

Report to Alan Sinclair, Director of Adults and Health

March 2024

Fees paid to Independent Sector Care Providers 24/25

Report by Head of Commissioning – Older People

Electoral division(s): All

Summary

The fees paid to independent sector providers of adult social care provision are subject to annual review and decision. This report to the Director of Adults Services makes recommendations for the uplifts to be awarded to relevant contract provision for 24/25. Excluded from the decision are increases for providers who work with working age mental health customers where uplifts will be subject to a further report once the Integrated Care Board has confirmed its funding position.

The proposals reflect the following considerations:

- National Living Wage increases
- Strategic priorities
- Market stability
- The contract position for each market and service areas
- Feedback from the provider market, the Adult Social Care Provider Forum and the fees sub-group
- Commissioning challenges and ability to secure provision.

Recommendation

The Director of Adults and Health is asked to approve the 24/25 fee increases to independent sector providers in line with the proposals set out in section 2 of the report.

Proposal

1 Background and context

- 1.1 Individuals who are assessed by the County Council under the Care Act 2014 as having eligible social care needs and in need of support to meet those needs often receive care and support from independent sector providers. These services are provided under contract with the County Council. Fees paid to providers for those services are in line with the relevant contract

arrangements for the individual or service and uplifted as appropriate in accordance with an annual review of fees and charges.

- 1.2 From April 2024 the National Living Wage rises to £11.44 per hour for adults over the age of 21. This represents an increase of 9.8% for the majority of the working population whilst representing a higher % increase to 21 and 22 year olds bringing them to the same levels as people aged 23 and above this year. In April 2023 inflation remained high although was predicted to fall. This has indeed fallen throughout the year with the rate of increase in the Consumer Prices Index reducing to 4% in the 12 months to December 2023. Cost of living therefore remains an issue, but is in a more stable position than when reviewing the fees of providers for 2023/24, especially as Government's target is for inflation to fall to 2%.
- 1.3 The Council's budget strategy for 2024/25 continues to recognise the challenges that providers face in delivering adult social care in West Sussex. It has maintained its practice of fully funding the implications of growth in the NLW as well as the impact of inflation on non-pay costs. Although it has required further reprioritisation of the Council's limited resources towards the Adults and Health portfolio, this has been driven by the aim of bringing greater stability to the market and building upon the average fee increases of 8% agreed for 2022/23 and 9% in 2023/24. The outcome is a funding envelope which will enable an average uplift of approximately 8% to be paid in 2024/25.
- 1.4 The Council's adult social care strategy 'The life you want to lead, Adult social care in West Sussex (2022-25)' outlines the five key priorities of: relationships and connections, empowerment, home, addressing gaps and inclusion and tackling inequalities. This provides an important backdrop for decisions on how services and solutions for people in West Sussex are commissioned and funded. Going into 2024/25 this strategy will be accompanied by a commissioning strategy and a series of chapters of a market position statement, in which the council will identify predicted need and demand and signal intentions to the care market for development and transformation. These are important for ensuring that the Council can continue to meet the demand for services and solutions in a cost effective way that is affordable within the adult social care budget.
- 1.5 Ordinarily the scope of this report extends to all independent providers of social care. That includes learning disabilities (LD) and working age mental health (WAMHS). These are services which are subject to pooled budget arrangements between the Council and the Integrated Care Board (ICB). In the case of LD, the Council is the lead commissioner and funds 81.45% of all spending on a pro-rata basis. For WAMHS NHS Sussex ICB is the lead commissioner and funds 86.87% of expenditure. Through the Section 75 agreement under which both services are managed, each partner needs to confirm that it will be able to fund its share of the uplift cost.
- 1.6 Achieving that agreement has not been possible for WAMHS. NHS Sussex is working through the proposals for uplifts in the context of a challenging financial position and is not able to confirm the position prior to national planning guidance. As a result, the Council is not able to proceed with a decision in this area of business at this time and a decision about this will be deferred until the NHS Sussex finalises its position. As partners the Council and NHS Sussex appreciate that this has a significant impact on providers

and would like to reassure providers that this is not a reflection on the importance of your services but the difficult financial context and the different timing for the NHS planning decisions. The Council will endeavour to work with the NHS Sussex to ensure that an uplift decision for WAMHS can be taken at the earliest opportunity.

- 1.7 As well as the important strategic context highlighted above, the proposals recommended are also put to the Director of Adults and Health following a review of the following considerations:
- 1.7.1 Care market feedback, which has highlighted a number of issues including increasing costs, the impact of the impending National Living Wage on all care providers, an ambition to achieve the Real Living Wage, the importance of quality of care, and the priority to pass on increases to staff. Providers were keen to identify fairness for providers as an important priority. An approach that presents a blanket uplift for services would not be a fair distribution as those with the highest current charges would stand to gain a higher cash increase than those at the lower levels.
- 1.7.2 Market Pressures. In particular this year the care market focused on customers with a lifelong condition and mental health has experienced a number of provider failures and service closures as a result of financial constraints. There is an active programme of work focused on market development to support, grow and develop provision that is needed for current and residents including large numbers of young people moving into adulthood in future years.
- 1.7.3 Future packages and placements. The review of fees looks at the existing customer base supported by the social care market and shapes decisions based on the increases needed to sustain the packages of care and placements for these customers. However, cost pressures in previous years have also come from increases in costs of new packages which have often been higher than the cost of comparable packages for those who have left care. In order to mitigate risks in 24/25 increases in market costs must be factored into decisions to avoid an unaffordable and unplanned overspend.

2 Proposal details

Care Market	Proposed uplift/24-25 rates
Older People – Residential and nursing home provision – including people with a physical or sensory impairment over the age of 65.	<p>Increase rates to</p> <p>Band C standard – increase by £65 per week (8.02%) to £875 per week</p> <p>Band C enhanced – increase by £65 per week (7.30%) to £955 per week</p> <p>Band D standard – increase by £75 per week (9.38%) to £875 per week</p> <p>Band D enhanced – increase by £75 per week (8.82%) to £925 per week</p> <p>Band P standard – increase by £60 per week (8.57%) to £760 per week</p> <p>Band P enhanced – increase by £60 per week (7.59%) to £850 per week</p> <p>Band F – (discontinued for new customers) 8% increase</p> <p>Agreed rates:</p> <p>All individually agreed rates will be increased by 4%.</p> <p>Placements at individually agreed rates made on or after the 1st Jan 24 will not receive an uplift.</p>

	<p>Short term placements on a banded rate will be automatically uplifted in line with older people residential uplifts above. Short term services on individually agreed rates will not be uplifted.</p> <p>Out of county to follow host authority increases.</p>
Care and support at home (domiciliary care or home care)	<p>Current rates up to and including: £27.29 and under – to receive an 8% increase £27.30 - £29.29 – to receive a 5% increase £29.30 and over – to receive a 3% increase</p>
Residential care services for customers with Learning Disabilities and working age Physical and Sensory Impairment.	<p>8% increase on all existing placements</p> <p>applies to all placements made up to and including the 31st March 2024 and all placements in and out of county.</p>
Learning Disabilities and working age Physical and Sensory Impairment – supported living and outreach	<p>Supported Living Framework:</p> <ul style="list-style-type: none"> • Lot 1 hourly rates – £1.50 per hour increase up to a maximum of £23.69. • Lot 2 hourly rates – £1.50 per hour increase up to a maximum of £23.29. • Lot 3 hourly rates – £1.50 per hour increase. • No increase is awarded to sleep-in nightly rates. <p>Any rates of support in existing commissioned support packages that are higher than the relevant maximum rates listed above will not receive an uplift.</p>
Learning Disabilities and working age Physical and Sensory Impairment: day services, prevention and community based service contracts	<p>No uplift to current costs due to services being tendered currently. New costs will apply from the new contract implementation.</p>
Extra Care Services	<p>Increase hourly rates by £1.54 per hour across all extra care provision.</p>

Other Proposals:

- 2.1 Direct Payments are proposed not to be automatically uplifted. However, it is recognised that customers taking a personal budget as a Direct Payment may be unable to source the same level of care due to increasing costs, or risk falling below National Living Wage for their employees. Where this is identified as the case, customers will be contacted to invite them to contact Adults Services to have their support plan reviewed. A full review of the Council's Direct Payments processes and practice including rates is anticipated to be undertaken in 24/25.

- 2.2 Shared lives services are delivered both through the management of the Council's own directly provided services to shared lives carers, and through the independent market. To enable consistency across this area, 8% is proposed to be directed to shared lives carers.
- 2.3 Live in provision is generally agreed on an individual basis and therefore any uplift will only be applied based on individual need and circumstance following review and not automatically applied.
- 2.4 Placements contracted through Individual Placement Agreements including specialist inpatient beds for people with a learning disability are excluded from the annual uplift process.
- 2.5 Out of county placements for older peoples residential services will follow host authority rates. Where the current cost of a placement is out of county and the host authority rate is higher than the current rate paid for the placement by West Sussex County Council, providers are able to confirm evidence of the host authority rate which will be used to increase the placement costs for the West Sussex customer. These increases will not be automatically applied. Placements in lifelong and mental health services out of county will receive the same uplift as in county placements as outlined in the table section 2.
- 2.6 **Application of Proposals:**
- 2.7 Increases as set out within the proposals will apply to all customers where the care is being arranged and purchased by the Council including customers with a Council Managed Budget, with residential placement funded entirely by the Council, customers with a deferred payment agreement, and customers funding the full cost of their care. Customers impacted by the increases will be notified of the change to their charges before the increased charges are implemented.
- 2.8 Top up contributions to the total cost of a residential placement regardless of who is paying the contribution are not included within the proposals for increase as these are not related to the care provided within the placement.
- 2.9 The Council recognises that higher increases are needed this year in light of cost pressures created by the current national economic position. Providers are strongly encouraged to ensure that staff benefit from the uplift by increasing care worker pay. This is not only important to ensure compliance with legislation on National Living Wage and to reflect the nature, importance and value of the work but is also fundamental to growing the care workforce to deliver the capacity needed and to grow sustainable services.
- 2.10 All increases proposed will be implemented on 7 April 2024 for non-residential provision and 8 April 2024 for residential provision. This aligns with the date from which client contributions are changed and payments are made and provides consistency for providers who have worked with the Council previously and will have adapted their financial processes accordingly.

3 Other options considered (and reasons for not proposing)

- 3.1 As in previous years, the Council has considered applying a standard percentage uplift across the market. However the Council is looking to utilise the funding to also reflect strategic intentions and hence focus investment accordingly. In addition proposals have been considered in recognition that provision is often on a different starting point, and therefore will be affected

differently by the increases in National Living Wage. A standard uplift would disadvantage provision on lowest starting rates.

4 Consultation, engagement and advice

- 4.1 In response to feedback on previous fee reviews, the Council with representatives of the social care market formed a task and finish group in 2023 to reflect on the decisions last year, to consider the cost impacts for the sector, consider prioritisation of investment and to plan the decision making process for 24/25. This has been a positive development in working together to achieve an outcome that supports the care market to remain sustainable and deliver its legislative obligations on national living wage whilst considering the context of a challenging and constrained adult social care budget.
- 4.2 Wider consultation and engagement with the adult social care market has been undertaken through provider forums.
- 4.3 The Director of Adults and Health has engaged with Directors of the Integrated Care Board regarding the operation of the pooled budget and the impact of decisions on the pool.

5 Finance

- 5.1 The actual cost of the proposals will be dependent on the number of people who receive adult social care funding in 24/25 and the services they receive. Therefore the cost of the proposals cannot be stated with complete certainty. Nevertheless, based on forecasting, the proposals are expected to account for approximately £19m of the £21m available, which includes the NHS Sussex ICB's contribution towards the LD budget.
- 5.2 The balance will be held pending the outcome of the uplift decision for WAMHS and to fund the expectation that the cost of placements and care packages for new starters will be more expensive in like-for-like terms than for leavers. As such the Council anticipates spending all the funding that it has available in ways that will support the market.
- 5.3 The effect of the proposal:

(a) How the cost represents good value

The Council has funded real terms increases in fees for providers in 2022/23 and 2023/24. This has taken place with the objective of stabilising its position in the market where it remains a minority purchaser of care. These uplifts are intended to build upon the progress which has been made and so protect the budget from the risk that it faces because of the imbalance of demand and supply and the potential this creates for putting pressure on prices.

Non-residential services present a cost effective way of supporting people at home for as long as possible. Achieving a strategic aim, outcomes for customers and a cost impact. Investment into these services will support the Council to manage demand for care services and support reduction in the use of residential care provision, to ensure they are focused on those with the most complex need.

(b) Future savings/efficiencies being delivered

The uplifts will support sustainability of the market and therefore aim to reduce costs associated with provider failure or inability to source cost effective solutions.

(c) Human Resources, IT and Assets Impact

Fees and rate uplifts require manual process changes within systems and resource from contracts, commissioning, finance, adult operations and IT systems teams to implement the changes. These resources have been identified to enable the changes to be completed.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
The delay in confirming uplifts for WAMHS providers will create operational, reputational and administrative impacts.	Many of these risks will be unavoidable. The Council will seek to work with NHS Sussex ICB to enable an early decision to be made and so minimise the impact both organisationally and for providers.
The increases are not sufficient to cover cost increases for individual providers	All providers will review the impact of collective decisions on their individual businesses. There will be no ability to appeal decisions but the Council will work with individual providers on an open book accounting basis to support in situations of hardship and financial instability resulting from collective decisions made for the whole market.
Full cost payers will experience an increase in the amount they are recharged in relation to their individual service. This risks complaints and financial hardship for full cost payers where the increase is significant.	Full cost payers could not be charged less than the Council pays as this would result in inequity of cost of care particularly for those who pay directly to providers. Full cost payers will be communicated to regarding change in charge so that they can consider their options.
New placements and packages of care are charged at rates that negatively impact on the Adult Social Care budget, impacting on the ability to balance budgets at the end of the financial year.	The proposals are developed with the anticipation that costs continue to increase and in order to support budget management throughout the year. In addition, the Council will utilise information and intelligence to agree rates based on evidence. E.g. utilising the Care Cubed tool and in understanding of wider market costs to ensure that costs agreed are reasonable, sustainable and affordable.
Delays in payments to adult social care providers impact on the financial viability of provision and the costs of placements.	The Council is exploring long term solutions for improving payment processes, including a provider portal which will be implemented in 2024 for non-residential services, and with an aim to expand to residential services in future. In the interim, teams are working closely together to

Risk	Mitigating Action (in place or planned)
	improve processes, are working on longest awaiting cases and are also exploring options to support providers to escalate and resolve outstanding payments.

7 Policy alignment and compliance

- 7.1 Our Council Plan – the proposals reflect strategic direction as set out in the Council plan and the Adult Social Care strategy.
- 7.2 Legal implications – the proposals reflect the Councils obligations under the Care Act 2014 to ensure a market which has a range of quality services and solutions for the residents of West Sussex. It also reflects statutory obligations to ensure care is available to meet the needs for those assessed as having eligible social care needs.
- 7.3 Equality duty and human rights assessment – The proposals support care market providers to ensure human rights are protected. For example, they take account of decisions around National Living Wage for staff. This supports a right to life (article 2) a freedom from compulsory labour (Article 4) and a right to enjoyment of possessions (article 1 protocol 1).
- 7.4 Climate change – There is no immediate impact on climate change as a result of the proposals.
- 7.5 Crime and disorder – There is no immediate impact on the Council’s responsibility to minimise crime and disorder.
- 7.6 Public health – the proposals are expected to have a positive impact on public health by supporting the care market to sustain provision which has an impact on the health and wellbeing of individuals and communities.
- 7.7 Social value – the proposals are expected to have a positive impact on social value by increasing funding for care markets which should increase local employment opportunities and encourage recruitment and retention into local businesses. It will also incentivise development of markets that support people to access their community.

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Appendices

Appendix 1 2024/25 Care Home Rates

Background papers

None