

# Annual fee review for externally commissioned adult care services 2023/2024

Date: 8<sup>th</sup> March 2023

Report of: Head of Commissioning

Report to: Interim Director Adults & Health

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## Brief summary

The report seeks approval from the Interim Director of Adults and Health for the application of fee increases to externally commissioned services for 2023/2024, for home care services and community short breaks, care homes, extra care services, shared lives and uplifts for direct payments and for the process of individual fee negotiations, in exceptional circumstances, with providers of services for working age adults.

## Recommendations

The Interim Director of Adults and Health is recommended to:

- a) Approve an increase in the fee rates as detailed in the table in paragraph 15 i below for the externally commissioned home care services with the Primary and Framework Providers for the financial year 2023/2024.
- b) Approve the fee increase and agree the new cost structure stated in paragraphs 16 ii and 16 iii of this report for the independent sector older people's care homes overarching agreement for the financial year 2023/2024.
- c) Approve an increase in the hourly rates for Extra Care and the Direct Payments rate for Personal Assistants, in accordance with the home care rate increases to be applied to the Primary and Framework providers as stated in the report.

- d) Approve an increase of in line with the hourly rates for home care services for those services commissioned on a spot purchase basis where relevant.
- e) Approve an increase of 9% in the hourly rates for Community Based Short Breaks Providers to be managed within the overall budget for this service.
- f) Approve the allocation of £11,958,434 to manage all uplift requests for 2023/2024 for all independent sector Learning Disability providers and £6,077,402 to manage all uplift requests for 2023/2024 for all other working age adult independent sector providers.
- g) Approve the process of standardised uplift offers with providers of services for working age adults, during the course of 2023/24, based on the use of our adapted Care Cost Calculator and on rigorous value for money audits of the Service Cost Analysis Form (SCAF) submitted by the providers.
- h) Agree that all increases in fees shall be applied from, the 3<sup>rd</sup> April 2023.
- i) Note the relevant Head of Commissioning will implement this decision immediately following the expiry of the call in period by issuing letters to the care providers to inform them of this decision and updating the Client Information System to allow payments to be made at the new rate or commencing the discussions with providers where relevant.

## **What is this report about?**

- 1 The report seeks approval from the Interim Director of Adults and Health for the application of fee increases to externally commissioned services for 2023/2024, for home care services and community short breaks, care homes, extra care services, shared lives and uplifts for direct payments together with approving the process of individual fee negotiations with providers of services for working age adults..
- 2 Home Care and Community Short Breaks:
  - i. As part of the commissioning process for home care services in 2014, the Council engaged with providers to undertake a cost of 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.
  - ii. The contract was initially awarded in 2016, to 4 primary providers, with 8 other providers also being party to the Framework Agreement however, the number of providers on the Framework Agreement has since reduced to 5 due to mergers and acquisitions. This contract has since been extended through a delegated decision of the Director of Adults and Health, to allow the directorate to work on a significant change programme to develop a completely new home care model for Leeds based on community wellbeing teams. Given the pressures with capacity within the primary and framework contract Adults and Health also commission over 50% of care packages through spot provision with various home care providers in the city.
  - iii. In March 2021, given the pressures in the home care market, primarily due to the pandemic, the Director of Adults and Health took the decision to undertake a cost of care exercise to help inform fee rates for 2022/23 for home care. This was carried out by

ARCC HR Ltd during the summer of 2021 and formed the basis for the fees agreed for the financial year 2022/23.

- iv. 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.
- v. A Community Based Short Breaks Service contract was awarded on 1<sup>st</sup> November 2019 for a period of three years and five months with options to extend the contract up to a further two years, to align with the timelines of the home care contract. This service is funded from the carers budget and any increases in the fees payable will be contained within this budget.

### 3 Care Homes:

- i. Adults and Health went through a commissioning exercise in 2017 for a new framework (overarching agreement) for the provision of local authority funded placements in independent sector older people's care homes for a five year period until the 31<sup>st</sup> March 2023. As part of the commissioning exercise, Adults and Health commissioned a firm of accountants, Mazars, to conduct a cost of care exercise which resulted in the Director agreeing the fee levels for the first year of the new contract by delegated decision on the 18<sup>th</sup> April 2018. These fees have been subject to an annual review implemented from the 1<sup>st</sup> April 2019 and on or about the same date each subsequent year thereafter.
- ii. Again, given the significant current pressures care homes have experienced over the last two years due to the pandemic, the Director of Adults and Health took the decision in March 2021 to undertake a cost of care exercise to help inform fee rates for 2022/23 for older people's care homes. This cost of care exercise was carried out by C.Co Ltd (a trading arm of CIPFA) during the summer of 2021 and formed the basis of the agreed fees for the 2022/23 financial year.

### 4 Working Age Adults:

- i. In addition to the Adults and Health budget for working age adults, the Council and the Leeds Integrated Commissioning Board (ICB) operate the Learning Disability Pooled Budget 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 ICB are responsible for paying for different elements of care, and LCC is responsible for the financial running of the Pooled Budget.
- ii. The Council commissions a range of care and support services for working age adults including residential and nursing care, supported living services and day services and a shared lives service, 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.

- iii. These care and support services are subject to rigorous value for money audits based on the Service Cost Analysis Form (SCAF) submitted by providers. In previous years, fee requests from providers are considered through the application of our own adapted 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.
- iv. Through improved fee oversight of the Working Age Adults market and continued application of our adapted care cost calculator it is proposed that a standard set of uplift parameters and values are applied to the whole of the working age adult market with individual negotiation with providers undertaken in exception, rather than as routine. This will continue to support our ambitions of being consistent, fair and open with the whole market, based on the available uplift budget available for working age adults. Fee uplifts will always have consideration of the care and support required by the relevant individuals receiving the service.
- v. Adults and Health also commission part of the shared lives service through an independent sector provider and the increase in fee for this service will be dealt with through negotiation with the provider.

## 5 Extra Care:

- i. Extra Care housing is primarily designed for people who have care and support needs as well as a housing need. Extra care provides on-site access to 24/7 emergency or unplanned care (the core element of the model) which is an additional feature that separates it from other forms of retirement living.
- ii. Currently the directorate commissions 9 extra care schemes with the independent sector with a new scheme set to open this year and further schemes in the following years. These are commissioned through a mix of different approaches including block contracting where the directorate will contract for the whole care service at the scheme through to a core and add on model where individuals pay for the core service and their care and support needs are funded through individual personal budgets where the council is responsible for payment of their care. Fee increases for Extra Care Schemes that are paid on an hourly rate basis will increase in line with the increases applied to home care, as relevant. Fee increases for those schemes that are commissioned on a different basis will be subject to a further report.

## 6 Direct payments:

- i. 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 and this will increase in line with the rates stated in this report for home care staff.

## What impact will this proposal have?

- 7 2022 has seen unprecedented inflationary pressures with the UK inflation rate hit a 40 year high of 10.1%, with average energy bills at least doubling in the space of a year forcing the Government to introduce the Energy Bill Relief Scheme. In addition, the National Living wage rate is set to rise by 9.7% during 2023.
- 8 Under Section 5 of the Care Act 2014, the local authority has a duty to promote diversity and quality in provision of services and in performing this duty, must have regard to ensuring the sustainability of the care market in its area.
- 9 The increase in fees proposed in this report will contribute to ensuring the Council is meeting this duty under the Care Act.
- 10 During 2022, Adults and Health were required to undertake a cost of care exercise as part of the conditions of the Government's Fair Cost of Care Fund. The cost of care exercise was mandatory to be able to access the fund and was a part of the Government's social care funding reforms. The Fund was to be split over 3 years with the authority receiving a smaller amount during the first year (22/23) with larger amounts to be provided over the next 2 years. The conditions attached to the fund also required the majority of the money to be spent on increasing fees to independent sector providers to move towards what was described in the Fund as the fair cost of care. Following Government guidelines Adults and Health chose, through a delegated decision, to increase fees for care homes who provided dementia and nursing services (See delegated decision reference D55779). It was also made clear in the government guidelines and the cost of care report that were produced, that these were not part of the local authorities fee setting process.
- 11 However, since this time the Government announced in the autumn statement that the care funding reforms are being delayed by 2 years until October 2025 and the method of funding initially prescribed as part of the fund would no longer be available in this way.

## How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 12 This proposal supports the ambitions of the Better Lives Strategy, the Council's strategy for people with care and support needs, which helps the Council deliver overarching Health and Wellbeing Strategy aim for Leeds to be: "A healthy and caring city for all ages, where people who are the poorest improve their health the fastest"

## What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

- 13 The impact of this proposal will have a benefit across all wards within Leeds therefore the Executive Member for Adult and Children's Social Care and Health Partnerships has been informed of the fee increases to be applied to commissioned services.

## What are the resource implications?

14 Adults and Health are required to work within an overall financial budget for fee increases which was set at £5.7m following the Comprehensive Spending Review of 2022. However, the Council has acknowledged and recognised the high rate of inflation and the cost pressures being experienced by care providers and has therefore allocated a further £20.2m to cover these inflationary cost pressures.

### 15 Home Care:

- i. Using the accepted methodology of the ARCC costing model from the cost of care exercise undertaken in 2021, the table below shows the hourly rates proposed and compares against the current hourly rate:

| Contract Area                   | Framework Rate 2022-23 | Proposed 2023-24 | % uplift |
|---------------------------------|------------------------|------------------|----------|
| Homecare – Urban (per hour)     | 20.49                  | 22.35            | 9%       |
| Homecare – Rural (per hour)     | 21.82                  | 23.78            | 9%       |
| Homecare Super Rural (per hour) | 22.89                  | 24.96            | 9%       |

- ii. Overall, the strategy assumes a 10.2% increase in the budget for homecare, rising to £47.2m. This budget supports 1.953m hours of home care provision. The figures have factored into them both trend and demographic pressures. However, each year we are acutely aware that a small percentage variance can have a large financial impact and ongoing detailed monitoring will continue to be in place.
- iii. The Primary and Framework service providers will be required to ensure that increases in the hourly rates will be used to improve the pay rates and their care staff will be paid a minimum of £11.30 per hour, which is £10.90 for the Real Living Wage plus additional £0.40 to address recruitment pressures in the home care market. The Primary and Framework providers will be contract monitored to ensure that they are complying with the contract and paying a minimum basic hourly rate to staff of £11.30 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 Unison's Ethical Care Charter and the GMB Ethical Home Care Commissioning Charter.
- iv. It is proposed that the fees for the provision of spot purchased care will be increased to the proposed hourly rates stated in 15 i above from 3<sup>rd</sup> April 2023, where that care is currently being purchased at the 2022/23 hourly rate or below and on the strict proviso that the providers pass on a £11.30 per hour pay rate, as a minimum, to their care staff. Where a provider is receiving a fee above the 2022/23 hourly rate or refuses to pass on the minimum rate stated above to staff, the directorate will negotiate the 2023/24 rate with them by exception.
- v. It is proposed that the hourly fee rates for the Community Short Breaks Service will be increased by 9% from 3<sup>rd</sup> April 2023, in order to enable these providers to cover inflationary increases in costs and pass on a £11.30 per hour minimum to their care staff, however, this increase will be managed within the overall budget for this service.

### 16 Care Homes:

- i. 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 ensure that there is sufficient capacity, and a choice of quality

services for local citizens. Within Leeds, there continues to be over supply of residential provision however, there is only a limited supply of nursing provision and bed availability, particularly nursing dementia. Whilst there is sufficient capacity to meet needs, at times people are having to wait for longer periods of time to access a long-term placement in a nursing home and this is especially the case for nursing dementia beds.

- ii. In setting the 2022/23 fees, Adults and Health gave due regard to the cost of care as highlighted by the C Co. report and also considered bed capacity and demand for nursing and nursing dementia provision, the make-up of the market and feedback from providers as part of the consultation process. Adults and Health determined that a significant proportion of the market was servicing Health and self-funders at a rate above the cost of care as outlined by C Co. On that basis the directorate reviewed what was necessary to sustain the market in line with the Care Act. These factors are still currently relevant, and the directorate is mindful of the current inflationary pressures affecting the care home sector. On this basis, directorate has proposed the following core fees:

| Setting                           | Framework Rate 2022-23<br>£ | Proposed 2023-24<br>£ | % uplift |
|-----------------------------------|-----------------------------|-----------------------|----------|
| Residential (per week)            | 601                         | 655                   | 9 %      |
| Residential – Dementia (per week) | 654                         | 713                   | 9%       |
| Nursing (per week)                | 692                         | 754*                  | 9%       |
| Nursing – Dementia (per week)     | 739                         | 806*                  | 9%       |

- excluding Funded Nursing Care (FNC)

- iii. In addition to the core fee, the contract provides for a payment of a Quality Premium Payment where providers are meeting enhanced standards defined in the contract. These fees are uplifted at the same rate as the core fee. The table below sets out the proposed QPP rates:

| Setting Core plus QPP             | Framework Rate 2022-23<br>£ | Proposed 2023-24<br>£ | % uplift |
|-----------------------------------|-----------------------------|-----------------------|----------|
| Residential (per week)            | 626                         | 682                   | 9 %      |
| Residential – Dementia (per week) | 680                         | 741                   | 9%       |
| Nursing (per week)                | 719                         | 784*                  | 9%       |
| Nursing – Dementia (per week)     | 767                         | 836*                  | 9%       |

- excluding Funded Nursing Care (FNC)

- iv. The proposed rates stated above are affordable within the current budget strategy and consider current demand and allow for demographic growth. As with home care a small percentage variation can have significant financial impact. There will be ongoing monitoring of this area of spend. Overall, the strategy assumes an 12% increase in the budget for residential care, increasing the budget to £71.6m.

#### 17 Working Age Adults:

- i. 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. 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. 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.

- ii. The Working Age Adults value for money team will now apply a more standardised approach towards fee uplifts with the market, rather than working on a case by case basis, and will only negotiate fee increases by exception. All fee increases will be contained within the overall budget available.
- iii. In 2023/24 the available budget for Learning Disability Contract uplifts is £11,958,434 for all independent sector uplifts (excluding direct payments). This is to manage uplift requests from all Learning Disability providers. It should be noted that the Learning Disability pooled budget also includes payments to providers for people who have Continuing Health Care (CHC) funding. The Council has provided £11,958,434 for contract uplifts, and health colleagues have been advised that they should plan for CHC costs that could be 11.6% of this figure (this is in addition to the provision made by the Council). All expenditure within the £11,958,434 is to manage all uplift requests for 2023/24 for all independent sector learning disability providers and as is a direct consequence of this Key Decision.
- iv. 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.
- v. In 2023/24 the available budget for increases to fees for working age adults services (other than learning disability services) is £6,077,402. All expenditure within the £6,077,402 is to manage all uplift requests for 2023/24 for all independent sector working age adults providers and as is a direct consequence of this Key Decision.

#### 18 Extra Care:

- i. 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 percentage increase recommended for the primary and framework home care providers delivering care in the Urban area is also applied to the Extra Care Providers, from the 3<sup>rd</sup> April 2023 where fees are being paid on an hourly rate basis. Where contracts are let on a different contractual basis, e.g. block payments, these schemes will be subject to alternative reporting arrangements. This would apply an increase of 9% to the current extra care rates being paid on an hourly rate basis.

#### 19 Direct payments:

- i. 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. Again, it is proposed that the same percentage increase recommended for the primary and framework home care providers delivering care in the Urban area is also applied to the Direct Payments, from the 3<sup>rd</sup> April 2023. This would apply an increase of 9% to the current Direct Payment rates being paid. An increase to the homecare hourly rates would produce an anticipated increase in expenditure for Direct Payments, Personal Assistants rates at a cost of £2,633,662 (including learning

disability direct payments) – a budget provision for inflation has been made that equals this so there would be no budget pressure.

20 There is provision within the Adults and Health Budget to cover these costs.

### **What are the key risks and how are they being managed?**

- 21 There is a significant risk that current inflationary pressures continue to rise, and the fee increases mentioned here may not be sufficient for some providers to remain operating and delivering their services within Leeds. In mitigation, the fee proposals for older people's care homes and for home care have been consulted on and the situation will be monitored through regular dialogue with the respective markets. There is a greater risk that some of the providers of services for working age adults may seek further negotiation on the fee proposal due to increasing cost pressures. Historically the value for money team has built strong working relationships with the WAA service providers and they will continue to take negotiate with, and take an individualised approach, with providers where required.
- 22 Risk management for contracts with externally commissioned care is undertaken as part of the contract management process.

### **What are the legal implications?**

- 23 The decision highlighted in this report will be taken by the Interim Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 24 This is a Key Decision which is subject to call-in as the overall value the increases mentioned in the report is greater than £500k. A notice has been published on the List of Forthcoming Key Decisions.
- 25 The report does not contain any exempt or confidential information.
- 26 There are no specific legal implications regarding the increase of fees as part of this report as the existing terms and conditions allow for fee reviews throughout the life of the different contracts..

## **Options, timescales and measuring success**

### **What other options were considered?**

- 27 There were no other options considered at this stage.

### **How will success be measured?**

- 28 The success of these proposals will be measured by complying with its duty under the Care Act 2014 to ensure there is a viable and sustainable market of social care provision to meet needs and that there is sufficient capacity, and a choice of quality services for local citizens.

## **What is the timetable and who will be responsible for implementation?**

29 The relevant Head of Commissioning will implement this decision immediately following the expiry of the call in period by issuing letters to the care providers to inform them of this decision and updating the Client Information System to allow payments to be made at the new rate or commence the relevant discussions with providers where relevant.

## **Appendices**

- Appendix 1 - Equality Impact Screening Tool.

## **Background papers**

None.