



COUNCIL CABINET 16th February 2022

ITEM 9

Report sponsor: Andy Smith, Strategic Director
for People Services
Report author: Kirsty McMillan, Director of
Integration & Direct Services

Adult Social Care Fees and Charges 2022/23

Purpose

- 1.1 Under the Care Act 2014, Councils have a duty to ensure that there is a sustainable and affordable social care market locally. This includes establishing fee levels that providers will expect to receive for commissioned care that is delivered to meet a person's needs. To ensure that the Council is aware of and taking account of the cost pressures affecting local providers of care, engagement and consultation with independent sector providers has been undertaken in recent months. This has been focused on those providers operating "standard" care i.e. not those dealing with more complex levels of care. This report summarises the engagement findings, the reported cost pressures and feedback from providers. The report sets out details of the funding model itself and the proposed rates for 2022/23 for standard residential / nursing care and for homecare services.
- 1.2 This report also sets out the proposed charges for Council-provided adult social care services for 2022/23, which forms the annual review referred to in the Council's Adult Social Care Charging Policy.
- 1.3 It should be noted that the full cost of care is only paid by around a tenth of customers, the majority are subsidised following the outcome of a Financial Assessment.

Recommendations

- 2.1 To approve a **4.69%** fee increase for independent sector standard residential care and nursing care weekly fee rates (net of the Registered Nursing Care contribution) from April 2022.
- 2.2 To approve a **3.7%** fee increase for independent sector homecare/care at home services from April 2022.
- 2.3 To approve an increase to the charging rates for Council-provided services of **3.0%** with the exception of the Shared Lives Carer service which will be increased by 3.7% from April 2022 to match the home care increase.
- 2.4 To approve an increase in existing Direct Payments, where an inflationary uplift is requested and evidenced, of up to **3.7%**, which mirrors the proposed uplift for homecare/care at home providers.

- 2.5 To approve that all the new rates will apply from the date of the rise in benefits for 2022/23, which is expected to be 11 April 2022.
- 2.6 To delegate authority to the Strategic Director of People Services in consultation with the Cabinet Member for Adults, Health and Housing to agree fee levels on an individual by individual basis for complex customers placed with specialist providers, within the overall budget of Adult Social Care Services.

Reasons

- 3.1 The Council must publish its intended fees for care taking into account market conditions and cost pressures. The Care Act 2014 requires this as part of Council's "market shaping" duties which also require Councils to hold sufficient intelligence about their local care market. General information and consultation feedback from independent sector care providers has therefore been gathered, analysed, largely focusing on specific inflationary and cost pressures affecting care businesses. The Council's fee rate models for residential care homes, as set out in Appendix 2 and home / community care, as set out in Appendix 3, have been adjusted and based on the methodology used by the Council in previous years. This methodology looks at specific cost elements that together compromise an overall weekly individual fee for care homes and an hourly fee for home care, where inflationary allowances and any other considerations are applied, to then propose an overall composite percentage annual uplift.
- 3.2 The Council previously decided to introduce the option to apply an annual inflationary uplift for Direct Payments to address a legacy systemic inequity whereby people electing to receive their funding by Direct Payment could be disadvantaged compared to those whose services are commissioned by the Council. This approach helps to ensure that Direct Payment arrangements are sustainable.
- 3.3 Maintaining income levels for Council-provided services is crucial to the management of the overall budget for the Council. This includes considering whether care services that are directly provided need to have their charges increased in line with inflation.
- 3.4 The proposed start date for all 2022/23 fees and charges aligns with the date that the Department of Work and Pensions (DWP) benefit rates are expected to change.
- 3.5 Specialist fee levels for people with more complex needs do not fit into the standard fee frameworks. Instead, these are individually set and agreed with providers at the point at which a contract for care is entered into. These do not lend themselves to be considered for a standard approach given they are bespoke to each individual.

Supporting information

4.1 Independent Sector fees

Under the Care Act, Councils have a duty to ensure that the fee paid to providers of care is able to create stability and sustainability within the local market. Councils are expected to engage with care providers and use market intelligence before setting fee levels. An engagement exercise has taken place whereby providers were encouraged to provide details of their cost pressures to inform the process. This took the form of issuing a survey so providers could share information as to where their projected increases and cost pressures were likely to be for 2022/23. This information was analysed so that it could be taken into consideration in the fee models.

One of the considerations was the change to the National Living Wage (NLW) for 2022/23 which has now been confirmed as increasing by 6.6% for 2022/23 meaning the current rate of £8.91 will rise to £9.50 per hour. The Council already plans to make provisions in its overall financial plans to cover the impact of this on the relevant lines in the cost model, as a result of the increased NLW.

4.2 Cost pressures reported by nursing and residential care homes

Despite all providers being invited to participate, feedback responses were received from only 15 out of 64 nursing and residential care home providers where the key cost pressures were attributed to increases in pay as a result of the increase to NLW and the subsequent impact on more senior role salaries; the increase in National Insurance in relation to the social care levy; increased recruitment and other costs such as regulation, training, apprenticeship levy, utilities, fuel costs, pension contributions and insurance. The challenge in recruiting staff has resulted in costly use of agencies. This mirrored the feedback received in the ongoing Care Home and Nursing Home Forum discussions.

4.3 Cost pressures reported by independent sector home care agencies

Home care agencies have been reporting a number of cost pressures, many of which are similar to those reported by care home providers - increases to NLW amounts; increases to Employer's National Insurance; increased costs of recruiting and retaining staff. Providers have been reporting increased competition for staff from other industries which also puts additional pressure on the hourly pay rates so that are viewed as competitive by existing and potential home care staff and has resulted in costly agency fees. Other cost pressures include rent, utility costs, insurance premiums and fuel costs.

Given the wider capacity issues in home care, regular conversations have also been had with the main providers in Derby about their pressures. Only 7 written responses were received from Home Care agencies to the fee engagement process referred to above in this report.

4.4 Proposed inflationary uplift - residential/nursing care homes

As the National Living Wage has now been confirmed, it is proposed that a composite

inflationary figure of 6.62% is applied to the workforce, representing the fact that not all staff will be employed at national living wage levels. The assumption is that 75% will be.

An inflationary increase of **4.69%** is proposed based on the above but with uplifts ranging from 2% or 3% being applied across a number of non-staffing, establishment and administrative overhead elements (see Appendix 2) and responds to key feedback from providers.

The cost of the Apprenticeship Levy will not impact on all providers as an organisation needs to have an annual pay bill of more than £3 million before they will need to pay 0.5% of the wage bill as the Levy. It is mainly for larger care homes which are part of large national bodies where this may be a cost pressure.

The table below compares 2021/22 and proposed 2022/23 fee rates for standard residential and nursing home commissioned care.

| Setting | Current rate 2021/22 per week | Proposed rate 2022/23 per week (4.69% increase) |
|--------------------------------|--|--|
| Standard Residential | £542.33 | £567.76 |
| Standard Nursing (net of RNCC) | £556.91 | £583.03 |

4.5 **Proposed inflationary uplift - Independent sector home care**

An inflationary increase **of 3.7%** is proposed based on allowances for staff costs and percentage increases being applied across a number of non-staffing elements (see Appendix 3) and responds to key feedback back from providers.

The new home care procurement framework that commenced operation in September 2021 simplified the pricing model, reducing tendered rates down to four. The table below shows proposed rates for the new framework providers, comparing them to those payable in 2021/22.

| Description | Current Rate 2021/22 | Proposed rate 2022/23 (3.7% increase) |
|--|---------------------------------|--|
| Weekday hourly rate (07:00-20:00hrs) | £16.32 | £16.92 |
| Weekday 15-minute call rate (07:00-20:00hrs) | £5.29 | £5.48 |
| Evening/Weekend hourly rate | £18.07 | £18.76 |
| Evening/Weekend 15-minute call rate | £7.88 | £ 8.16 |

Lengths of call that are over 15 minutes will be paid at a pro rata amount of the relevant hourly rate. If calls overlap times for two different rates, they will be allocated the rate that applies at the start of the call.

4.6 Proposed inflationary uplift - Direct Payments

Following requests received from Direct Payment holders and in consideration of any information they are furnished with from their care provider or employees such as Personal Assistants, where appropriate, it is proposed that existing individual Direct Payments may be uplifted in 2022/23 to **a maximum of 3.7%**, which is the proposed rate for homecare providers. Any proposed uplift will need to be evidenced as linked to inflationary pressures associated with the specific cost of care for each individual, rather than increasing levels of individual need which would be dealt with via a social work review.

The rationale for aligning the potential uplift to that proposed for home care is that this will harmonise discussions with those care organisations who may operate a mixed economy of both commissioned services (using a contract) and those delivered using a Direct Payment. Inflationary care cost increases for Direct Payments will still need to be explored separately as there may be different pressures depending on how the care is delivered and configured.

4.7 Charging for Social Care Services

Charges for customers receiving community-based support or residential and nursing care support are governed by the Council's *Adult Social Care Charging Policy* underpinned by the Care Act 2014 and supporting statutory guidance.

In line with the *Adult Social Care Charging Policy*, customers receiving community-based support will be charged for the full cost of their social care support, subject to the limit of their assessable income and except where the Council has to provide the service free of charge. With the exception of some fixed-charge services, all people who are asked to make a contribution towards their care undergo a Financial Assessment to determine the amount that they can afford to contribute. Most people receive a subsidy and are not asked to pay the full cost of their care.

4.8 Maximum contribution for community-based services

The Council has discretion under the Care Act 2014 to set a maximum contribution that a customer would be expected to pay towards the cost of their non-residential care. The Council has previously decided not to apply a cap, as set out in the *Adult Social Care Charging Policy*. No change is proposed.

| Charges for Social Care Services | Limit 2021/22 | Proposed Limit 2022/23 |
|----------------------------------|---------------|------------------------|
| Maximum Contribution | No cap | No cap |

4.9 Charges for independent sector/ commissioned services

In accordance with the *Adult Social Care Charging Policy*, the new proposed costs for independent sector provision described above will be passed on in full to customers for whom the Council arranges support, subject to the outcome of their Financial Assessment.

4.10 Short-term residential care charges

The Council has previously chosen to set the charge for *Short Breaks in a Registered Care Home* for up to four weeks based on the minimum amount of benefit entitlement for the age of the customer less the statutory residential personal expenses allowance. This is currently £24.90 per week for 2021/22 and a new weekly rate for 2022/23 will be being confirmed by the Department of Health in the near future. The proposal is to continue to this approach and reflect the 2022/23 rates in the table below.

| Service Unit | Rate 2021/22 | Proposed Rate 2022/23 |
|---|-------------------------------------|--|
| Short term residential care of up to four weeks - under Pension Credit Age - over Pension Credit Age | £84.90 per week £152.20 per week | Subject to confirmation of DWP rates in Feb 2022 |

4.11 Inflationary charges increase for Council provided services – 2022/23

It is proposed that the amount charged for care and administrative services provided directly by the Council should be increased in line with the increase in income for Adult Social Care. The Council maintains a 3% inflationary increase on fees and charges in line with the current growth in inflation.

4.12 Bonsall View Short Breaks Service

The Council provides a Short Breaks residential care based service at Bonsall View for customers with complex needs. It is proposed that the current Bonsall View charges are increased therefore by **3.0%**

| Bonsall View | 2021/22 rate | Proposed 2022/23 rate |
|--------------|-------------------|-----------------------|
| Short Breaks | £366.54 per night | £377.54 |

4.13 Carelink

On 8 December 2021 a Cabinet Member decision approved a new fee for Carelink of £4.90 per week to £6.25 per week to cover the additional costs of incurred for installation, maintaining and monitoring the upgrading needed from analogue to new digital telecommunications. This is in response to the national Digital Switchover that is taking place. The new charges will apply at the point of new / upgraded installations. This increase did not however deal with the inflationary pressures affecting all Council run services and it is proposed that the current Carelink charges (which are weekly for individuals and where service level agreements exist these are annual charges with Housing Associations) are also increased April by **3.0%**.

4.14 Shared Lives

It is proposed that the current Shared Lives fees and charges are increased by **3.7%** again to reflect the overall cost pressures affecting the care sector.

4.15 Administration Charges - Deferred Payment Agreements

The Care Act 2014 introduced a new duty for every local authority to offer a deferred payment scheme, meaning that no one should be forced to sell their home during their lifetime in order to pay for their residential care. Derby City Council already operated such a scheme. The Care Act guidance and regulations set out what local authorities can charge in interest on any amount deferred and the administrative charges which may be recovered in relation to deferred payment arrangements.

4.16 Deferred Payment Agreement Set-up Charge

In the Care Act 2014 impact assessment, the Department of Health estimated that the cost to Councils of administering a Deferred Payment Agreement was £750. Local estimates of the costs incurred were in line with this, so for 2016/17, the Council set the charge for setting up a Deferred Payment Agreement at £750, and this has since been increased in line with the budgeted inflationary increase in income.

It is proposed to increase the set-up charge by **3.0%**.

The Council has previously chosen not to charge an annual administration charge for managing a Deferred Payment Agreement as set out in the *Adult Social Care Charging Policy*. No change is proposed.

| Deferred Payment Agreement | 2021/22 rate | Proposed 2022/23 rate |
|------------------------------|--------------|-----------------------|
| Set-up charge | £869.44 | £895.52 |
| Annual administration charge | None | None |

4.17 Deferred Payment interest rate

The Care Act 2014 regulations state that the interest rate applied to Deferred Payment Loans must be based on the cost of government borrowing - specifically, the 15-year average gilt yield - as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report. The Care Act allows discretion for Councils to apply up to an additional 0.15% to this rate.

From 1 Jan 2022 – 30 June 2022, the interest rate will be based on the average gilt yield of 0.8% which was published in November 2021

From 1 July 2022 until 31 December 2022, the interest rate will be based on the average gilt yield to be published in March 2022

From 1 Jan 2023 – 30 June 2023, the interest rate will be based on the average gilt yield to be published in November 2022

In the event that the 15-year average gilt yield value is not available for a specific period, then the previous rate will continue to be applied until a new rate becomes available. In line with a number of other local authorities in the region, the Council has previously decided to charge the maximum interest rate for deferred payments allowed under the Care Act 2014. No change is proposed.

| Deferred Payment Agreement | 2021/22 rate | Proposed 2022/23 rate |
|----------------------------|--------------|-----------------------|
| Interest rate premium | 0.15% | 0.15% |

Interest will be compounded daily.

4.18 Self-funder community care administration charge

As laid out in the *Adult Social Care Charging Policy*, Derby City Council applies charges to cover the administrative costs incurred when it organises community-based services on behalf of people who are able to pay for the full cost of their care (except where the local authority is required to arrange care and support free of charge).

- 4.19 It is proposed to increase the self-funder set-up and maintenance charges by **3.0%**. The proposed rates for 2022/23 are as follows:

| Service | Rate 2021/22 | Proposed Rate 2022/23 |
|---|--------------|-----------------------|
| Setting up a community care package | £105.48 | £108.64 |
| Annual maintenance for a community care package | £97.36 | £100.28 |
| Setting up a residential care package | Deferred | Deferred |
| Annual maintenance for a residential care package | | |

4.20 Community Deputyship and Appointeeship service

Where people do not have capacity to manage their own money (as evidenced by a Mental Capacity Assessment), they need someone to act on their behalf. Typically, a family member or close friend will take on this role, but some people living in the community do not have anyone in their circle of support willing to take on the role. A number of independent sector organisations offer this service for a fee, and social workers will normally seek to signpost customers and their families to these services. As a last resort, the Council is able to act as a Deputy or Appointee.

- 4.21 The basic Appointeeship service for someone living in the community involves receiving benefits on behalf of the customer, paying out a regular personal allowance and providing support to customers to pay their own bills. The enhanced Appointeeship service additionally includes debt management and paying utility bills on behalf of the customer. These additional tasks take more time and therefore the enhanced service has a higher charge.
- 4.22 Deputyship involves making decisions on behalf of the customer rather than just managing their money for them. The Court of Protection sets out the charges for Deputyship. On the rare occasions when we agree to apply for Deputyship on behalf of a customer, the charges from the court will be passed on to the customer, in addition to the enhanced Appointeeship service charge.

- 4.23 It is proposed to increase the community Appointeeship service charges by **3.0%**. The proposed charges, which are subject to a Financial Assessment as described under the Care Act 2014, are:

| Appointeeship Service | Rate 2021/22 | Proposed Rate 2022/23 |
|------------------------------|---------------------|------------------------------|
| basic service (per month) | £28.96 | £29.83 |
| enhanced service (per month) | £52.15 | £53.71 |

Public/stakeholder engagement

- 5.1 Providers, as in the financial year of 2021/22, were invited prior to any fee increases being proposed to identify their key business-related cost pressures by completing a short survey. However, only 15 Care Homes, 7 Homecare agencies and 2 Supported Living organisations responded, and the low return is likely to be attributable to the current challenges the external market is facing. More regular and informal conversations however take place with care providers on an ongoing basis and this has also been used to inform the proposals.

Other options

- 6.1 The Council could determine not to award any inflationary increase to the fees it pays for in-house and independent sector care. This is not being recommended as having a sustainable and viable social care market is vital to ensuring that the Council can discharge its statutory duties in relation to vulnerable adults.
- 6.2 The Council could decide not to increase the charges it levies for in-house and independent sector care. This is not being recommended as it would create an unmanageable pressure in the adult social care budget.
- 6.3 The Council could decide not to exercise the powers granted in the Care Act 2014 to levy administrative charges for certain activities. This is not being recommended as it would create an unmanageable pressure in the adult social care budget.

Financial and value for money issues

- 7.1 The proposals in this report will help the Council to provide its statutory services within the available budget. The proposed fee increases for external care providers has taken into account inflationary pressures, specifically in relation to the ongoing National Living Wage rises. Other measures such as demand management activity, diverting people into alternative low-cost services, and using preventative approaches such as Local Area Coordination and Talking Points will also be utilised to help manage cost pressures.

Legal implications

- 8.1 The public sector equality duty, under section 149 of the Equality Act 2010, requires public bodies to have due regard to the need to eliminate discrimination and promote equality of opportunity for groups including disabled and older people. By ensuring that a fair price for care is paid and charged for, the Council will fulfil its duty by ensuring that older or disabled people are able to access care locally and from a

viable, sustainable and high-quality care sector.

- 8.2 Consultation on the Adult Social Care Charging Policy took place in 2020 the outcome of which has informed the content of this report; similarly, an equality impact assessment (EIA) of the impact of the Adult Social Care Charging Policy has been carried out. The EIA and a summary of its findings can be found on the Council website here:

<https://www.derby.gov.uk/community-and-living/equality-diversity/equality-impact-assessments/>

Climate implications

- 9.1 None arising from this report.

Other significant implications

10.1 Equalities Impact

The people affected by these charges have protected characteristics under the Equality Act – however, everyone making a contribution towards the cost of their support undergoes a Financial Assessment to determine how much they can afford to contribute. Very few people pay the full rate for these services.

This report has been approved by the following people:

| Role | Name | Date of sign-off |
|---------------------|---|-------------------------------|
| Legal | Olu Idowu, Head of Legal Services | 4 th January 2022 |
| Finance | Janice Hadfield, Head of Finance | 4 th January 2022 |
| Service Director(s) | Kirsty McMillan, Director of Integration and Direct Services | 14 th January 2022 |
| Report sponsor | Andy Smith, Strategic Director for People Services | 14 th January 2022 |
| Other(s) | Cath Young, Head of Commissioning and Market Management | |
| | Jackie Costello, Lead Commissioner for Projects, Integration and Change | |
| | Andy Muirhead, Head of Business Support, Systems and Improvement | |

| | |
|---------------------|---|
| List of appendices: | Appendix 1 – Care Provider Feedback Form Appendix 2 – Care Home Fee Increase Model Appendix 3 - Homecare Fee Increase Model |
|---------------------|---|

Appendix 1



STANDARD FEE
INCREASE PROCESS 2

Appendix 2



Care homes fee
increase workings - fc

Appendix 3



homecare rate fee
increase workings for