

# Executive Member Decision



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| <b>REPORT OF:</b>     | Executive Member for Adult Services and Prevention,<br>Executive Member for Finance and Governance |
| <b>LEAD OFFICERS:</b> | Director of Finance, Strategic Director of Adults and Health<br>(DASS)                             |
| <b>DATE:</b>          | Friday, 12 March 2021  |

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| <b>PORTFOLIO(S) AFFECTED:</b> | Adult Services and Prevention |
| <b>WARD/S AFFECTED:</b>       | (All Wards);                  |

## **SUBJECT:**

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| EMD Adult Social Care Provider Fee uplifts for the 2021/2022 Financial Year |
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## **1. EXECUTIVE SUMMARY**

Blackburn with Darwen Borough Council commissions support for over 2300 local adults and older people, with eligible social care needs, per annum. The majority of commissioning relates to external care and support services provided by independent sector providers and the voluntary, community, faith and charitable sector. The net commissioning budget for these services is currently £40.2m for 2020/21, and is subject to large scale pressures that have been well documented nationally due to increasing demand for services, rising costs and the impact of austerity. In addition 2020/21 has proved to be an exceptional year for the care sector due to the Covid 19 pandemic; the issues faced by providers during the pandemic will have an enduring impact on the care market and the price of care in the future. Covid 19 has resulted in a change to the care economy and a general increase in the acuity of care needs and the Council is beginning to see inflation/general care costs much higher than in previous years.

As such the costs of social care provider fee uplifts in 2021/22 are expected to be significant. This report sets out the rationale, financial context and analysis underpinning the award of rate uplifts to external providers for the 2021/2022 financial year, in order to meet rising costs associated with increases in the National Living Wage, and to address the lack of parity of provider rates across the Lancashire and South Cumbria Health and Social Care system. Our low starting base compared to near neighbours is a significant risk with the potential for some providers to exit the market impacting on the local authority's ability to meet its statutory duties.

All these factors have been taken into account alongside the issue of affordability and the 2021/22 provider uplifts have been recommended in line with the current Medium Term Financial Strategy.

Blackburn with Darwen Finance Council resolved on 22 February 2021 to delegate authority for the agreement of hourly rates and contract changes for social care providers for 2021/2022 to the Executive Member for Health and Adult Social Care, in consultation with the Executive Member for Finance and Governance.

## **2. RECOMMENDATIONS**

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| That the Executive Member: |
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| 1) Agrees to a percentage increase in fees for the following services: |
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- Residential and nursing care including Intermediate Care beds, fee increase of 5.37% effective from 1 April 2021.
- Older People and Physical Disability Domiciliary Care, framework fee increase of 8.06% effective from 1 April 2021.
- Shared Lives, fee increase of 2.2% in line with the National Living Wage uplift effective from 1 April 2021.
- Learning Disability/Mental Health Dom Care, fee increase of 2.2% in line with the National Living Wage capped at a standard hourly rate of £16.04 equivalent to our nearest neighbour's current rate for LD Dom Care.
- LD Supported Living Providers, fee increase of a minimum of 2.2% in line with the National Living Wage up to a standardised rate of £16.04. This brings these providers in line with the current rates of our nearest neighbour.

2) Further agrees that:

- Direct Payments - it is proposed to revise the existing direct payments to offer a personal assistant rate and three agency rates (standard, enhanced and exception), these rates are in line with Domiciliary rates proposed above. The proposed changes to the Direct Payments scheme are the subject of further Executive Member Decision.

3) Further agrees that:

- The Extra Care schemes that are commissioned on a block contract basis will receive an uplift of 2.2% in line with National Living Wage increases effective from 1 April 2021 where they have been agreed in the contract. Where 1:1 hours are contracted separately they will remain aligned to the domiciliary care rate.

### 3. BACKGROUND

The Finance Council meeting of 22nd February 2021 recommended that delegated authority be given to the Executive Member for Health and Adult Social Care, in consultation with the Executive Member for Finance and Governance, to agree the hourly rates and contract changes with social care providers in 2021/2022, applicable from April 2021.

The National Living Wage (NLW) announcements include an increase of 2.2% with effect from 1st April 2021 (for workers aged 23 and above).

The increase in NLW has a significant impact on our external social care providers, including residential and domiciliary care. The recently announced National Living Wage increase to £8.91 in 2021/22, an increase of 2.2% on the previous financial year, is lower than it has been in previous years, however, for Blackburn with Darwen there continues to be a lack of parity of provider rates across the Lancashire and South Cumbria Health and Social Care system. Our low starting base compared to near neighbours is a significant risk with the potential for some providers to exit the market impacting on the local authority's ability to meet its statutory duties. In respect of the national living wage it should be noted that wages are just one component of and not the full cost of delivering services. This proportion varies depending on the type of provision, with residential care labour costs being around 70% of total cost. Whilst labour constitutes a significant component there are other aspects of providers' cost base that are met by the overall rate paid by the Council and which may also be subject to change.

The commissioning budgets included in the 2021/22 budget, and in the Medium Term Finance Strategy (MTFS), include provision for increases in provider hourly rates and contract changes

from the increase in the National Living Wage effective from 1st April 2020 and an uplift in 2021/22 which narrows the fees gap across the system.

#### **4. KEY ISSUES & RISKS**

##### Residential and Nursing Care

Local Authorities are required to set sustainable rates for the care they commission, however Providers in the Borough have historically been reluctant to engage in Fair Price for Care exercises and share cost and income information with the council which makes it difficult to agree appropriate fee levels. A future Pan-Lancashire cost enquiry is being planned through the Regulated Care Sector work stream however this work has been delayed due to the Covid pandemic.

It should be noted that the market is funded in a number of ways: council supported placements, CCG funded residents through NHS Funded Continuing Health Care, joint-funded placements and additional care payments via the council and CCG and self-funded clients. Providers also secure additional income through third party top-ups which now affect the vast majority of placements. Total income is under-pinned by occupancy levels and in previous years many local homes within the Borough have continued to enjoy very high levels of occupancy. Occupancy levels within our local homes have reduced significantly during the Covid 19 pandemic. During this time the Council has supported the sector with a variety of additional Covid 19 costs, including occupancy payments and we will continue to do so separately from the annual uplift in rates, however the proposed rates seek to narrow the gap between Local Authority rates across the Lancashire and South Cumbria Integrated Care System.

The enhanced quality scheme within the Borough further supports the financial viability of the sector. Whilst there have been no home closures in the Borough in this financial year, some residential providers are having to consider their business plans as demand for placements fall due to the successful promotion of care at home and extra-care housing strategies to support vulnerable people. In addition our previous market position statement has identified an over-provision of residential beds and existing vacancies in addition to those caused by the pandemic is causing some providers difficulties.

It is recommended that residential and nursing home providers receive an uplift of 5.37% to recognise the cost of National Living Wage increase and to narrow the gap between Blackburn with Darwen rates and our nearest neighbouring authority.

##### Domiciliary Care for Older People and adults with a Physical Disability

This service framework supports circa 780 frail, disabled and vulnerable local adults and older people in their own homes with intimate and essential personal care. Examples include getting in and out of bed, dressing, managing nutrition, using the bathroom and mobilising around their home.

The sustainability of the home care market has continued to be under scrutiny recently, given widespread funding pressures and cost constraints. All provider organisations, be they private or charitable, need to generate a level of surplus for reinvestment into the business and this has proved hard to achieve for a significant number of providers.

Blackburn with Darwen Borough Council fee has over recent years become more comparable within the North West region however our rates still remain much lower than our neighbouring authorities and the lack of parity across the system presents a significant challenge for these providers. All providers on the framework will be significantly impacted by the increase in the National Living Wage. It is recommended that domiciliary care providers receive an uplift of 8.06% as a means to meet the requirements of the National Living Wage and to enable the sector to remain financially viable. This represents an increase in unit cost from £14.44 to £15.60 per hour. Further to this, a

supplement of 25% will be applied to this rate for the handful of cases where care is provided within a specified rural location. This is in acknowledgement of additional travel and rota considerations.

#### Learning Disability Provision within a supported living environment

This service supports adults with a learning disability and/or mental health condition in small group homes or apartments to remain as safe and independent as possible. This is generally provided by a constant 24/7 staff presence or occasionally through outreach support, depending on the needs of the individuals. Most provision within Blackburn with Darwen is contracted mainly through block contracts with some 1:1 support hours and many providers on the framework are paid at differential rates. Work will continue with providers on switching to the new model of service and will continue via targeted project work, to ensure the correct mix of individual 1:1 hours and block core hours are commissioned.

It is proposed that an uplift of a minimum of 2.2%, in line with National Living Wage increase is applied, up to a standardised rate of £16.04. This brings these providers in line with the current rates of our nearest Local Authority neighbour.

#### Learning Disability/Mental Health domiciliary care for people living alone or with family/carers:

This service supports adults with a learning disability and/or mental health condition within their own homes to remain as safe and independent as possible. This may include physical, emotional and social support. Many providers on the framework are paid at differential rates and it is proposed that a fee increase of 2.2% in line with the National Living Wage, capped at a standard hourly rate of £16.04 equivalent to our nearest neighbour's current rate for LD Dom Care should be applied.

The Learning Disability and Mental Health domiciliary care rate should be equivalent to that for the domiciliary care rate for older people and adults with a physical disability, however an uplift is applied to recognise the impact of increased staffing costs from the National Living Wage increase. Work will continue with providers to align these rates in future years.

#### Extra Care

This service provides 24hour on-site support for older people in dedicated extra care housing schemes, including Kingsway, and Spring Bank Court. The current provision for these schemes is subject to a block contract with an independent provider and is due to be re-tendered.

In terms of the recent and new extra-care provision at Riverside Heights and Albion Mill, the care contract has been devised on a new model of block and individually commissioned hours tied to the Older People and Physical Disability domiciliary care contract.

The Extra Care schemes that are commissioned on a block contract basis will receive an uplift of 2.2% in line with National Living Wage increases effective from 1 April 2021 where an uplift has been agreed in the contract. Where 1:1 hours are contracted separately they will remain aligned to the domiciliary care rate.

#### Shared Lives

Shared Lives provides family based care and respite for adults with a disability and older people. It is a highly cost effective option with excellent outcomes for the individual, when compared to residential care or supported living. Weekly rates for shared lives care were reviewed in 2018 and three bandings applied. These will be increased in line with the National Living Wage increase of 2.2%.

## Direct Payments

The purpose of a Direct Payment is to provide service users with choice and control in designing an individualised package of care and support. Currently, direct payment rates and thus the amount paid to the individual are calculated on an individual basis depending on the service the individual chooses to engage. This is problematic in that there is no consistency in the amounts awarded affecting the calculation of client contributions with individuals potentially using high cost services. Agencies for example have different rates and at the present time there is no clear schedule of rates to define the maximum that the authority will pay depending on identified need.

A separate decision paper is included alongside this paper to propose a standard Personal Assistant (PA) rate and three agency rates as an acknowledgement that some individuals require specialised care of which the authority has statutory responsibility for meeting.

It is proposed to revise the new schedule of rates effective from April 2021 in line with other Domiciliary care rates, subject to approval of the new Direct Payments Rates (Separate EMD)

## **5. POLICY IMPLICATIONS**

The Care Act 2014 requires that local authorities should work towards the long term sustainability of the care market through setting realistic fee rates and understanding the true cost of providing care locally.

The proposed fee uplifts have been set at a level that takes into account current market conditions in Blackburn with Darwen. They incorporate changes to the living wage in addition to other factors such as changes in Employer contributions.

## **6. FINANCIAL IMPLICATIONS**

The table below sets out the gross cost of the fee uplifts proposed in this paper using activity as at October 2020 to estimate the overall costs:

|   | £                |
|---|------------------|
| Residential & Nursing (inc Intermediate Care) | 1,251,804        |
| Domiciliary care                              | 706,882          |
| LD/MH and Supported Living                    | 550,025          |
| Shared Lives                                  | 11,963           |
| Extra Care                                    | 87,738           |
| Direct Payments                               | 128,072          |
| Day Care/Other Accommodation                  | 12,477           |
| <b>Total Fee Uplift Cost</b>                  | <b>2,748,961</b> |

The fee uplifts detailed in this paper for our external providers for the 2021/2022 financial year are proposed in order to meet the rising costs associated with increases in the National Living Wage, and to address the lack of parity of provider rates across the Lancashire and South Cumbria Health and Social Care system. Our low starting base compared to near neighbours is a significant risk with the potential for some providers to exit the market impacting on the local authority's ability to meet its statutory duties.

All these factors have been taken into account alongside the issue of affordability and the 2021/22 provider uplifts have been recommended in line with the commissioning budgets included in the 2021/22 budget, and provision in the Medium Term Finance Strategy (MTFS).

During the Covid pandemic the Council has supported the sector with a variety of additional Covid 19 costs, including occupancy payments, and we will continue to do so separately from the annual

uplift in rates however the proposed rates seeks to bring Blackburn with Darwen rates closer to other Local Authority rates within the Lancashire and South Cumbria Integrated Health and Care System.

For 2021/2022 the overall cost of the proposed uplifts is £2,748,961, the portfolio will need to request a cash limit increase for the provider fees provision within the MTFs via the first financial monitoring report of 2021/22

Any future cost of the provider fee uplifts for 2021/2022 on final completion of contract negotiations will need to be met from within the overall budget for Adult Social Care. A comprehensive range of Demand Management strategies and alternative ways of delivering services remains in situ within the portfolio to contain ongoing financial pressures from increased costs associated with provider fees, demand and demographic change.

The effective date of the 2021/2022 uplifts is specified within the recommendations above in line with the payment periods for the new financial year

## **7. LEGAL IMPLICATIONS**

Section 5 of the Care Act 2014 requires local authorities to promote the efficient and effective operation of a market in services for meeting care and support needs in their area. This proposal will assist the Council's efforts to ensure that there is a stable market to provide for the care needs of the local community. This includes the need to ensure that providers can remain viable, and can attract and retain staff to provide the care to the required standard.

## **8. RESOURCE IMPLICATIONS**

The resource implications of implementing these proposals will be absorbed by the Strategic Commissioning – People team with regards to contractual changes; and to Finance Team to administer payment changes.

## **9. EQUALITY AND HEALTH IMPLICATIONS**

**Please select one of the options below.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision.

## **10. CONSULTATIONS**

Providers have been consulted and have been written to with details of proposed uplifts. Feedback has been limited with one residential provider and a small number of other care setting providers querying the sufficiency of the uplifts. However the feedback received does not alter the recommended uplifts due to the affordability of increasing rates any further. Individual work on rates will continue with the providers who have queries about sustainability

## **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The

recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published.

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| <b>CONTACT OFFICER:</b>  | Zoe Evans, zoe.evans@blackburn.gov.uk |
| <b>DATE:</b>             | 9 <sup>th</sup> March 2021            |
| <b>BACKGROUND PAPER:</b> |                                       |