

CABINET

14 February 2023

DHSC FAIR COST OF CARE & ADULT SOCIAL CARE FEE SETTING FOR CARE HOMES AND HOME CARE

Report of the Portfolio Holder for Health, Wellbeing and Adult Care

Strategic Aim:	Healthy and well	
Key Decision: Yes	Forward Plan Reference: FP/111122	
Exempt Information	Appendix A of this report contains exempt information and is not for publication in accordance with Part 1 of Schedule 12A of the Local Government Act 1972. Further details can be seen in paragraph 11.3 below	
Cabinet Member(s) Responsible:	Councillor Samantha Harvey, Portfolio Holder for Health, Wellbeing and Adult Care	
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DECISION RECOMMENDATIONS

That Cabinet:

1. Notes the outcomes of the Fair Cost of Care exercise.
2. Approves negotiation of fees with providers as set out in Exempt Appendix A
3. Delegates final approval of the fee rates to the Strategic Director for Adult Services and Health, in consultation with the Portfolio Holder for Health, Wellbeing and Adult Care

1. PURPOSE OF THE REPORT

- 1.1 The report outlines the DHSC Fair Cost of Care and Market Sustainability exercise requirements and the outcomes from it. It sets out the considerations for calculating Adult Social Care fees for residential care and homecare for 2023/24 and asks for Cabinet approval for negotiation with care providers and delegation of final rates to the Strategic Director for Adult Services and Health. This report also refers to the

rates for Direct Payments, a full paper with detail on this will be tabled at Cabinet in March.

2. BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Care Act 2014 sets out in legislation, the duties and responsibilities for market-related issues for local authorities. The duties on local authorities include the facilitation of a diverse, sustainable high quality market for their whole local population, including self-funders, promotion of efficient and effective operation of the adult care and support to market as a whole.
- 2.2 In September 2021, the Government set out plans for adult social care reform in England. This included a lifetime cap on the amount anyone in England will need to spend on their personal care, alongside revisions to the means-test for local authority financial support. As part of these reforms the Market Sustainability and Fair Cost of Care Fund was announced providing local authorities with funding prepare the markets for the Reforms to charging and to commissioning of care. Whilst the Charging elements of the Reforms have since been postponed, the requirement on councils to undertake cost of care exercises for older people's (65+) care homes and adults' home care remained.
- 2.3 The Fair Cost of Care exercise required councils to collate a pre-defined set of costs from providers within a local authority area. The DHSC defined 'fair' as the median actual operating costs for providing care in the local area enabling a sustainable for the local market. This includes the cost of care delivery and a reasonable profit (including re-investment in their business). DHSC recognised that for local authorities, there is a responsibility in securing best value for the taxpayer.
- 2.4 The care in scope was determined by DHSC's Fair Cost of Care guidance and specifically focussed on home care for adults (age 18+) and care homes for older people (age 65+); although there was recognition that some residents in these homes may be aged under 65. Four types of care to be considered for homes were: standard residential care; residential care for enhanced needs; nursing care; and nursing for enhanced needs. Rutland does not operate a banded rate for enhanced nursing and so costs for this were taken as for nursing. The Council's in-house services were not included.
- 2.5 The outcomes of the Fair Cost of Care exercise are not designed as the sole determinant of fees paid. There is no requirement on councils to pay fees at the rates indicated, but councils must ensure that fees support a sustainable market, recognising that there are a number of other factors which will drive the overall market sustainability and individual providers' viability. Rutland's current market position is described in Section 4 of this report.
- 2.6 The fees paid to care providers need to reflect the costs of delivering care; other market forces; and will need to take into account the income received from self-funder placements which is generally at a higher rate than local authorities' rates.
- 2.7 The DHSC also required each council to prepare a Market Sustainability Plan using the cost of care exercise to help identify risks in the local market, with a deadline of 27th March 2023 for submission and publication.

3. RUTLAND'S FAIR COST OF CARE EXERCISE

- 3.1 The DHSC required a specific method of calculating the cost of care: from a full breakdown of costs, median figures were identified for each cost line, from the total of those, a further median was taken for each category of costs, and these were then used to calculate the overall costs. The results are therefore dependent on the level of data provided and the overall proportion of respondents.
- 3.2 Rutland County Council commissioned ARCC Ltd to work with local providers to undertake the cost of care exercise on the council's behalf. ARCC Ltd are also the organisation who developed the national LGA tool for cost of care for home care and so have considerable experience in this arena.
- 3.3 All relevant Rutland providers of home care and residential and nursing homes had the opportunity to participate via a detailed tool and/or a 1:1 session with ARCC. The information requested was designed to capture both financial information and the operational context of delivering in Rutland.
- 3.4 Responses were received directly by ARCC and were reviewed, clarified, and analysed by them. ARCC shared the analysis of the anonymised data with the council and provided the costs in line with DHSC requirements.
- 3.5 Six of the 12 care home providers and 8 of the 12 home care providers engaged in the exercise. The level of responses and extent to which providers were able to complete some of the detail requested left a number of significant gaps in the cost information. Consequently, the resulting figures of median costs created by the DHSC formula are not an appropriate means to inform the fee rates alone. There are some significant inconsistencies in the costs resulting from the methodology.
- 3.6 The exercise did not consider the quality of care delivered and the extent to which, or not, this is impacted by fee rates.
- 3.7 The data gathered from providers has however enabled a greater understanding of the local market, including the differences in business models.
- 3.8 The exercise determined a single unit cost of care within each category; no differentiation is made between self-funder care and that commissioned by the Council.

4. RUTLAND'S CARE HOME MARKET¹

- 4.1 There are 10 care homes for older people within the geographic boundaries of Rutland with 440 beds, which equates to 1 bed per 11.4 people aged 75+ (ONS census 2021). Homes vary in size, the smaller homes tend to be registered for residential care and are sub-34 beds (5 homes), with the larger homes ranging from 46-82 beds offering mixed services (residential, enhanced residential and nursing).
- 4.2 As of January, occupancy within the market was 66%; this reflects the increased capacity of the two homes opened within the past two years which has distorted the market and resulted in approximately 150 vacant beds.
- 4.3 Rutland has an average of 108 placements within local care homes distributed across a smaller share of the overall market, including the Council's block contract

¹ All references to care homes in the report are to Older People's Care and Nursing Homes only; Rutland's two care homes for people with Learning Disabilities are not included.

for 30 beds at banded rates. This breaks down by bed type to: 25% residential, 67% enhanced residential, and 8% nursing. These placements reflect a 37% share of the occupied beds, and 25% of the total beds available.

- 4.4 Self-funders make up on average between 63% of care home residents. This is considerably higher than the regional average of 35.6% and the England average of 34.9%.

4.5 **Issues**

- 4.5.1 Whilst there is an oversupply of beds locally, in reality there is a two-tier market. The self-funder market offers vastly different services which drive up cost; as can be seen by the following extract from a provider's website: *"...everything from our excellent personalised care, private meals in our fine dining rooms, use of special facilities (beauty salon, cinema and bar/bistro), limousine trips and telephone are all covered"*. This presents several challenges in relation to the ability to purchase beds at the local authority specification and rate.
- 4.5.2 New entrants who are actively targeting self-funders and deploying a strategy of low occupancy over several years are distorting the market capacity and diverting self-funders from existing providers, which could result in future sustainability issues.
- 4.5.3 Demand from the council is relatively small, 2-3 clients per month, the strategy to support people in the community wherever possible continues. The leverage of 'buying power' from the council is therefore limited.
- 4.5.4 The high proportion of self-funders locally means that providers do not rely on the council for business; this is contrary to most care home markets where business models are predicated on a mix of self-funder and council-funded service users. Providers can currently choose whether to accept council rates with little negative impact on their business. This is reflected in the limited number of homes locally who will currently accept the council's bed fees.
- 4.5.5 Additionally, workforce recruitment and retention remains a significant concern and cost pressure locally. The freedom to adjust rates within the self-funder market offers some providers greater flexibility in changing staff pay and Terms & Conditions, although challenges exist across the whole market due to low levels of unemployment locally and national shortages of care staff.

5. **OUTCOME FROM THE FAIR COST OF CARE EXERCISE – CARE HOMES**

- 5.1 The limited data received from homes meant that some costs were estimated based on industry averages. The data also didn't reflect differing costs within homes according to different staff structures for nursing and non-nursing care. For example, one home returned data based on all their beds delivering nursing care, rather than the mixture of enhanced residential and nursing that is delivered. The costs were unable to be disaggregated and consequently operating costs show as higher.
- 5.2 Using the DHSC required model of calculating the limited data submitted gave a range of potential costs from £823 to £974 for residential (both standard residential and enhanced) and £1080 to £1199 for nursing. The median outcome for each rate is as follows:

	Residential care	Enhanced residential care	Nursing care
Total Care Home Staffing	£481.55	£481.55	£731.17
Total Care Home Premises	£69.25	£69.25	£43.86
Total Care Home Supplies & Services	£185.39	£185.39	£117.42
Total Head Office	£39.88	£39.88	£25.15
Total Return on Operations	£52.96	£52.96	£63.59
Total Return on Capital	£53.77	£53.77	£60.10
TOTAL	£882.80	£882.80	£1,041.28

- 5.3 These costs reflect the homes for whom information was provided, and consequently differentiations could not be made between residential care and enhanced residential care. It is not a complete picture of costs, nor does it necessarily accurately reflect actual costs. It is also important to note that the data reflects the cost regardless of whether a bed is occupied by a council-funded placement or a self-funder.

6. RUTLAND'S HOME CARE MARKET

- 6.1 There is an increasing number of people in Rutland who wish to remain in their own homes for longer; this is reflected in the trend over the past few years of reduction in the length of care home stay and increase in domiciliary care support. The council actively support people to remain at home where individuals' needs allow, and this trend is expected to continue.
- 6.2 The Rutland market is made up of a small number of providers registered locally, which is supplemented by providers from neighbouring local authorities who have established operations within the local area.
- 6.3 There are 12 providers based within Rutland, two of whom do not deliver services to the local authority and exclusively focused on delivery to self-funders.
- 6.4 Currently the council commission care from 7 contracted framework providers, with an additional 3 spot providers, not all of whom are based in Rutland. There is an in-house domiciliary care service (Micare). From 1st April, the council is moving to a Dynamic Purchasing System for homecare contracts which will allow for greater flexibility in adding new providers as needed.
- 6.5 For 2022/23 a total of c65,800 hours of care has been commissioned to date by the council; an increase from the full year total of 62,374 in 2021-22. It is important to note that recent challenges in the care home market have put an increased emphasis on supporting people in their own homes which is likely to increase future demand for services.
- 6.6 The council's share of the market is estimated to be c32%; this is contrary to typical homecare markets in which councils are the majority purchaser. Consequently, the structure of the market in Rutland differs from 'typical' markets.

- 6.7 Currently, self-funders comprise 66% of Rutland's homecare market, half of those providers based in or delivering care in Rutland have over 50% self-funders.
- 6.8 Of the 12 providers whom the council commissions care, around 76% are commissioned from 3 providers.
- 6.9 Referrals for care packages are made to all providers at the same time and in the same manner, and providers respond within 24 hours to state if they have capacity to accept the referral.
- 6.10 The average wait for a care package to start from date of referral was 5.5 days in December, with the majority of care packages (85%) having started within 2 days.
- 6.11 As the market is predominately driven by self-funders, there are higher-than-average levels of quality as would be expected. The majority of providers have a Care Quality Commission (CQC) rating of 'Outstanding' or 'Good' above (83%; of which 25% are 'Outstanding').
- 6.12 **Issues**
- 6.12.1 Many providers only accept packages within certain areas of the county to minimise travel costs. It can be challenging to allocate new packages to some areas of the county, particularly the smaller village hamlets.
- 6.12.2 The majority of care packages are delivered by providers who are based out of county. This reflects the ability of out of county providers to recruit a workforce, and therefore deliver care at the council rates.
- 6.13 Whilst the council commissions significantly less care from the market compared to self-funders, there are still a number of providers who are willing to work with the council and pick up care packages at council rates. There have also been no issues within recent years of financial viability (that the council is aware of) with regards to local providers. It should not be assumed however that increasing costs and inflation may not have an impact on this in the future.

7. OUTCOME FROM THE FAIR COST OF CARE EXERCISE – HOME CARE

- 7.1 The data received from providers represented an average of 792 hours of care and 900 visits per week. Providers delivered on average 14.5 hours of care to each service user per week, ranging between 6 and 21 hours.
- 7.2 The results of the Cost of Care exercise indicated a range of £20.66 per hour to £31.51, with a median cost of £25.05. As with care homes, there are limitations with the accuracy of the costs derived from the data due to the completeness of data submitted.
- 7.3 The greatest range of costs were attributable to individual cost lines for back office staff (£1.09 to £7.81), head office recharges (zero to £1.66), and surplus/profit contribution (£1.35 to £4.11). This reflects the different sizes and structures of home care providers.

8. MARKET SUSTAINABILITY PLAN

- 8.1 The Fair Cost of Care exercise also required councils to draft a Market Sustainability

Plan; an initial draft was submitted to the DHSC for comments on 14th October, with a final version due for submission to the DHSC on 27th March. The DHSC have not provided any feedback to the draft.

8.2 The Plan sets out how the Council intend to work with the local care market to support it and maintain stability, including but not limited to changes to fees.

8.3 The council are proposing to focus on two areas:

- Workforce training – this was identified by providers as an area of cost for providers, and they would welcome more support from the council on. The current free training offer funded by the council is not well used by providers and is due to be ended on 31st March for this reason. Discussions with providers on how they might access alternative free training, what might be directly provided by Adult Social Care staff, and how training could be coordinated between providers to share costs have already started.
- Care Technology – support to providers to explore whether increased use of care technology could be used to offset staff capacity pressures.

9. PROCESS FOR FEE SETTING

9.1 Fee rates are set annually and where possible agreed prior to the end of the financial year for implementation on 1st April. The uplift is usually based on inflation, with periodic requests for cost breakdowns to inform any differences to this.

9.2 There has always been limited engagement from providers to cost breakdown exercises. Previous years' feedback from providers has cited a lack of belief that it makes any difference to the rate the Council set and that they do not generally accept council funded service users and so it makes no difference to them.

10. CURRENT FEE RATES

10.1 For 2022/23 cost of care breakdowns were requested from providers recognising that financial pressures during Covid alongside higher inflation had led to higher running costs. Financial pressures from Covid were partially offset during the pandemic due to additional DHSC funding, which did not continue into the present financial year.

10.2 For home care providers, the DHSC had released a specific cost breakdown tool in readiness for the Cost of Care exercise; for care homes the existing spreadsheet of basic cost breakdown was used.

10.3 Three cost of care breakdowns were received from care homes, and 5 from home care providers. Consequently the council choose to apply an inflationary uplift without considering these further at that point. This decision recognised that the Fair Cost of Care exercise would be undertaken in 2022/23.

10.4 The inflationary uplift was based on a blended rate of 30% running costs and 70% staff costs. This is an industry accepted split. The calculation used CPI as at January 2022 and the percentage uplift in National Living Wage, assuming a commensurate wage uplift would be given to 80% of staff. The uplift applied for 2022/23 was 7.12%

10.5 Care Homes

10.5.1 The rates for 2022/23 are:

Type of care	Fee
Residential	£523
Complex/Enhanced Residential	£558
Nursing	£608

10.5.2 Care homes also receive a weekly NHS Fair Nursing Cost (FNC) supplement direct from Health of £209.19 per week.

10.5.3 Historically, there have been only 3 providers who have accepted council framework rates, restricting where service users can be placed. In the last 6 months, predominately driven by the current economic pressures, these homes are refusing to accept framework rates which has resulted in some new placements being individually negotiated with providers at higher rates.

10.5.4 Care homes are now requesting increasingly higher placement fees, above the data submitted via the cost of care exercise (accepting the limitations of that), and in line with some self-funder rates. The average placement rate over the last 3 months is now £977 per week. This is not a sustainable financial position for the council.

10.5.5 Data provided by the DHSC from Carterwood Analytics on self-funder rates per local authority as at April-June 2022 indicates an averaged range within Rutland of between £1,109 and £1,189 per week for residential care and £1,534 and £1,552 for nursing care. Self-funder rates are slightly higher within the London boroughs, and some areas of the South East and South Coast. All of the local authority areas immediately bordering Rutland are lower with self-funder averaged rates of £850 to £950 per week for residential and £1,200 and £1,300 per week for nursing.

10.6 Home Care

10.6.1 The rate for 2022/23 was set at £18.79 per hour. In addition, from 1st April 2022 a fuel supplement was implemented in recognition of the significant increase in fuel costs. This supplement was set at £2.50 per visit. The supplement will end on 31st March.

11. PROPOSED FEE RATES

11.1 The council needs to balance the various cost pressures on providers and need to pay fees at which the market is sustainable alongside its own significant budget pressures. Agreeing a rate with providers will enable financial stability for the budgets.

11.2 It is proposed that fees are based on a combination of the Cost of Care outcomes (albeit figures were modelled on a very limited amount of information from providers, cannot take into account different business operating models, and are regardless of whether the bed is occupied by a self-funder or council-funded service user); the

inflationary uplift model previously used; the rates which the council currently pays to secure care; and cognisant of surrounding local authorities' rates.

- 11.3 Appendix A is exempt in accordance with Part 1 of Schedule 12A of the Local Government Act 1972. It sets out the proposed fees, alongside the resulting impact on the Council budget. The figures are exempt in order to not prejudice any of the discussions with providers or impact on any negotiations.

12. CONSULTATION

- 12.1 The outcomes of the Cost of Care exercise have been shared with providers and as required by DHSC were published in the public domain at the end of January.
- 12.2 Providers have all been invited to engage in discussions with the council on fee setting, and a verbal update on the progress of this will be given at Cabinet.

13. ALTERNATIVE OPTIONS

- 13.1 The alternative would be to not give any uplift to providers. This has been discounted as the council would no longer be able to purchase care for vulnerable people, or would only be able to do so at an inflated rate on a spot-purchase basis thereby having a significant detrimental impact on the Council's financial position.

14. FINANCIAL IMPLICATIONS

- 14.1 Whilst there is a need to increase fees to care providers to reflect as far as possible actual costs, and to ensure the council is able to place vulnerable people in appropriate care. This has to be done within the current context of increasing financial pressure on the council.
- 14.2 The Council has received additional funding from the DHSC via the Fair Cost of Care and Market Sustainability Fund which equated to £91,600 for 2022/23 and £227,000 for 2023/24. This funding for 2023/24 is to be used to make improvements to Ault Social Care, and there is no requirement for it to be used specifically or entirely for fee uplifts.
- 14.3 The additional budget pressure caused by fee uplifts will need to be met by a combination of the Market Sustainability Fund, the Adult Social Care Grant, the increased Council Tax precept and general council funding.
- 14.4 The budget includes a £2m uplift to cover any additional costs. More detail and the full impact of the rates is set out in Appendix A.

15. LEGAL AND GOVERNANCE CONSIDERATIONS

- 15.1 The council has a duty under the Care Act to ensure a sustainable local market. In addition, the Market Sustainability Funding received from DHSC for 2023/24 sets a requirement that it is used to make tangible improvements in Adult Social Care including, but not limited to, increasing low fee rates.

16. DATA PROTECTION IMPLICATIONS

- 16.1 A Data Protection Impact Assessments (DPIA) has not been completed for the following reasons the changes to fees will not involve any personal data.

17. EQUALITY IMPACT ASSESSMENT

- 17.1 An Equality Impact Assessment screening document has been completed and submitted on 25th January 2023 for approval.
- 17.2 The screening indicated that the impact of the changes would be positive and no adverse or other significant issues were identified.
- 17.3 An Equality Impact Assessment has not been completed for this reason.

18. COMMUNITY SAFETY IMPLICATIONS

- 18.1 There are no specific Community Safety implications.

19. HEALTH AND WELLBEING IMPLICATIONS

- 19.1 The provision of residential care and home care support vulnerable people to remain well.

20. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 20.1 It is recommended that Cabinet note the outcome of the Fair Cost of Care exercise and the next steps.
- 20.2 It is recommended that Cabinet approves negotiation of fees with providers in order to ensure the council is able to continue purchasing care at a sustainable rate for both providers and within the council budget, and that final approval of the rates is delegated to the Strategic Director for Adult Services and Health in consultation with the Portfolio Holder for Health, Wellbeing and Adult Care so that new fees can be implemented in a timely manner from 1st April.

21. BACKGROUND PAPERS

- 21.1 There are no additional background papers to the report.

22. APPENDICES

- 22.1 Appendix A – Proposed Fee Rates.
 - 22.1.1 In accordance with paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, Appendix A contains exempt information.

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.