

# COUNCIL CABINET 10 February 2016

**ITEM 10** 

Report of the Cabinet Member for Adults and Health

# Fees and Charges - Adult Social Care

#### **SUMMARY**

- 1.1 Engagement and consultation with "independent sector" care home and home care providers operating under the Council's standard (rather than specialist) terms and conditions, has been undertaken in recent months with the aim of informing the Council's decision-making about setting 2016/17 standard fees. This report summarises the reported cost pressures and the consultation feedback from providers. This includes the impact of the introduction of the National Living Wage from April 2016. The report sets out details of the funding model itself and the proposed rates for 2016/17.
- 1.2 This report also sets out the proposed charges for Council provided residential and community care services for 2016/17.
- 1.3 The proposed Council Budget for 2016/17 includes inflationary increases of 3.1% for Residential and Nursing placements, 2.9% for Homecare services and 3% for all other fees and charges. It must be noted that the full cost is only paid by around a fifth of customers, the remainder are means tested. This report sets out the proposed charges for 2016/17 after applying these increases for the Council's own care services. A review of charges in the Shared Lives Service is underway which will consider potential changes to the charging structure for this service.
- 1.4 The Care Act 2014 introduced new powers for Councils to apply administration charges for setting up services for self-funders, protecting customers' property while they are being cared for away from home, and for entering into Deferred Payment Agreements. It also enables Local Authorities to charge interest on Deferred Payment loans. This report sets out the proposed charges and interest rates for 2016/17.
- 1.5 A proposed introduction of charges for Deputyship and Appointeeship services is part of the preceding Adult Social Care Charging Policy paper. The proposed charges for these services are included in this paper.

## **RECOMMENDATIONS**

2.1 To approve a 4.78% fee increase for independent sector standard residential care, dementia residential and nursing care weekly fee rates (net of the Registered Nursing Care Contribution) from April 2016.

- 2.2 To approve a 5% fee increase for standard independent sector homecare services.
- 2.3 To approve increases to the charging rates for 2016/17 of 3.1% for residential and nursing placements, 2.9% for homecare services and 3% for all other fees and charges where the Council has discretion.
- 2.4 To approve the new administration charges and interest rates to be applied to Deferred Payment Agreements from 2016/17.
- 2.5 To approve the new administration charges to be applied to the Deputyship and Appointeeship service from 2016/17.
- 2.6 To approve that all the new rates will apply from 11<sup>th</sup> April 2016 (in line with the date of the rise in state benefits for 2016).
- 2.7 To delegate the decision on any changes to charging for the Shared Lives Service as a result of the review to the Acting Strategic Director of Adults and Health following consultation with the Cabinet Member for Adults and Health.
- 2.8 To delegate the decision on any changes to the Resource Allocation System in relation to Direct Payments to the Acting Strategic Director of Adults and Health following consultation with the Cabinet Member for Adults and Health.

#### REASONS FOR RECOMMENDATIONS

- 3.1 The Council's fee rate model for residential care homes and home care, as set out in Appendix 4 and 5, builds on the methodology previously used by the Council. General information and consultation feedback from independent sector care providers has been focused on specific inflationary and cost pressures affecting their businesses.
- 3.2 Maintaining the directorate's income is crucial to the management of the overall budget for the Council.
- 3.3 The proposed start date aligns with the date that the Department of Work and Pensions (DWP) benefit rates change.
- 3.4 The review of the Shared Lives Scheme will not be complete until later in 2016/17 and any potential changes are likely to be relatively small and only affect a relatively small number of customers.



# COUNCIL CABINET 10 February 2016

Report of the Acting Strategic Director for Adults and Health

## SUPPORTING INFORMATION

# 4.0 Fee rate Methodology & Consultation feedback

- 4.1 The methodology for developing Council fee rate proposals for providers with "standard" terms and conditions during 2015 was similar to that used in 2013 and 2014. Specific meetings were held with interested providers to better understand current cost pressures. All providers were then encouraged to evidence their cost base and pressures by returning a questionnaire (see Appendix 2 and 3). Information was also provided by one home detailing their actual costs over the previous 12 months. This provided a very useful tool to sense check the overall assumptions about costs. The proposed fee rates and methodology were then distributed for consultation (see Appendix 4 and 5) assisted by the information gathered in the questionnaire.
- 4.2 Twelve residential and nursing home establishments returned the questionnaire. A similar process for home care providers was also followed and nine providers returned the questionnaire.
- 4.3 Cost pressures reported by nursing and residential care homes there were a number of common themes from the 12 questionnaires provided. All establishments declared average inflationary increases in the cost of general supplies and services the majority experienced similar occupancy levels as the previous year. This year, homes were asked about the profile of people occupying their establishments, with those responding stating that on average 57% of residents are funded by Derby City Council. Self funders, the NHS and other Council's made up the remaining 43% of available bedspaces.

4.4 All homes who returned the questionnaire stated that their main expenditure related to the cost of employing and managing carers, nurses and domestic staff - on average, homes stated that 80% of their total staffing costs related to this group. Pressures were reported in relation to the amounts spent on recruitment and training, although their main concern was introduction of a new National Living Wage being set by the government from April 2016 for those over 25. The impact of this appears to be varied across the homes who responded, although all report it would have an impact in terms of increased costs. Some already were paying staff above the existing minimum wage, others stated that only some of their workforce would be affected, with one home stating all of the direct care workforce would be affected. It appears from the feedback that most management salaries are already above the minimum wage, but some homes were concerned that a rise in more junior salaries would cause a knock on effect in terms of differential pay grades (the questionnaire did not however gather specific details on this). Although asked to, not all respondents had estimated the cost per week of the new National Living Wage (to be expressed as the increase in weekly fee per resident). Of those that had worked this out, the increase in costs were reported as being £9.93, £10.17, £10.77, £11.20, £13.37, £17.90, £18.50, £19.47 per week. The average being £13.91 per week.

#### 4.5 Other factors in care home costs

Rate of return – a question was asked about this in the questionnaire and four homes replied stating that they that they felt the Council's allowance was inadequate as they would be expecting a 10-15% return.

The auto pension enrolment was another area the questionnaire explored. Although some homes provided details of the impact of this, others stated they had already absorbed the costs in previous years.

Information was sought from homes about whether staffing levels have increased over recent years due a p[perceived increase in the complexity of care needs for people residing in residential and nursing homes. Information provided was not however conclusive, with some homes stating they had seem small increases in the ratio between residents to staff in the previous 12 months; others stated they had seen small decreases ratios. More analysis would be needed on this for this to be a factor within the fee setting model, particularly given that the Council does not provide referrals for all available beds (43% being occupied by self funders or other statutory agencies).

4.6 Cost pressures reported by home care agencies - Nine home care providers took up the opportunity to submit a questionnaire, and three more specialist home care providers wrote to the Council with their feedback on cost pressures. The main factor that home care agencies raised related to the planned increase in hourly pay due to the new national Minimum Living Wage. Those who responded stated that approximately 80% of staff employed by the organisations will need to have their pay inflated from April 2016. Additional pressures were noted in relation to all employee related costs such as recruitment, retention packages and training.

## 4.7 Proposed 2016/17 inflationary pressures

Consultation process - All care home and home care agencies were written to at the end of December 2015 with the proposed inflationary increase for 2016, expressed as a %. Three responses were provided – two from home care agencies and one from a nursing home. One provider felt the proposed rate increase would address the increase in the national minimum wage, but felt that the knock on effect to the whole workforce should also be taken into account i.e how the rise impacts differential levels of pay between staff and managers. The other two providers felt that the assumptions made in the model about the proportion of the workforce affected by the national minimum wage were flawed, given their own workforce profile. One of these providers was also concerned that the allowance made for profit was not sufficient for investors, and that costs pressures in other areas were being understated, particularly in other fixed cost areas. These issues will be addressed in the proposals below:

**Residential/ nursing homes** - During the calendar year of 2015, inflation has been extremely low, and in some months, ONS data has indicated negative inflation rates. Although inflation remains low, it is proposed that the Council applies a 1.5% inflationary uplift in most general cost areas within the model, including utilities. This rate anticipates the average inflation that may be applicable during 2016/17.

It is proposed that for staffing, agency and recruitment costs, the Council should inflate all wage related costs within the model to reflect the increase in the National Minimum Living Wage from April 2016 for employees likely to be working in homes over the age of 25. It is assumed however that there will already be a number of management and senior care posts operating way above the new minimum wage rates and whom will therefore see no change to the salaries. Therefore a composite inflationary figure is proposed of 5.9% which is based on the new hourly rate affecting 75% of the workforce. It is proposed this is applied to all staffing related expenditure lines within the model – staffing costs, agency costs, recruitment and training costs.

It is proposed that the existing rate of return (2.88%) and void allowance (6%) that have been previously assumed in the model is applied across all cost lines. Low inflation has meant that interest rates have broadly remained the same, or fallen – it is therefore proposed that a rate of return is maintained that is slightly higher than general interest rates. The void allowance proposed broadly reflects the occupancy levels reported by those homes that completed the questionnaire.

When the factors above are applied, the proposed overall inflationary uplift is 4.78%.

**Home Care** - Employee costs remain the main single biggest expenditure item for home care agencies. There have been well documented media and industry reports about the issues potentially affecting this sector, given competition from other employers (such as retail) where salary levels are competitive. As with care homes rates, it is proposed that staffing, agency, training and recruitment costs within the model should be inflated to reflect the increase in the National Minimum Living Wage from April 2016 for employees over the age of 25 and whom are not already above working above the minimum wage (as above). A composite inflationary figure is therefore proposed of 5.9% which is based on the new hourly rate affecting 75% of the workforce. For all other areas of expenditure, as above, 1.5% inflation is proposed, providing an overall inflationary uplift of **5%.** 

4.8 The table below compares 2015/16 and proposed 2016/17 fee rates for standard residential, specialist dementia residential and nursing home placements.

Placement type	Current rate 2015/16	Proposed rate 2016/17
Residential	£439.51	£460.52
Residential (dementia)	£475.70	£498.44
Nursing (net of RNCC)	£451.34	£472.91

As in 2015/16, the dementia rate is only payable for placements of customers with dementia at homes that have applied for Dementia status and that have met the Council's dementia standard criteria.

The table below compares 2015/16 and proposed 2016/17 standard fee rates for other residential and nursing home placements.

Placement type	Current rate 2015/16	Proposed rate 2016/17
Mental III Health – Residential	£387.74	£406.27
Mental III Health - Nursing (net of RNCC)	£427.96	£448.42
Learning Disabilities – Residential	£440.10	£461.14
Learning Disabilities - Nursing (net of RNCC)	£441.22	£462.31
Physical or Sensory Impairment –Residential	£495.82	£519.52
Physical or Sensory Impairment - Nursing (net of RNCC)	£498.04	£521.85
Drugs/Alcohol – Residential	£387.74	£406.27
Drugs/Alcohol - Nursing (net of RNCC)	£427.96	£448.42

## 4.9 Fee Rate proposals - Home Care:

The table below compares the standard rates for 2015/16 and the proposed rates for 2016/17:

Service type	Unit	Current rates 2015/16	Proposed rates 2016/17
	Per Hour	£12.72	£13.36
Day Time Care	Per ¾ Hour	£9.54	£10.02
Day Time Care	Per ½ Hour	£6.36	£6.68
	Per ¼ Hour	£4.31	£4.53
	Per Hour	£14.08	£14.78
Night Time Care	Per ¾ Hour	£11.67	£12.25
Night Time Care	Per ½ Hour	£9.42	£9.89
	Per ¼ Hour	£6.44	£6.76
	Per Hour	£14.08	£14.78
Weekend Care	Per ¾ Hour	£11.67	£12.25
Weekend Care	Per ½ Hour	£9.42	£9.89
	Per ¼ Hour	£6.44	£6.76
Sleep-in Care	Per hour	£8.08	£8.48

4.10 **Direct Payments -** For those people who chose to arrange their care and support by way of a Direct Payment, a more detailed review of cost pressures affecting their care packages will need to be undertaken before any proposals could be considered. This is because not all direct payments are used to pay for paid care staff, and many may already be above the national living wage. It is proposed that during the Council's next review of the Resource Allocation System, information is sought from people using Direct Payments about cost pressures they may be aware of. Should individuals feel their personal budget cannot pay for their required care package in the meanwhile; this will be picked up in the normal care plan review process

# 4.11 Charges for Social Care Services

Charges for customers receiving community-based support have previously been governed by the Council's *Fairer Contributions Policy*, underpinned by the Health and Social Services and Social Security Adjudication Act 1983 (HASSASSAA). Customers receiving residential and nursing care have previously been charged under the Government's *Charging for Residential Accommodation Guide* (CRAG). Both of these legislative frameworks have been replaced by the Care Act 2014.

The preceding *Adult Social Care Charging Policy* paper seeks to establish a local policy for charging to replace the Council's *Fairer Contributions Policy*. **The following paragraphs are based on the assumption that the Adult Social Care Charging Policy has been approved as proposed.** 

- 4.12 In line with the proposed *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. 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 are not asked to pay the full cost of their care.
- 4.13 Under the previous *Fairer Contributions Policy*, the Council set a maximum contribution that a customer would be expected to pay towards the cost of their non-residential care. In the revised *Adult Social Care Charging Policy*, the proposal is to remove this cap.

Fairer Contributions	Limit 2015/16	Proposed Limit 2016/17
Maximum Contribution	£125 per week	No cap

#### 4.14 Shared Lives

The current financial assessment and charging structure for the Shared Lives Service is means tested. The means test used differs from the Care Act financial assessment, A review of the Shared Lives Service is underway, which will determine whether the service should be means tested under the Care Act financial assessment.

4.15 The review of the Shared Lives Service will also consider whether it would be appropriate to introduce tiered charging rates linked to higher levels of support needed by more complex cases.

#### 4.16 Charges for External services

In accordance with existing policies, 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.

# 4.17 Charges for In-House services

The Council sets charges for the social care services that it provides directly so that where possible they are aligned with market prices.

# 4.18 **Community Care Charges**

The following tables list the current charges and the proposed charges for each service with a 2.9% increase applied to homecare and 3% applied to all other community services. Where applicable, the proposed charges have been rounded.

Service	Unit Rate 15/16	Proposed Rate 16/17
In house home care	£15.71 per hour	£16.17 per hour
Day Care - Older People (Morleston, Perth House, Coleridge and Bramblebrook)	£45.53 per day	£46.90 per day
Day Care - Aspect	£110.16 per day	£113.46 per day
Day Care - Inspire	£84.72 per day	£87.26 per day
Alternative Living Scheme	£19.51 per hour	£20.10 per hour
Shared Lives - Day Support (7 hour period)	£47.41	£48.83
Shared Lives - Overnight stay (24 hour period)	£58.27	£60.02
Shared Lives - Long Term stay maximum cost	£396 per week	£407.88 per week
Carelink  No price rise is currently recommended for 2015/16, but this will be reviewed as part of a wider service review during 2015/16	£3.52 to £4.61 per week  Telecare £1.15, £2.88 or £4.48 per item per week	
Transport	£3.45 per day	£3.55 per day
Meals – hot	£3.45 per meal	£6 per meal
Meals – cold	£2.70 per meal	£3.95 per meal

# 4.17 In-house Long-term Residential Care Charges

It is proposed to increase the charge from the current £439.51 per week to match the 2016/17 independent sector rate for residential homes of £460.52 per week.

# 4.18 In-house Short-term Residential Care Charges

The Council has previously chosen to set the charge for *Short Breaks in a Registered Care Home setting* based on the minimum amount of benefit entitlement for the age of the customer less the statutory personal expenses allowance for breaks of up to 4 weeks.

Where customers declare savings in excess of the upper capital threshold of £23,250, the full cost charge is applied for short term residential care up to eight weeks, less an allowance to reflect that the customer has to continue to maintain their own home. These rates have previously been based on Income Support rates but from 2015/16, they have been based on Employment and Support Allowance (ESA)

Service	Unit Rate 2015/16	Proposed Rate 2016/17
Short Breaks of up to four weeks in a Registered Care Home Setting - under Pension Credit Age - over Pension Credit Age	£80.45 per week £126.30 per week	tbc Jan 2016 – awaiting info from DWP
Short term residential care up to eight weeks where the customer has savings exceeding £23,250 and declares this on an SS66 form.	£399.51 per week	£420.52

#### 4.19 Care Act 2014

The Act came into force on 1 April 2015 and brought new obligations for the Council as well as granting new powers to apply charges to recover the cost of administering certain activities on behalf of customers.

#### 4.20 **Deferred Payment Agreement**

From 1 April 2015, 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.

4.21 Derby City Council has not previously charged administrative costs for setting up and managing Deferred Payment Agreements but Council Cabinet agreed to do so from 1 April 2015. The implementation of new computer systems has prevented the service introducing the charges as planned, so they will now be implemented from April 2016.

Eligible administrative costs include:

- Legal and on-going running costs
- Registering a legal charge with the Land Registry
- Land Registry search charges and identity checks
- Postage, printing and telecommunications
- Cost of valuation and re-valuation of the property
- Costs for removal of charges against the property
- Cost of time spent by those providing the service
- Overheads
- 4.22 In the national Care Act impact assessment, the Department of Health estimated that the cost to Councils of administering a Deferred Payment Agreement was £750. Local estimates of the cost are in line with this, so it is proposed that the Council will set the charge for this service at £750 for Deferred Payment Agreements starting in 2016/17.
- 4.23 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. Councils may apply an additional 0.15% to this rate. The maximum rates to be applied are confirmed twice-yearly in Local Authority Circulars. In line with a number of other local authorities in the region, the Council has decided to charge the maximum interest rate for deferred payments allowed under the Care Act 2014. Interest will be compounded weekly.
- The gilt rate at March 2015 was 2.1%, so the interest rate to be charged from 1 July 2015 until 31 December 2015 would have been 2.25%.
  - The gilt rate at November 2015 was 2.0%, so the interest rate to be charged from 1 January 2016 until 30 June 2016 is 2.15%
  - From 1 July 2016 until 31 December 2016, the rate will match the figures published in March 2016
  - From 1 Jan 30 June 2017, the rate will match the figures published in Autumn 2016

# 4.25 **Self-funder Administration Charge**

Derby City Council has not previously charged administrative costs when it organises services on behalf of people who are able to pay for the full cost of their care but Council Cabinet agreed to do so from 1 April 2015 except where the local authority is required to arrange care and support free of charge. The implementation of new computer systems has prevented the service introducing the charges as planned, so they will now be implemented from April 2016

Eligible administrative costs include:

- producing service delivery schedules to deliver the customer's support plan
- brokering and procuring service packages
- managing variations to the schedule
- Postage, printing and telecommunications
- Cost of time spent by those providing the service
- Overheads
- 4.26 The implementation of this provision in relation to people whose needs are to be met in care homes has been delayed nationally until April 2020. The proposed rates for 2016/17 are as follows:

Service	Proposed Rate 2016/17
Setting up a community care package	£91
Annual maintenance for a community care package	£84
Setting up a residential care package	Deferred to
Annual maintenance for a residential care package	2020/21

These charges shall be reviewed during 2016/17 pending knowledge of initial activity levels. Any proposed changes shall form part of the 2017/18 fees and charges report.

# 4.27 Protecting property of adults being cared for away from home

Local authorities must take all reasonable steps to protect the moveable property of an adult with care and support needs who is being cared for away from home in a hospital or in accommodation such as a care home, and who cannot arrange to protect their property themselves; this could include their pets as well as their personal property for example, private possessions and furniture. Local authorities must act where it believes that if it does not take action there is a risk of moveable property being lost or damaged.

4.28 If costs are incurred, or if there are on-going costs, the local authority can recover any reasonable expenses they incur in protecting property under this duty from the adult whose property they are protecting. It is proposed to develop a protocol to recover these costs from 2016/17 onwards.

# 4.29 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 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 charge, and social workers will normally seek to signpost customers to these services. As a last resort, the Council is able to act as a Deputy or Appointee.

4.30 The basic Appointeeship service 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.

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. 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 Appointeeship charge for complex cases.

The proposed charges, which are subject to a Financial Assessment as described under the Care Act 2014, are:

Service	Proposed Rate 2016/17
Appointeeship – basic service	£25 per month
Appointeeship – enhanced service	£45 per month

## OTHER OPTIONS CONSIDERED

- 5.1 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.
- 5.2 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.
- 5.3 The Council could decide not to exercise the new 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.

- 5.4 The Council could decide not to apply charges for the Deputyship and Appointeeship service. This is not being recommended as it would create a pressure in the adult social care budget.
- 5.5 The Council could decide not to make charges for the Deputyship and Appointeeship service subject to a Financial Assessment. This is not being recommended as it could impoverish customers on low incomes.

#### This report has been approved by the following officers:

Legal officer	Olu Idowu, Head of Legal
Financial officer	Pete Shillcock, Group Accountant, Resources
Human Resources officer	n/a
Service Director(s)	Kirsty Everson, Acting Service Director – Integration & Direct Services
Other(s)	Keith Watkins, Senior Office Manager – Integration & Direct Services

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None

List of appendices:

Appendix 1 – Implications
Appendix 2 – care home provider consultation
Appendix 3 – home care provider consultation
Appendix 4 – care home questionnaire
Appendix 5 – home care questionnaire

## **IMPLICATIONS**

# **Financial and Value for Money**

1.1 The proposals in this report will help the directorate to provide its statutory services within the available budget. The proposed fee increase for external care providers has taken into account inflationary pressures, specifically in relation to the new national minimum wage rises. The proposed increases will be contained within existing budgets through demand management activity, such as diverting people into alternative low cost services and using preventative approaches such as Local Area Coordination.

# Legal

2.1 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.

#### Personnel

3.1 None

# IT

4.1 There are no IT implications as a result of this report

# **Equalities Impact**

5.1 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.

# **Health and Safety**

6.1 There are no Health and Safety implications as a result of this report

## **Environmental Sustainability**

7.1 There are no Environmental Sustainability implications as a result of this report

## **Property and Asset Management**

8.1 There are no Asset Management implications as a result of this report

# **Risk Management**

9.1 There are no Risk Management implications as a result of this report

# Corporate objectives and priorities for change

10.1 This report supports Council Plan objectives that all people in Derby will enjoy good health and well-being via good quality services that meet local needs.