

CABINET

7 March 2023

REVIEW OF DIRECT PAYMENT RATES FOR PERSONAL ASSISTANTS

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

Strategic Aim:	Healthy and well	
Key Decision: Yes	Forward Plan Reference: FP/060123	
Exempt Information	No	
Cabinet Member(s) Responsible:	Councillor Samantha Harvey, Portfolio Holder for Health, Wellbeing, Adult Care	
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Ward Councillors	All	

DECISION RECOMMENDATIONS

That Cabinet:

1. Approves an uplift to the current rate of Direct Payments for individuals and families to employ a Personal Assistant to provide care and support.

1. PURPOSE OF THE REPORT

- 1.1 This reports sets out the current position of the Council's Direct Payments used to pay Personal Assistants for support by both children's families and adults, and requests approval for an uplift to the current rate.
- 1.2 Whilst Direct Payments may be used for a variety of things, this report specifically refers to the hourly rate paid for Personal Assistants.

2. BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 Direct payments are monetary payments made to individuals in lieu of a traditional care package to meet their eligible care and support needs. They enable people to commission their own or their child's care and support in order to meet their eligible needs, giving them greater choice and control over the types of services they can receive, and how and when they are provided.

- 2.2 Direct Payments are captured under Section 49 of the Children and Families Act 2014 and the Care Act 2014.
- 2.3 The amount of the Direct Payment is derived from the personal budget as set out in an individual's support plan, including Education, Health and Care Plans for children. It must be an amount which is sufficient to meet the needs of the vulnerable person.
- 2.4 Rutland County Council introduced Direct Payments in 2009 with an hourly rate of £11.50 for the employment of Personal Assistants. This rate has remained at the same level.
- 2.5 In Autumn 2022, officers commenced a review of the rates, prompted by a Local Government and Social Care Ombudsman Judgement following a complaint to Adult Social Care that the current rate was insufficient to purchase care in Rutland and consequently was not compliant with the Care Act 2014.
- 2.6 The rates paid as a Direct Payment for other specialist support, including respite and homecare, vary on a case by case basis and are dependent on the market rate.

3. CURRENT USAGE

- 3.1 The Council holds a list of 49 Personal Assistants (PAs) in Rutland. There may be other PAs who are directly employed by individuals who are not in receipt of Direct Payments.
- 3.2 The Council currently provides 100 Direct Payments to adults and 50 Direct Payments to families for children. These are used to directly employ a PA, commission a care agency of their choice, provide support for carers or respite in various forms, and can also include social inclusion or a piece of equipment. Currently, 79 of the 100 adults receiving Direct Payments and 38 of the 50 children's families receiving Direct Payments employ PAs, and this ranges from 1-2 hours per week to full-time care.
- 3.3 Personal Assistants can be self-employed or employed directly from the individual or family receiving the care and support. Regardless, the Direct Payment must be sufficient to meet any on-costs of employment including insurance, as well as the actual hourly rate of pay.
- 3.4 A recent national report, 'The Forgotten Workforce – Recruiting and Retaining Personal Assistants' (Care and Health Improvement Programme and Think Local Act Personal 2022) surveyed 995 people in England who employ a Personal Assistant. It showed recruitment and retention is getting harder, regardless of the additional pressures imposed by Covid. Low pay and poor terms and conditions are primary drivers, alongside the effects of the pandemic and an overall shortage of workers across care services.
- 3.5 The report states that 77% of people who had needed to recruit a PA had found it more difficult, and two thirds said people were taking jobs with better pay rather than PA jobs. Nearly 60% think it's harder to find PAs with the right skills, values or training and low pay, poor terms and conditions and insufficient hours were key factors in PAs leaving the role.

4. CONSULTATION

- 4.1 A survey of Service Users was undertaken in December with 36 responses (27 adults and 9 children). It indicated that adults are paying their PAs between £11.50 and £20.00 per hour; and parents and Carers are paying between £14.50 and £18.00 per hour for PAs to support their children. Most recipients of Direct Payments are paying a top-up to meet the additional charges or receiving a reduced number of hours support.
- 4.2 People explained the lack of available PAs makes finding and keeping a PA very challenging, particularly when a specific skill set is required. As it takes time to train any PA, not just those who support more complex needs, the impact of losing them has a serious detrimental effect on the individuals' quality of life and that of their families/those living with them.
- 4.3 Officers also surveyed PAs, a third of those supporting adults stated that they are not charging more than £11.50 per hour as they do not want cause the person they are supporting financial hardship. This is not representative of the actual market, and is neither an appropriate nor sustainable approach to providing care in Rutland.
- 4.4 Views were also sought from Adult Social Care staff all of whom agreed that an increase was needed to make Direct Payments for PAs viable. An increase in the PA rate in Rutland would help to make the role more sustainable for existing PAs and be more attractive for prospective PAs. It should also result in greater numbers of service users utilising the opportunity to use Direct Payments for personalised care and support, thereby supporting greater variety in the overall market for both Children's and Adults' support services.

5. PROPOSED RATE

- 5.1 The proposed rate for the Direct Payment for Personal Assistants from April 2023 is £15.00, an increase of 30%, c2.5% increase per year since the £11.50 was set. As a comparator, by April National Living Wage will have increased by an average of 5.5% per year since it was introduced in 2016.
- 5.2 This rate takes into account:
- The PA earning at least the National Living Wage of £10.42;
 - Employment costs of £2.45 to cover National Insurance, holiday and sick pay, and pension;
 - A further £2.13 towards insurance, mileage, training costs, DBS, and any other necessities such as a mobile phone and professional fees.
- 5.3 Neighbouring authorities' rates generally range between £11.65 and £15.11 per hour, although the lower of these will increase from April 2023 as they currently reflect the lowest levels of National Minimum Wage. It should be noted however that Direct Payment rates must reflect the local market and are sufficient for individuals to employ Personal Assistants who can meet their needs within their area.

6. ALTERNATIVE OPTIONS

- 6.1 RCC could decide to keep the rate at £11.50 per hour. This would leave some PAs in financial difficulty and increase pressure on service users who wish to employ a PA.
- 6.2 To retain the rate at £11.50 is contrary to the Local Government & Social Care Ombudsman judgement and subsequent legal advice received.
- 6.3 Remaining at the current rate would also be out of step with the fee increases being made in Adult Social Care and the overall inflationary uplifts provided to council-funded providers, creating disparity within the market.

7. FINANCIAL IMPLICATIONS

- 7.1 The budget includes a provision of £2m to meet the additional costs of increasing rates for residential care, homecare and direct payments. The MTFP also includes a demand-led contingency for any additional costs. The proposals in this report would equate to an increase of c£370k (adults - £350k, children's £20k). The extent to which additional costs can be maintained within the budget will depend on the outcome of existing negotiations.
- 7.2 An increase in the rate will enable more individuals to purchase their own care, rather than be reliant on Council commissioned services, thereby potentially releasing pressure on the homecare budget, the rate for which is currently £18.79 per hour (the uplift is currently being negotiated).

8. LEGAL AND GOVERNANCE CONSIDERATIONS

- 8.1 Both the Care Act 2014 and the Children and Families Act 2014 state that a personal budget must always be an amount sufficient to meet the person's care and support needs, and enable individuals to have a choice in the care they receive. The local authority has a duty to meet individual's care and support needs, and the amount specified in the personal budget must be sufficient to for individuals to have choice in how their eligible needs are met. If the cost in the market for a PA is £15 per hour but the local authority states that it will only agree to pay £11.50, it would have to be able to show that the service could be purchased for that price.
- 8.2 Legal advice was sought following the Local Government & Social Care Ombudsman judgement. Failure to uplift the rate to a level sufficient to provide individuals with a choice of how to receive their care could put the Council at risk of a Judicial Review.

9. DATA PROTECTION IMPLICATIONS

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

10. EQUALITY IMPACT ASSESSMENT

- 10.1 An Equality Impact Assessment screening document has been completed and submitted on 7th February 2023.
- 10.2 The screening indicated that the impact of the changes would be positive and no adverse or other significant issues were identified.

10.3 An Equality Impact Assessment has not been completed for this reason.

11. COMMUNITY SAFETY IMPLICATIONS

11.1 There are no specific Community Safety implications.

12. HEALTH AND WELLBEING IMPLICATIONS

12.1 The provision of direct payments to support choice and control of their support enables vulnerable people to remain well.

13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

13.1 It is recommended that the proposed uplift to the current Direct Payment rate to bring it to £15.00 per hour is approved. This will enable individuals to continue to purchase their care from Personal Assistants and ensure that the rate is viable for Personal Assistants to remain working as such.

14. BACKGROUND PAPERS

14.1 There are no additional background papers to the report.

15. APPENDICES

15.1 There are no Appendices.

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