

# Fulfilled Adult Lives Scrutiny Panel

Tuesday, 21 March 2023

Dear Councillor

## **FULFILLED ADULT LIVES SCRUTINY PANEL - TUESDAY, 21 MARCH, 2023**

I am now able to enclose, for consideration at next Tuesday, 21 March, 2023 meeting of the Fulfilled Adult Lives Scrutiny Panel, the following report that was unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>
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8	<b><u>Care and Support Provider Review - update (report to follow) (Pages 3 - 16)</u></b>
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[Andrew Wolverson, Deputy Director - Commissioning & Transformation, to present report]

If you have any queries about this meeting, please contact the democratic support team:

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<b>CITY OF WOLVERHAMPTON COUNCIL</b>	<b>Cabinet (Resources) Panel</b> <b>22 February 2023</b>
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<b>Report title</b>	<b>Care and Support Provider Review 2023/2024</b>	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Linda Leach Adults	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	Becky Wilkinson, Director of Adult Services	
<b>Originating service</b>	Commissioning	
<b>Accountable employee</b>	Andrew Wolverson Email:	Deputy Director of Commissioning & Transformation Andrew.wolverson@wolverhampton .gov.uk
<b>Report to be/has been considered by</b>	Adults Leadership Team	26 January 2023
	Strategic Executive Board	31 January 2023
	Adult Member Briefing	06 February 2023
	Fulfilled Adults Lives	08 February 2023
	Scrutiny Panel	

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**Recommendations for decision:**

The Cabinet (Resources) Panel is recommended to:

1. Approve the proposed increases in care fee levels for 2023/2024 as set out in Table1 to ensure sufficiency and sustainability across Adult Social Care markets.
2. To approve increases with effect from 3 April 2023 to align to corporate payment systems.

**Table 1 – Proposed Care Fees for 2023/2024**

<b>Type of Care Provision</b>	<b>Recommendation</b>	<b>Current Rate (2022/23) £</b>	<b>% Increase</b>	<b>Proposed 2023/24 Rate £</b>
Home Care	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	16.84* (Hourly rate)	11.85%	18.84
Home Care – Rapid Response and Reablement	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability. Higher rate than home care to incentivise providers to increase time taken for hospital discharge	18.00 (Hourly rate)	11.85%	20.12
Home Based Respite	Aligned to the Supported Living rate. Increase to reflect cost impact of National Living Wage (NLW) and inflation.	16.08 (Hourly rate)	11.85%	18.00
Direct Payments – Agency Rate	Aligned to the Supported Living rate. Increase to reflect cost impact of National Living Wage (NLW) and inflation.	16.08 (Hourly rate)	11.85%	18.00
Direct Payments – Employed Personal Assistant	Increase to reflect cost impact of National Living Wage (NLW) and inflation.	11.44 (Hourly rate)	11.85%	12.80
Direct Payments – Self-Employed Personal Assistant	Increase to reflect cost impact of National Living Wage (NLW) and inflation.	14.03 (Hourly rate)	11.85%	15.68
Individual Service Funds	Aligned to the Supported Living rate. Increase to reflect cost impact of National Living Wage (NLW) and inflation.	16.08 (Hourly rate)	11.85%	18.00
Residential Care – Older People	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	492.10 (Weekly rate)	12.00%	551.18
Residential Care – Older People with Dementia	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	529.06 (Weekly rate)	12.00%	592.55

Nursing Care – Older People	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	515.55 (Weekly rate)	20.36%	620.76
Nursing Care – Older People with Dementia	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	554.26 (Weekly rate)	20.36%	667.10
Extra Care	Increase to reflect cost impact of National Living Wage (NLW), inflation and market sustainability.	Increase to current contract	12.00%	Increase to current contract
Supported Living	Increase fees to meet the increase to the National Living Wage (NLW) and inflationary cost pressures.	16.08 (Hourly rate)	11.85%	18.00
Residential and Nursing – under 65 years old	Increase fees to meet the increase to the National Living Wage (NLW) and inflationary cost pressures.	Individually Negotiated	12.00%	Increase to current placements
Community Activities – Older People	Increase fees to meet the increase to the National Living Wage (NLW) and inflationary cost pressures.	30.69 (Sessional rate)	11.85%	34.32
Community Opportunities for Adults with Complex Needs	Increase fees to meet the increase to the National Living Wage (NLW) and inflationary cost pressures. Ensure that the rate is consistent with the supported living rate and proportionate to 1:1 1:2 1:3 staffing ratios	16.08 per hour for 1:1 staffing 8.04 per hour for 1:2 staffing 5.36 per hour for 1:3 staffing	11.85%	18.00

\*This is the current maximum home care rate. Where providers have tendered lower than this rate then the same percentage uplift will apply.

**Recommendations for noting:**

The Cabinet (Resources) Panel is asked to note:

1. Engagement has been undertaken with providers and the feedback received has informed the fee review amongst other factors such as the increase to the National Living Wage (NLW), inflation and the legal duties for a sustainable market and setting a balanced budget.

2. This report was presented to Fulfilled Adult Lives Scrutiny Panel on 8 February 2023. The Panel supported the details and recommendations of the report and agreed to receive an update at a future meeting.
3. Any proposed care fee increases will create an ongoing expectation to continue paying fees at this new minimum level.

## **1. Purpose**

- 1.1. The purpose of the report is to set out the proposed increase to adult social care fees for 2023/2024 for externally commissioned care and support services, including direct payments and individual service funds.

## **2. Background and Context**

- 2.1. The Council has a legal duty under section 5 of the Care Act 2014 to promote the efficient and effective operation of a market in services for meeting care and support needs. When considering fee uplifts, the Council must align this duty to its other legal duty of setting a balanced budget.
- 2.2. To ensure the proposal is affordable, the Council has completed a financial analysis which has incorporated increases to the National Living Wage (NLW), rate of inflation, benchmarking data and provider feedback.
- 2.3. Providers were initially engaged during 2022/2023 through a “Fair Cost of Care” (FCoC) exercise which was a deliverable of the Government’s Building Back Better plan for reforming the funding of Health and Social Care and was followed by the White Paper for reforming Adult Social Care (People at the Heart of Care, November 2021). These reforms have now been incorporated into law through the Health and Social Care Act (2022).
- 2.4. The FCoC exercise aimed to support local authorities to prepare their markets for reforms and build upon existing market sustainability plans. The requirement placed on each local authority was to engage provider markets with the purpose of reaching a shared understanding of the true cost of delivering care; this was referred to as a “Fair Cost of Care” (FCoC) exercise.
- 2.5. As a trailblazer authority, the Council completed its exercise between May 2022 and August 2022. Since then, it was announced in the Government’s Autumn statement that the reforms would be delayed by two years, pushing the implementation back to October 2025. At the same time, it was confirmed that grant funding originally aimed at preparing markets for reforms would continue for 2023/2024. At the time of reporting, grant funding conditions have not been finalised but the Department for Health and Social Care (DHSC) have confirmed that local authorities must publish their FCoC and Market Sustainability Plans (MSP) to satisfy funding conditions.
- 2.6. The DHSC have set a publication date of 1 February 2023 for cost of care reports which will define the outcome of the exercises undertaken. Publication of the MSP is expected to be towards the end of March 2023 and is likely to focus on how Council’s aim to promote market sufficiency and sustainability, including how grant funding will be utilised.
- 2.7. The delay to the charging reforms is of significance as they would have impacted the operation of care markets. More people would have become eligible for

potential local authority support as the upper means test capital limit would have increased from £23,250 to £100,000 (capital and assets). In addition, people self-funding their care in residential and nursing could have approached the Council requesting that the local authority commissioned and contracted care on their behalf. The impacts were fully described in the draft MSP which will now be updated once the DHSC have confirmed next steps.

- 2.8. The delay means there is no short-term impact on care providers or markets as a whole however the Council will still need to plan on the basis that reforms will be introduced and the equalisation of care fees between local authority and self-funders will be a critical element to ensure continued market sustainability.
- 2.9. The FCoC exercise has provided useful data to inform the fee review process, however the Council has concluded that the outcome cannot be used as a sole guide for fee setting given the issues of low response rates and data completeness and quality. This approach is in line with DHSC guidance which states that the outcome of the cost of care exercise is not intended to be a replacement for the fee setting process. Instead, the local authority should use the insight to support the fee review process for 2023/2024.

### **3. Provider Engagement and Feedback**

- 3.1. Providers were given the opportunity to submit their detailed care costs through the “Fair Cost of Care” (FCoC) exercise that was undertaken from May to June 2022. There are a number of important points to note:
  - The DHSC limited the exercise to home care for people aged 18 and over, and care homes for people aged 65 and over. Market segments such as extra care and supported living were not accounted for.
  - The Council has concerns regarding the low response rate and potential data completeness and quality issues. The conclusion being that whilst some of the information is useful to inform care fees, the exercise in itself cannot be solely used to determine care fees.
  - The Council would welcome further discussions and engagement with providers to improve the joint understanding of costs in local markets.
- 3.2. All care providers and care associations operating in Wolverhampton were written to in December 2022 to ask for input and feedback to inform the fee review process. Key themes are summarised as:
  - Increase in the National Living Wage from £9.50 to £10.42 an hour (for those aged 23 and over) – a 9.7% increase.
  - Increases to Employers National Insurance and pension contributions
  - The rate of inflation – Consumer Price Index



- Insurance and utility (energy) costs are significantly above CPI rates
- Cost of living
- Costs that are currently subsidised by Government until end of March 2023 and may either reduce or cease to continue (to the current level). This includes rates relief, Personal Protective Equipment (PPE) and, Disclosure and Barring Service (DBS) checks.
- Recruitment and retention challenges

#### **4. Assessment of Market Sufficiency and Sustainability**

- 4.1. Care providers, nationally and locally, continue to face significant challenges that present risks to market sufficiency and sustainability. All providers will face similar cost pressures due to:
- The increase to the National Living Wage (NLW) for people aged 23 and over, where the rate per hour will increase from £9.50 to £10.42, a 9.7%
  - The rate of inflation and rising prices. Cost pressures have been highlighted by providers as having increased above the rate of general inflation, specifically insurance and utility costs.
  - Recruitment and retention, which continues to be a major challenge and risk area across all care markets. Pay terms within the social care sector do not compare favourably in comparison to competing markets, for example health or retail. The outcome being the inability of offer an attractive job prospect to the labour market.
  - Costs that have been subsidised to support provider organisations through the Covid-19 pandemic to date.
- 4.2. Demand projections for Adult Social Care in Wolverhampton, based on available data, suggest a relatively static trend across all care provision. However, it is not fully understood, and may not be for some time, what the impact of Covid-19 will be on demand for Adult Social Care services as a whole or for specific market segments.
- 4.3. Quality across the Wolverhampton care market is of rising concern, especially in the Nursing market where 45% of providers are rated as Inadequate by the Care Quality Commission (CQC). This was identified through market sustainability plans drafted as part of the charging reforms, and regardless of the delay, remains the key risk to market sufficiency. This could materialise through sustained periods or provider suspension, the inability to accept new placements and worst case provider closures which may be difficult to manage to ensure people remain safe and receive the care and support they require.

4.4. Whilst market sufficiency has been maintained in 2022/2023 to date, the Council must act to support providers off set known cost pressures and ensure sustainability across the care sector. The local authority recognises all providers are facing similar challenges, but the care home markets currently present immediate potential risk for sufficiency.

## **5. Methodology**

5.1. The Council has used all available information to determine the recommended care fees for 2023/2024. The following have all been considered:

- Provider feedback
- Increases to the National Living Wage and associated costs from April 2023
- Recent historical inflation and forecasted inflation for 2023/2024
- Demand projections for adult social care
- Benchmarking data against neighbouring authorities and CIPFA (Chartered Institute of Public Finance and Accountancy) comparators
- Risks to market sufficiency and sustainability

5.2. From April 2023 the National Living Wage (NLW) hourly rate for those aged 23 and over, increases from £9.50 to £10.42, a 9.7% increase. The fee review has include an hourly rate uplift for the NLW of £0.92 per hour, where applicable.

5.3. The Consumer Price Index (CPI) which measures inflationary rises in the economy, increased to 10.5% in the 12 months to December 2022. The Autumn statement from HM Treasury stated that the Officer for Budget Responsibility expected inflation to have peaked by December 2022, and to then fall to 3.8% by the end of 2023. The fee review has factored inflation at 10.5% to price in the cost pressures since the price review for 2022/2023.

5.4. The Council recognises that there are potential risks across the adult social care market and in recognition of this a further uplift has been applied for all providers on the basis of market sustainability. Where this differs is the risk likelihood for residential and nursing care, the latter being of particular concern based on quality of provision and benchmarking gaps. This has resulted in additional increases, particularly for nursing provision.

## **6. Home Care, Home Based Respite and Rapid Response**

6.1. External provision of home care, which includes home based respite and rapid response home care (currently known as Home First which is designed to prevent delays to discharge from hospital), is provided in Wolverhampton through the Home Care Framework agreement.

6.2. The Council currently supports 1,379 people across these services, equating to 20,260 hours per week. Current fees for home care are based on tendered rates and range from £16.40 to £16.84 per hour. Rapid response and reablement is set at a higher rate of £18.00 per hour, to incentivise providers to expedite people from hospital and reduce delays to hospital discharge.

- 6.3. Benchmarking data for neighbouring and comparator local authorities shows that rates in Wolverhampton are similar to that of other Councils.
- 6.4. The recommended uplift of 11.85% is based on supporting providers with the increase to the NLW, CPI inflation and a further factor to account for market sustainability.

## **7. Direct Payments and Individual Service Funds**

- 7.1. People can choose to arrange their own care and receive cash payments through a Direct Payment. They are intended to give individuals greater choice and control over who or how their care is delivered. The Council currently supports 532 via Direct Payments
- 7.2. The Direct Payment rates differ across three different types of support. The agency rate is higher than that for Personal Assistants (PA) due to the overhead costs of providers and is aligned to the rate for Supported Living. In addition, the fee rates recognise there are different costs associated with an employed PA in comparison to a self-employed PA, also on a cost incurred basis.
- 7.3. Individual Service Funds also allow individuals in partnership with providers and the Council to take more control over how their care is received. As per the Direct Payment agency rate, it is also aligned to the current Supported Living rate. The Council currently supports 233 people through Individual Service Funds.
- 7.4. The Direct Payment agency rates is aligned to the rate for Supported Living, and therefore the fee uplift is based on the increase to the NLW and inflationary cost pressures, plus a factor for market sustainability. This represents a 11.85% uplift.

## **8. Residential and Nursing**

- 8.1. The Council commissions and contracts residential and nursing placements on a spot purchase basis, brokered centrally through our Personalised Support Team (PST). Individual contract rates are established based on the eligible assessed needs of the person.
- 8.2. Reference rates are used as part of the determination of contract awards and are uplifted to ensure they reflect current market prices. Whilst the Council does contract placements at these rates, individual contract negotiations result in some placements being agreed that are either above or below the reference rates.
- 8.3. The Council currently supports 618 people in permanent residential care and 348 people in permanent nursing care.
- 8.4. In terms of sufficiency and sustainability, the care home market represents the greatest risk with concerns for provider viability and the impact this has on meeting the needs of individuals who require these services, including managing any sudden closures. As well as provider feedback, where homes have raised

concerns of sustainability, the risk is also demonstrated through quality data, particularly in the nursing market.

- 8.5. Benchmarking data with comparator authorities suggests that care home fees in Wolverhampton are lower than average.
- 8.6. Aligned to market sustainability and sufficiency risks and gaps to benchmarking comparators, the Council has mitigated to the extent that is possible within available funding and applied a fee increase in excess of NLW and CPI impacts, a 12% increase for residential care and 20.36% for nursing care.

## **9. Extra Care**

- 9.1. A review conducted of the current model of Extra Care schemes in Wolverhampton resulted in agreement for existing Extra Care Schemes to adopt Individual Service Funds (ISF's) for each resident. This enables flexibility and clarity about each individual resident's care. The ISF rate proposed for these schemes will be set at the Supported Living rate and the proposal is cost neutral.
- 9.2. The first phase of implementation involving five of the schemes is now complete and the second phase with two schemes are underway. A contract will remain in place at one scheme until it ends on 31 March 2025. As this is a spot purchase contract, the funding arrangements are already individualised.
- 9.3. The Council currently supports a total of 218 people in Extra Care, of which 132 have now transferred to Individual Service Funds.
- 9.4. The recommended fee uplift is based on the impact of the NLW and inflation, plus a factor for market sustainability. This represents a 11.85% increase.

## **10. Supported Living**

- 10.1. The Supported Living Accreditation framework delivers care and support to people with disabilities. These services support people to become as independent as possible and have a focus on reablement and enablement. These services provide 24/7 care where required for people who live in supported living schemes.
- 10.2. The Council currently supports 332 people in Supported Living at a rate of £16.08 per hour. Current Supported Living rates are comparable when benchmarked with comparator authorities.
- 10.3. The fee uplift has been set based on the increase to the NLW and inflation, plus an additional factor for market sustainability. This represents a 11.85% increase.

## **11. Community Activities for Older People**

- 11.1. Community activities support vulnerable adults who are at risk of isolation as well as supports carers of vulnerable adults to have a planned break from caring roles and allow them to partake in normal acts of daily living.

11.2. The Council currently supports 328 people via community activities.

11.3. Previous benchmarking attempts have concluded that direct price comparison is not possible due to the wide variety of models used across local authorities. The fee review has therefore been based on the known cost impacts of the increase in the NLW and inflation, plus a factor for market sustainability. The recommendation is to uplift fees by 11.85%.

## **12. Reason(s) for Preferred Option**

12.1. The recommended increase to care fees satisfies both of the Council's legal duties in relation to market sustainability and setting a balanced budget. The Council recognises the significant challenges within the market, has accounted for known information and data, and has maximised the available budget to pass through to care providers.

12.2. The preferred option accounts for key risk areas in residential and nursing, whilst also exceeding NLW and inflationary cost pressures for the market as a whole.

## **13. Evaluation of Alternative Options**

13.1. Option 1: Do nothing. This is not an option the Council has considered given the known cost pressures of the increase to the NLW, inflation and cost of living. This would not demonstrate the Council's legal duty of supporting market sufficiency and sustainability.

13.2. Option 2: Apply uplifts based solely on the NLW and CPI inflation. Discounted on the basis that whilst it covers core cost pressures, it only maintains the current market landscape and does not move towards rates being appropriately aligned to market sustainability and risk.

13.3. Option 3: Apply uplifts based on the NLW, CPI inflation and an equal factor for market sustainability. This has been discounted as whilst it supports all providers equally, it does not align to the risks of ensuring a sufficient and sustainable care market.

13.4. Option 4: Uplifting care fees based solely on the outcome of the "Fair Cost of Care" (FCoC) exercise completed through the now delayed charging reform. As mentioned earlier in the report, the Council has concluded that there are concerns with using the information based on low response rates and issues with data quality. The original intention of the DHSC was to "move towards" the FCoC over the next three years. The Council, amongst all other local authorities, continuously raised the issue of affordability and that grant funding would not cover the additional cost liability. This option would not be affordable within the available funds and therefore the Council would not meet its legal duty to set a balanced budget.

## **14. Financial implications**

- 14.1. The increases to care fees recommended by this report will result in a net cost increase in the region of £10.1 million to budgets within Adults services.
- 14.2. The Council's 2023-2024 Final Budget and Medium Term Financial Strategy 2023-2024 - 2025-2026 which will be presented to Cabinet on 22 February and Full Council on 1 March includes growth for Adult Services totalling £14.0 million for 2023-2024. This includes funding for the impact of the recommended fee uplift, as well as funding for other pressures across Adults Services including growth in demand. The costs of the recommendations within this report can therefore be met from the proposed net Adults Services budget of £95.1 million in 2023-2024. The Council will receive an additional £2.3 million of Market Sustainability grant in 2023-2024 .
- 14.3. The Council has allocated the grant in line with Government guidance and gone beyond just meeting minimum cost impact for providers.  
[JB/14022023/L]

## **15. Legal implications**

- 15.1. The Council has a legal duty under section 5 of the Care Act 2014 to promote the efficient and effective operation of a market in services for meeting care and support needs. When considering fee uplifts, the Council must align this duty to its other legal duty of setting a balanced budget.
- 15.2. The recommended increases to care fees will mean that care providers are supported to meet their legal obligations to pay the increase in the National Living Wage and associated costs for employers National Insurance and pension contributions. The inflationary increase will also support care providers to manage non-pay costs that have risen in line with inflation.  
[TC/14022023/A]

## **16. Equalities implications**

- 16.1. There are no equalities implications arising from this report.

## **17. Other implications**

- 17.1 The fee increases set out within this report support the council in ensuring that there is a sustainable market of provision that meets the needs of our residents who need additional support to meet their care needs.

## **18. Schedule of background papers**

- 18.1. None

## **19. Appendices**

19.1. Appendix 1 - Summary of current Adult Social Care Provision

19.2. Appendix 2 – Benchmarking data

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