Council's fee setting process in light of the immediate and the longer term cost pressures faced by care home providers. One of the main factors being

challenged is that previous cost of care exercises, and subsequent fee increases, have been based on assumptions of higher occupancy levels than those currently being experienced due to the pandemic and that are anticipated in the medium to longer term.

- 3.3 The current fee levels are based on the cost of care exercise undertaken during 2016/17, updated annually in accordance with the agreed formula. Comprehensive cost of care exercises can take up to 12 – 18 months to complete. It is therefore timely to commence a new cost of care exercise at the earliest opportunity in order to inform fee considerations for 2022/23 and beyond.
- 3.4 Leeds CCG has already agreed in principle to undertake a joint cost of care exercise in relation to Continuing Health Care funded services but also this will provide an opportunity to test the market for high quality dementia provision and for new arrangements including 'step-down' or Discharge to Assess provision should this be required in the medium to longer term.
- 3.5 The cost of care exercise will also be undertaken in partnership with LCA and with care home providers that are not affiliated to LCA.

Fees for home care provision

- 3.6 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 UKHCA pricing template. This was adjusted to take into account local factors in relation to travel time with differentials applied for urban, rural and super rural areas of Leeds. This was used as the basis of the fees set for home care services as part of the procurement and subsequent contract arrangements during 2016.
- 3.7 During this time, the Council made a commitment to the Ethical Care Charter (ECC), requiring the contracted providers to improve employment conditions and to set pay rates 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). Subsequent annual fee increases for home care have been significant to reflect increases in wage rates, in accordance with the Council's commitment to the ECC.
- 3.8 The UKHCA has set its minimum rate for home care from April 2021 at £21.43 per hour. This is based on NLW pay rates of £8.91 per hour. In assuming the real living wage calculated at £9.50 per hour, the UKHCA sets its hourly rate at £22.73 per hour (outside London). This is significantly above the local fee rates even with the local Leeds Living Wage rate for home care is £9.37 per hour from April 2021.
- 3.9 Due in part to the way in which home care is commissioned, the majority of providers pay their staff on a 'minute by minute' basis, for 'contact time' i.e. for the time that a care worker is in a service user's home delivering direct care, usually monitored through an electronic monitoring system. Payment for travel time, and attendance at team meetings, training and staff supervision, will be added to this. However, care workers frequently are not being paid for any gaps in their rotas when they are not directly delivering care even though they are technically at work.
- 3.10 It is widely acknowledged that the hourly rate of pay alone is not sufficient in ensuring high staff recruitment and retention rates, and that broader terms and conditions of

employment are equally important and relevant, such as payment for shift patterns which enable them to be paid whilst undertaking tasks that required to complete outside of any direct contact time, and also for gaps between visits.

- 3.11 It is important to note that within the UKHCA's costing model, the indicative costs of 'running a business', based on an estimate of operating costs, equates to £5.62 per hour. The basis of this calculation is not clear or transparent.
- 3.12 It is essential that there is a better understanding of the actual costs of delivering home care, in order to fully understand the costs of operating a home care service in advance of, and to inform the recommissioning of the service in Leeds. It is therefore proposed an open and transparent process is undertaken to assess providers' costs. This will also enable a formula to be agreed to inform annual fee considerations, as is the case with the care home fee setting process.
- 3.13 It is therefore proposed that a procurement is completed to commission an external agency to undertake two open book cost of care exercises simultaneously, to help inform fee rates for 2022/23, for both older people's care homes and for home care, and to identify a formula to inform future fee rates.
- 3.14 The benefits of engaging an external agency to undertake this work will ensure it is independent, open and transparent, thereby encouraging providers to take part in and contribute to the exercise.
- 3.15 Based on previous cost of care exercises, the cost of engaging an agency to undertake this work for both older people's care homes and for home care can be estimated at approximately £100k - £120k. The CCG and LCA will be asked to contribute to the cost of the work.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 Officers are in discussion with care home providers in relation to the fee rates for 2021/22 and in relation to additional costs related to Covid 19. Further engagement will commence with the providers and with the LCA in relation to the proposed cost of care exercise to inform fee levels beyond 2021/22.
- 4.1.2 Consultation will also continue with the home care primary and framework providers in relation to the costs of delivery home care under the existing service model and Framework agreement and within the context of a new delivery and service model.
- 4.1.3 The Executive Member for Health, Wellbeing and Adults has been briefed on this decision.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 An Equality Impact Assessment Screening Tool has been completed for this report and is included as Appendix 1. It is highly unlikely that any individuals or group with protected characteristics will be adversely impacted by the decision to approve the commissioning of consultants to undertake the proposed cost of care exercises.

4.3 Council policies and the Best Council Plan

- 4.3.1 The proposal outlined in this report will help to ensure that there is a financially viable and sustainable market of social care provision across Leeds. This in turn will enable delivery of 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, and through joined-up health and social care services. The proposal will also support the ambition of the Best Council Plan 2020 to 2025 for Leeds to be the Best City in the country, promoting inclusive growth, challenging low pay and inequality. The proposal will also impact on the Council’s ability to be 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 in protecting people at risk, improving the quality of care and support services, reducing inconsistency and building a sustainable system within available resources.

Climate Emergency

- 4.3.3 In response to the declaration on Climate Emergency, the Council is working towards carbon neutrality by 2030. The plan to achieve this goal includes: reducing pollution and noise; improving air quality, and; promoting a less wasteful, low carbon economy.
- 4.3.4 Whilst there are no specific climate issues in connection with the decision made under this report, as part of understanding the cost of care for older people’s care homes and home care, consideration will be taken of the impact of and commitment to providers adopting greener working practices.

4.4 Resources, procurement and value for money

- 4.4.1 It is anticipated that the cost of commissioning an external agency to undertake the two cost of care exercises is likely to be in the region of £100k - £120K. Though a financial contribution towards the cost will be sought from the CCG and the LCA, the full sum has been earmarked against the Directorate’s reserves, should a contribution not be received.
- 4.4.2 The procurement to select an external agency to undertake the cost of care exercises will be advertised through the council’s e-tendering portal, Yortender. The Service will be subject to a competitive procurement exercise during late Spring – early summer 2021 and with an anticipated conclusion by December 2021.

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

- 4.5.1 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. This will be a significant operational decision and is therefore not subject to call in.
- 4.5.2 This report does not contain any exempt or confidential information under the Access to Information Rules
- 4.5.3 As the total contract value is no greater than £120k there is still a requirement to advertise this opportunity through the Council’s YORtender portal. Therefore competition will be sought through a formal tender process.

4.5.4 Future decisions arising from this report, for example the decision to award the contract, will be treated as a consequence of this decision and will therefore be a significant operational decision at most which will not be subject to call in.

4.6 Risk management

4.6.1 There are no risks associated with commissioning an external agency to undertake the proposed cost of care exercises. However, it is critical to obtain the agreement from care home providers and the contracted home care agencies in the completion and submission of the required data so that there is sufficient information to complete a robust exercise. In mitigation, any data ultimately submitted by the providers will be sent directly to the organisation undertaking the exercise and will be anonymised. Work will also be undertaken in advance with the contracted providers to seek their input into the work.

5. Conclusions

5.1 Care home providers have indicated that they are experiencing considerable cost pressures arising from the Covid 19 pandemic. A large part of these costs have been met from additional non recurrent funding from Central Government during the past 12 months. The longer term financial implications for care homes, arising from the pandemic, is not yet known, but the providers are reporting longer term trends including: increased cost of insurance and liability cover; ongoing requirements on use of PPE; increased staffing costs, including sick pay; and reported reductions in occupancy levels.

5.2 The previous cost of care exercise was undertaken in 2016/17 and it is therefore timely to undertake a further cost of care exercise to inform the fee setting process for older people's care homes for 2022/23 onwards, and to identify a formula to inform fee rates for subsequent years.

5.3 With regards to home care, current fee levels are broadly based on the UKHCA costing model. However, as outlined in paras 3.6 – 3.12 above, there is a lack of transparency in the breakdown of costs in this funding model, especially in relation to the element relating to the cost of running a business and there is limited assurance on how this relates to the cost of delivering home care in Leeds.

5.4 A pilot is currently underway to test the community well-being model with a view to moving away from time and task commissioning and service delivery. As such it is timely to undertake a cost of care exercise for home care to inform the future re-provisioning of, and fee rates for, these services.

6. Recommendations

6.1 The Director of Adults and Health is recommended to:

Approve the procurement to commission an external agency to undertake two open book cost of care exercises simultaneously, to help inform fee rates for 2022/23, for older people's care homes and for home care, and to identify a formula to inform future fee rates.

7. Background documents¹

7.1 None.

8. Appendices

8.1 Equality Assessment

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.