

CABINET

12 March 2024

ADULT SOCIAL CARE PROVIDER FEES

Report of the Portfolio Holder for Adults and Health

Strategic Aim	Support the most vulnerable	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr D Ellison, Portfolio Holder for Adults and Health	
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Ward Councillors	All	

1 SUMMARY AND RECOMMENDATIONS

1.1 Summary

1.1.1 This report sets out the current position of the Adult Social Care market in Rutland and the implications of this in terms of the fees the Council pays for service users eligible for funding to receive services.

1.1.2 It sets out the current fees paid for services and the proposed fee rates and uplifts for 2024/25. This report does not include future fees for Older People's residential care; this will be subject to a separate paper.

1.2 Recommendations

1. Notes the current position of the Adult Social Care markets and the risks associated with that;
2. Approves the proposed fees and uplifts for Adult Social Care providers for 2024/25.

1.3 Reasons for Recommendations

1.3.1 The Council has a duty to support the Adult Social Care provider market to

be sustainable and ensure that there is care available to vulnerable people. Paying fees to providers at appropriate levels to cover the cost of the care they deliver is part of this responsibility.

- 1.3.2 The uplift proposals have been designed to support the management of the market, ensure the Council is able to place vulnerable service users, whilst remaining affordable to the Council.

2 REPORT

2.1 Introductory Paragraph

- 2.2 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 the market as a whole.

- 2.3 Significant work was undertaken in 2022/23 and earlier in 2023/24 to align fees with the actual cost to providers of delivering care. This resulted in some substantial increases to fees, particularly where fees had not been uplifted for a number of years previously.

- 2.4 The market in Rutland is unlike most local authorities due to its geography, workforce availability, and pre-dominance of 'self-funders' who can afford to pay for their own care.

2.5 Older People Home Care Market

- 2.5.1 There are 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 number of placements, and length of stay, in care homes and the increase in home care support. The Council actively support people to remain at home where individuals' needs allow, and this trend is expected to continue.

- 2.5.2 The Rutland home care market is made up of four providers registered locally, and a further 34 providers from neighbouring local authorities, although not all are currently delivering care in Rutland. The self-funder market comprises over 80% of care packages delivered by the Rutland based providers.

- 2.5.3 In March 2023, the Council moved to a Dynamic Purchasing System form of contract, allowing potential providers to enter into contracts with the Council at regular intervals and offering greater choice in the market. The result of this is an increase from 12 providers operating in Rutland to over 40. This has shifted the position from one in which it was extremely difficult to identify providers to take up care packages, to one where there is a surfeit of care providers and many care providers have not been successful in picking up any care packages in Rutland at all.

- 2.5.4 Of the 10 providers from whom the Council commissions care, around 80% of care packages are commissioned from 4 providers.

- 2.5.5 A total of c63,780 hours of care has been commissioned to date, expected to be c75,000 hours by 31st March; a slight increase from last year and over 10,000 hours more than the previous year. The recent challenges in the care home market have continued to put an increased emphasis on supporting people in their own homes. The level of hours commissioned reflects both the increased numbers of service users receiving care and the level of complexity of care needed, and so the future demand is likely to continue to increase.
- 2.5.6 Whilst the Council commissions significantly less care from the market compared to self-funders, providers are willing to work with the Council and pick up care packages at the Council's rate. There were 714 offers to deliver care for the 72 packages which have been brokered since April 2023.
- 2.5.7 There have also been no issues within the past 2 years of financial viability of local providers that the Council is aware of. It should not be assumed however that increasing costs and inflation may not have an impact on this in the future.

2.6 Learning Disability and Physical Disability Market

- 2.6.1 There are 2 residential care homes for service users with learning disabilities in Rutland comprising a total of 40 beds, and vacancies in either home are rare. Both have service users from outside of Rutland as well as those from within Rutland.
- 2.6.2 Additionally, 17 individuals with a range of learning disability and physical disability needs are placed in residential homes outside of Rutland.
- 2.6.3 Placements for service users are determined by needs and due to the complexity of many, the choice of provision is often extremely limited. The Council's ability to negotiate fees is consequently limited and particularly so where individuals have been in those homes for a number of years.

2.7 Direct Payments for Personal Assistants

- 2.7.1 Direct payments are 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 needs, giving them greater choice and control over the types of services they can receive, and how and when they are provided.
- 2.7.2 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, and therefore the Council is not aware of.
- 2.7.3 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.

- 2.7.4 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.
- 2.7.5 Work undertaken in 2022/23 to review Direct Payments included consultation with those employing PAs and PAs themselves. People noted that 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.
- 2.7.6 The consultation identified that a third of PAs those supporting adults were not charging more than the then £11.50 per hour rate as they did not want to 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. The resultant fee uplift given for 2023/24 was designed to address this.

2.8 Fee Uplifts in 2023/24

- 2.8.1.1 In 2022/3 the Council carried out the Department of Health & Social Care's (DHSC) Fair Cost of Care exercise with home care providers. The exercise was a requirement of the Market Sustainability Fund and designed to bring fees in line with the actual costs of care providers reported whilst remaining affordable for the Council. An above inflation increase in fees for 2023/24 was approved as a result. [Report No.34.2023 - DHSC Fair Cost of Care Adult Social Care Fee Setting for Care Homes and Home C.pdf \(moderngov.co.uk\)](#)
- 2.8.2 In addition, uplifts were calculated for other types of provision. Providers of learning disability, mental health, and physical disability residential homes were offered an 8.4% inflationary uplift, which was then negotiated on an individual basis where providers had not received an uplift for several years. The calculation of inflationary uplift remains the same each year and is set out in Appendix A.
- 2.8.3 A paper was tabled at Cabinet in March 2023 to consider an uplift for Direct Payments which had not been uplifted for 14 years. An increase of 30% was approved to bring the payments in line with the actual cost to Personal Assistants of delivering support. [Report No.41.2023 - Review of Direct Payments for Personal Assistants.pdf \(moderngov.co.uk\)](#)
- 2.8.4 The resultant work brought all the fees broadly in line with actual provider costs. The current rates are set out below:

Type	Fee	% Uplift for 2023/24
Homecare	£22.00	17%

Learning Disability and Physical Disability Residential Homes	Various on an individual basis	8.74% - 20%
Direct Payments	£15.00	30%

2.9 Options Considered

2.9.1 Various options have been considered for each type of provision to ensure that providers continue to accept local authority funded service users and manage costs to the Council as far as possible. These vary according to the current market for each and are set out below.

2.9.2 Home Care

2.9.3 The market for home care has changed significantly over the past 12 months as set out in section 2.7 of this report. There is a surfeit of providers willing to take care packages in Rutland and a high level of bids for each package offered to providers.

2.9.4 An inflationary uplift of 6.75% to fees could be made, keeping the fees in line with the provider costs identified in the DHSC Fair Cost of Care exercise. This may prevent any significant increases needed in future years to bring costs back in line with the actual costs of delivering care. This would result in a fee of £23.48 per hour.

2.9.5 Given the current volume of providers and capacity within the market, and the increasing level of home care provided, there is also the option to not provide an uplift this financial year. The impact of an inflationary uplift or staffing uplift to individual providers would be minimal, but significant to the Council. It is not expected that retaining fee rates as they would have a substantial impact on the number of providers willing to deliver care packages in Rutland.

2.9.6 It is recommended that no uplift is provided for 2024/25.

2.9.7 Learning Disability and Physical Disability Residential Care

2.9.8 Significant work was undertaken in 2023 to bring fees in line with actual provider costs, and specifically taking in account that for many long-term packages no uplift had been given for a number of years. Not only was the impact on the budgets significant, but it also took considerable officer time to review cost breakdowns and undertake negotiations, with several uplifts not resolved until the end of the first quarter of this year.

2.9.9 Whilst no uplift could be given this year, there is a risk that without maintaining costs in line with inflation, the work undertaken to bring fees in line with actual cost of care will need to be repeated in future years, again impacting on the ability to project future costs and adequately build into the budget.

2.9.10 It is recommended that the inflationary uplift of 6.75% is awarded to all providers. Any providers who request a level above that will be asked to

provide detailed cost breakdowns as evidence which can then be reviewed on a case-by-case basis and further uplift given only in exceptional circumstances.

2.9.11 Direct Payments for Personal Assistants

2.9.12 Significant work was undertaken in 2022/23 to review Direct Payment rates and ensure Personal Assistants received sufficient hourly rate to meet the National Living Wage and their additional costs such as training, insurance, periods of sick or holiday, and so on.

2.9.13 There is an option to not provide an uplift to the current rate, however the National Living Wage will increase by 9.8% from April 2024 and this will directly impact on the majority of Personal Assistants. This will also lead to a position where Direct Payments do not keep pace with costs and in a future year a much larger uplift will be needed to stabilise the market and ensure there are still Personal Assistants working in Rutland for service users to access.

2.9.14 Recognising that whilst the majority of Personal Assistants' costs are related to their wages not all are, an inflationary uplift in line with that calculated for other Adult Social Care providers is proposed. This would maintain a level of uplift whilst considering equity across the board and keep costs affordable for the Council. It should be noted however, that overheads for Personal Assistants are proportionately lower than for other types of providers.

2.9.15 It is recommended that an inflationary uplift of 6.75% is given resulting in an hourly rate of £16.00.

3 CONSULTATION

3.1 Providers and Personal Assistants were consulted in 2022/23 to inform the changes to the fee rates at that time. The level of engagement, particularly from older people's home care providers was extremely limited.

3.2 Consultation with providers this year was considered, however given previous limited engagement and the fact that all fee uplifts are constrained by the budget, it was felt that it would not add value in relation to this.

3.3 There is ongoing engagement with home care providers via the Rutland Adult Social Care Provider Forum.

4 IMPLICATIONS OF THE RECOMMENDATION

4.1 FINANCIAL IMPLICATIONS

This section has been approved by Andrew Merry – Head of Finance

4.1.1 The main financial issues arising for this Report are as follows:

4.1.2 The budget for Adult Social Care was set to include an inflationary uplift of 4% for 2024/25 based on the budgeted position for 2023/24. This is below the level of inflation, and the percentage uplift to National Living Wage from 1st April 2024.

4.1.3 The need to pay uplifts to some Learning Disability and Physical Disability providers this financial year to bring them in line with current costs, has made the spend difficult to forecast and manage effectively. The work undertaken in 2022/23 and earlier this year provided a baseline of actual costs for each provider. By setting fees in line with inflation for 2024/25 the ability to forecast spend should be improved.

4.1.4 The proposed uplifts are as follows:

Type of provision	2023/24 Forecast	Proposed increase	Budget Pressure
Older People's Homecare	£3,630,987	0%	-£135,355
Learning Disability and Physical Disability Residential	£2,385,061	6.75%	£47,956
Direct Payments for Personal Assistants	£1,335,264	6.75%	£47,659
Total	£7,351,312	-	-£39,740

4.1.5 If the fee proposals for each type of provision are approved, then the budget pressures built in for these three types of provision will be sufficient overall and leave additional room within the budget of £39,740. The actual spend is determined by the number of people requiring care and support and the type of support which needs to be put in place so it should be noted that spend will fluctuate during the year.

4.1.6 There will also be some income from recharges to health where the Council has commissioned care packages on behalf of both organisations, and from contributions from people paying for their care. There is ongoing work to review the process of recharging to ensure that the Council is maximising the income due.

4.1.7 It should however be noted that as older people's residential and nursing care fees have yet to be set, this will have a significant impact on the budget and is likely to lead to a pressure on the budget overall. The current market is such that providers are charging the Council above the fees agreed. The budget released from the uplifts to the above types of provision will offset some of the additional costs from older people's residential and nursing care, however it is unlikely to offset all.

4.1.8 The full breakdown of the financial implications for each option for each type of provision is set out in Appendix B.

4.2 LEGAL IMPLICATIONS

This section has been approved by Sarah Khawaja, Head of Legal & Democratic Services.

- 4.2.1 The Council has a duty under the Care Act to ensure a sustainable local market. In addition, the Market Sustainability Funding which will be received from the DHSC for 2024/25 sets a requirement that it be used to make tangible improvements in Adult Social Care including, but not limited to, increasing fee rates.

4.3 Risk Management Implications

- 4.3.1 The main risks to this Report and the Council achieving its objectives are as follows:
- 4.3.2 Risk: Fees paid become out of alignment with providers' costs and with inflation, leading to consequential future significant increases impacting on budget.
- 4.3.3 Assessment of Risk: Low
- 4.3.4 Mitigation: By uplifting on an annual basis, fees should keep pace with inflation and remain aligned with providers' actual costs.
- 4.3.5 Residual Risk: Low
- 4.3.6 Record of Risk: Corporate Risk Register
- 4.3.7 Risk: The fees set subsequently for older people's residential and nursing are above the inflationary built into the budget and above the budget released from the fees proposed in this paper.
- 4.3.8 Assessment of Risk: High
- 4.3.9 Mitigation: Fees will be set with providers to reflect as far as possible actual costs of care, and the option of block contract beds to set fees for a number of beds is being explored. However, the high number of self-funders in Rutland means that care homes are reluctant to take Council funded service users and consequently charge significantly higher fees. The risk consequently remains high.
- 4.3.10 Residual Risk: High
- 4.3.11 Record of Risk: Corporate Risk Register

4.4 DATA PROTECTION IMPLICATIONS

- 4.4.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no identified risks or issues to the rights and freedoms of individuals.

4.5 EQUALITY IMPLICATIONS

- 4.5.1 An Equality Impact Assessment (EqIA) has been completed. A copy of the

EqlA can be obtained from Karen Kibblewhite.

4.6 COMMUNITY SAFETY IMPLICATIONS

- 4.6.1 The Council has a duty in accordance with S17 Crime and Disorder Act 1988, when exercising its functions, to have due regard to the likely effect of that exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social behaviour).
- 4.6.2 This duty has been considered and there are no community safety implications relating to the recommendations.

4.7 HEALTH AND WELLBEING IMPLICATIONS

- 4.8 The provision of Adult Social Care support enables vulnerable people to remain healthy and well, reducing the impact on wider support and health services.

4.9 ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS

- 4.9.1 On 11 January 2021 Rutland County Council acknowledged that it was in a climate emergency. The Council understands that it needs to take urgent action to address it.
- 4.9.2 There are no environmental and climate change implications of the Recommendations.

4.10 PROCUREMENT IMPLICATIONS

- 4.10.1 There are no procurement implications relating to the recommendations.

4.11 HR IMPLICATIONS

- 4.11.1 There are no HR implications relating to the recommendations.

5 BACKGROUND PAPERS

- 5.1.1 [Report No.34.2023 - DHSC Fair Cost of Care Adult Social Care Fee Setting for Care Homes and Home C.pdf \(moderngov.co.uk\)](#)
- 5.2 [Report No.41.2023 - Review of Direct Payments for Personal Assistants.pdf \(moderngov.co.uk\)](#)

6 APPENDICES

- 6.1 Appendix A – Inflationary Uplift Calculations
- 6.2 Appendix B – Financial Implications of Uplift Options

An Accessible Version of this Report is available upon request – Contact 01572 722577.

Appendix A – Inflationary Uplift Calculations

Inflationary calculations take into account increase in National Living Wage to £11.44 per hour and inflation as of January of the calendar year the uplift will be given. They are apportioned to a split of 70% staffing costs and 30% non-staffing costs. This is an industry standard proportion used and accepted, and roughly equates to the proportions indicated by providers via the Fair Cost of Care exercise carried out in 2022/23.

Recognising that not all staff will be on NLW, but there is a need to maintain a differential between staff wages at different levels, the proportion of NLW used is adjusted to reflect 80% of staff costs.

	Increase	Factor	Blend
National Living Wage	9.8%	0.56	5.49%
Inflation – CPI as of January 2024	4.2%	0.3	1.26%
Total Uplift			6.75%

Appendix B – Financial Implications of Uplift Options

The following table sets out the financial implications of each of the uplift options by type of provision.

Older People's Home Care

Current Spend	Budgeted Inflation	Inflationary Uplift of 6.75%*	Pressure
£3,630,987	£135,355	£176,246	£40,891

*Based on Current Number of Services Users

Recommended option:

Current Spend	Budgeted Inflation	Nil increase	Pressure
£3,630,987	£135,355	0	-£135,355

Learning Disability and Physical Disability Residential Care

Current Spend	Budgeted Inflation	Nil increase	Pressure
£2,323,426	£92,183	0	-£92,183

Recommended option:

Current Spend	Budgeted Inflation	Inflationary Uplift of 6.75%*	Pressure
£2,385,061	£92,183	£140,139	£47,956

*Based on Current Number of Services Users

Direct Payments for Personal Assistants

Current Spend	Budgeted Inflation	Nil increase	Pressure
£1,335,264	£69,263	£116,922	-£69,263

Recommended option:

Current Spend	Budgeted Inflation	Inflationary Uplift of 6.75%*	Pressure
£1,335,264	£69,263	£116,922	£47,659

*Based on Current Number of Services Users

Budget Impact

The total impact of the proposed increases against the current budget is therefore:

Type of provision	2023/24 Forecast	Proposed increase	Budget Pressure
Older People's Homecare	£3,630,987	0%	-£135,355
Learning Disability and Physical Disability Residential	£2,385,061	6.75%	£47,956
Direct Payments for Personal Assistants	£1,335,264	6.75%	£47,659
Total	£7,351,312	-	£39,740

This excludes any potential income and the impact of older people's residential care fees.