

BARNSELY METROPOLITAN BOROUGH COUNCIL

REPORT OF: EXECUTIVE DIRECTOR PLACE HEALTH & ADULT SOCIAL CARE

TITLE: ADULT SOCIAL CARE FEE UPLIFT 2023/24 AND MARKET SUSTAINABILITY PLAN

REPORT TO:	CABINET
Date of Meeting	31st May 2023
Cabinet Member Portfolio	Place Health and Adult Social Care
Key Decision	No
Public or Private	Public

Purpose of report

The purpose of this report is to inform Cabinet of the approach and decision to fees uplift for care provision in 2023/24. This covers the full range of adult social care provisions, including residential care, home care, supported living, shared lives and direct payments.

Council Plan priority

Healthy Barnsley

Recommendations

That Cabinet:

Considers the approach taken in respect of the various adult care and support provision and approve the uplift in care provider fees for 2023/24 as outlined in section 3 of this report.

Notes the submission made to DHSC around the Market Sustainability Plan

1. INTRODUCTION

- 1.1 Section 5 of the Care Act establishes a duty on local authorities to ensure a sustainable market of care. This covers all care sectors and providers of care across a range of provisions such as residential / nursing, homecare, supported living, and day-care. It also includes a growing sector of individual people who use services through personal budgets to employ a personal assistant.

Legal context to fee setting

- 1.2. The Care Act 2014 requires the local authority to promote the efficient and effective operation of a market in services for meeting care and support needs, and in performing this duty, the local authority must have regard to ensuring the sustainability of the market.
- 1.3 In setting care home and domiciliary care fees rates, the Care and Support Statutory Guidance requires LAs to make sure that fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care and enable care providers to meet statutory obligations to pay at least the national minimum wage. Local authorities should have regard to guidance on minimum fee levels necessary to provide this assurance, taking account of the local economic environment.
- 1.4 An additional factor that was introduced this year was the inclusion of the market sustainability requirements within the Adult Social Care Funding Reforms (NB reforms have now been deferred to October 2025). During 22/23, the council was required to conduct a Fair Cost of Care exercise (for 65+ Older People, residential care and Homecare). The results of the exercise were required to be submitted to the Department of Health and Social Care (DHSC) and published on the council's website.
- 1.5 Additionally, all councils, as a condition of the funding for 23/24, have to submit a Market Sustainability Plan by March 23, setting out how funding will be used to support fees and a sustainable market.

Barnsley's approach to setting fee rates

- 1.6 The council operates a number of care cost models for determining the 'cost of care' annually and, therefore, the fee rate payable to care providers. The model and the calculated cost of care rate inform the engagement/consultation process with care providers. This approach aims to assure all stakeholders, including care providers, that arrangements for determining fees and uplifts are transparent, robust and provide value for money. The approach allows for uplifts to be considered on an annual basis, with consideration given to changes in business costs/conditions faced by providers.

- 1.7 The implementation of the national living wage (NLW) in 2016 meant that local authorities needed to consider annual wage increases in the decision-making process for setting fees or agreeing on uplifts. The Government has confirmed the national living wage for 2023/24 (effective from 1 April 2023) at £10.42 (for workers aged 23 and above).
- 1.8 The council continues to honour the commitment to support direct care workers through the decision in February 2020 (and supported by health partners), which is that all direct care providers were paid £1 above the national living wage under the Adult Social Care contracts. This continues to make sure that the majority of direct care workers are paid a minimum of £11.42 per hour across contracted services.
- 1.9 Cost of living has had a significant impact on the market. Pressures across food, insurance and fuel have driven up costs across many areas, including how support is provided to people in Barnsley. The following paragraphs outline the approach and the proposed fee uplift for the various adult social care community-based support provision to ensure ongoing market sustainability.

2. ADULT SOCIAL CARE MARKET SUSTAINABILITY

- 2.1 In December 2021, the government published a white paper, [People at the Heart of Care](#), that outlined a ten-year vision that puts personalised care and support at the heart of adult social care. To support the implementation of this vision, the government set out guidance to local authorities requiring councils to set out a Market Sustainability Plan and engage with providers to complete the Fair Cost of Care assessment (FCOC). Evidence of this was to be submitted to the government by October 2022 and will be used to support the future shaping of social care budgets.
- 2.2 The Fair Cost of Care exercise was completed, and submissions made to DHSC. Subsequently, the funding reforms and the funding to be made available to Councils to implement it were postponed for two years. However, Councils still had to submit an updated Market Sustainability plan that explained how they would support markets. This is included for information in **Appendix 1**.
- 2.3 Barnsley Council has continued to use its cost of care models it used in 22/23 as the baseline for determining fees for 23/24 as well as use the fair cost of care information as an additional source of information as part of the fee setting process.

ASC Market Sustainability and Improvement Funding

- 2.4 The 2023/24 funding settlement for local authorities includes an additional £400 million of new ringfenced funding for adult social care (£2.9M for Barnsley) to improve market sustainability and drive wider improvements in their areas. The funding includes a grant provided in 22/23 (£0.8M for Barnsley) to support the progress Councils have already made in increasing fees and cost of care exercises.
- 2.5 The published DHSC policy paper and guidance sets out expectations of how the funding should be spent conditions of the funding and the required reporting mechanisms. The following grant conditions would apply:

MSIF Grant Conditions	Indicative assessment of Barnsley's Position
<p>Condition 1 This is a ring-fenced grant and each local authority must allocate its full grant allocation on adult social care</p>	<p>The £2.9m allocated funding has been applied in full to adult social care.</p>
<p>Condition 2 the funding must be used to make improvements in one of the target areas. The government has selected 3 target areas, namely: (1) increasing fee rates (2) increasing ASC workforce capacity / retention (3) reducing adult social care waiting times</p>	<p>The allocated funding has been applied to increasing fee rates, which is one of the 3 target areas. (See Para 4.4).</p>
<p>Condition 3 Local authorities must provide the department with an initial and final report by 24 May 2023 and 22 May 2024 respectively to demonstrate that conditions and expectations of the grant have been met. Local authorities should use templates that are provided by DHSC</p>	<p>The template seeks confirmation of our use of the funding and Barnsley's fee rates for domiciliary care and 65+ residential / nursing for 23/24 and 22/23.</p>
<p>Condition 4 local authorities must also submit a new annex to the market sustainability plans. This annex will provide insight into local ASC market capacity, and assurance that plans are in place to meet local need for different types of care. Local authorities will need to report by way of a capacity plan and must submit this update to DHSC by 30 June 2023</p>	<p>Performance data on number of clients assessing care and units of care commissioned is available. Also, capacity data available to inform the capacity plan.</p>

3. PROPOSAL AND JUSTIFICATION

Residential and Nursing Care (Older People)

- 3.1 There are currently 32 providers and 43 Older People's Care Homes operating across the borough, providing 1870 beds. Of these homes, six are registered to deliver nursing care. Our current forecast spend (22/23) on residential and nursing care totals £25.384M (net of health funding).
- 3.2 In 2019, the council developed a cost-of-care model for determining the average cost of delivering residential care in Barnsley. The cost-of-care model was shared with the Barnsley Independent Care Home Association (BICHP) as part of the council's consultation on fees. This model was updated to reflect the cost of living pressures and include elements that reflected elements from the Fair Cost of Care modelling. This model was then discussed with the Care Association, and following feedback was revised.
- 3.3 Although the care home association (BICHP) will continue to lobby the council to offer a fee more aligned to the Fair Cost of Care outcomes, this remains unaffordable until funding is made available to pay for this. As such, the council has now set out

an 11.3% increase in the fee rates for residential and nursing care. The agreed fee rate for 22/23 reflects the 9.7% increase in National Living Wage and takes account of other cost pressures such as the Consumer Price Index (CPI) inflation, energy costs, etc.

- 3.4 Currently, the majority of care home providers within Barnsley are on the enhanced fee rate (that requires providers to pay the additional £1 above NLW). Some homes continue to reject the enhanced rate for affordability reasons due to the balance of council-funded and self-funded people they support. The Council has made efforts in the last couple of years to increase the fee rate to address the affordability concerns in relation to the enhanced rate. The additional costs are factored into the weekly fee paid by the council; however, where a provider has a majority of non-local authority-funded residents, the fees paid may not cover the additional costs.
- 3.5 The current weekly baseline fee (for those providers who have not accepted the £1 above national living wage) and enhanced rate (for providers who have accepted the £1 above national living wage) for residential care in Barnsley is as follows:

2023/24 Weekly Residential fee	Baseline rate	Enhanced rate
Standard residential care	£679.68	£728.71
Residential care (dementia)	£730.96	£788.74

*For Nursing care, the fees remain as above with the addition of the current FNC rate of £219.71 (as of 1st of April 2023).

- 3.6 The following table compares Barnsley's 23/24 standard residential care fee rates (based on the 11.3% uplift) with those of neighbouring South and West Yorkshire authorities:

	22/23	23/24	Annual uplift
Barnsley*	£652.82	£728.71	11.3%
Doncaster**	£582.78	£715.64	22.8%
Rotherham	£550.00	£606.00	10.2%
Sheffield	£547.00	Tbc	
Leeds	£601.00	£655.00	9.0%
Bradford	£595.98	£654.69	9.9%
Calderdale	£546.07	£631.06	15.6%
Kirklees***	£597.41	£676.36	13.2%

* Barnsley's rate includes the NLW+£1 care worker pay commitment

** Doncaster's 23/24 rates was uplifted to Fair Cost of Care rates

** Kirklees's rate includes an optional workforce related uplift scheme

Domiciliary Care

- 3.7 In November 2022 a new homecare framework contract was implemented and currently has 50 homecare providers. The average hourly rate in 22/23 was £20.67, which includes the requirement for providers to pay staff £1 above the national living wage, which all contracted providers signed up to. The gross cost to the Council of home care provision in 22/23 was £10.079M (net of health funding).
- 3.8 The Support to Live at Home (STLAH) contract allows for an annual uplift in the hourly fee to be considered by the council, considering market cost pressures and

affordability. This will include but is not limited to increases in the national living wage, pensions, rising costs of utilities, increasing fuel costs, and general inflation, e.g., Consumer Price Index (CPI) rate.

- 3.9 Providers have shared their concerns around the high levels of staff turnover, recruitment and retention, stating that they may be unable to meet the demands for good quality care as specified in the contract.
- 3.10 To address the above pressures, an uplift rate of 11.3% has been agreed for contracted home care providers. The 11.3% uplift to the hourly rate equates to a £2.33 increase per hour, giving an average hourly rate of £23.00, and covers the government-confirmed increase in national living wage (9.7%) and inflationary increases (10.1% CPI forecast rate) in non-staffing costs/overheads.
- 3.11 The following table compares Barnsley’s 23/24 average homecare hourly fee rates (based on the 11.3% uplift) with those of South and West Yorkshire authorities

Average Hourly rates*	22/23	23/24	Annual uplift
Barnsley**	£20.67	£23.00	11.3%
Doncaster	£20.54	£25.60	24.6%
Rotherham	£18.42	£22.47	22.0%
Sheffield	£19.30	tbc	
Leeds	£21.69	£23.66	9.1%
Bradford	£19.40	£20.92	7.8%
Calderdale	£20.26	£22.14	9.3%
Kirklees	£23.27	£25.14	8.0%

* Based on the average of the minimum and maximum framework rates

** Barnsley rates include the wage supplement of NLW+£1 to all care workers

Supported Living

- 3.10 Contracted providers deliver the council’s supported living provision via the Adult Community Support and Enablement Service (ACSES) framework contract. This aims to make sure that a larger range of needs can be met in the community, so fewer people will need to be provided for in settings such as specialist residential care or hospitals. There are currently seven contracted providers under the framework delivering core support (building-based provision) and standard care (individual client support).

The current hourly rates (22/23 baseline) under the ACSES contract vary between £18.08 and £22.73 to reflect the different provision types, with higher rates applicable to complex care provisions. The gross cost to the council of the supported living provision in 2022/23 (net of health contributions) is £8,346M.

- 3.11 The hourly fees were initially set at the point of contract procurement, with uplifts to be considered annually, taking into account market cost pressures, which will include but are not limited to national living wage increases. Expected cost pressures are similar to those for homecare providers outlined in paragraph 4.2.2
- 3.12 A uniform uplift of 9.6% has been agreed for all contracted providers in the ASCES framework contract and applied to the core and standard hours of care and sleep-in

arrangements.

Specialist Residential (LD/MH)

- 3.13 This covers specialist residential care providers (mainly learning disabilities and mental health) in and outside the borough who are not part of the older people residential care home framework contract. Gross spending to the council in 2022/23 (net of health funding) is £10.004M, with the fee payable ranging from £653 to £3,588 per week due to wide variation in needs.
- 3.14 Provision is usually arranged on a non-framework spot purchase basis, with fees negotiated separately and sometimes determined using the Care Funding Calculator (CFC). Fees for such provision are determined at the time of the placement subject to agreement with the provider (and form the basis of a contractual arrangement) and are influenced by the level of need for the person.
- 3.15 There is no standard methodology for agreeing annual uplift (as it is a non-contracted provision). It is based on individual requests from providers and agreed upon on a case-by-case basis, reflecting the diverse range of needs this group of people can have. However, work is currently ongoing with providers to establish a framework contract and an approach to determining fees (supported using the Care Funding Calculator).
- 3.16 A 10.3% fee uplift has been agreed for specialist residential care provision for 23/24. This uplift takes account of similar financial pressures as those in the older people residential framework contract, such as increases in National Living Wage, rises in energy costs, and general inflation (Consumer Price Index rate).
- 3.17 Given the wide variation in weekly fees and the range of specialist providers in use (in and outside the borough), the following approach has been agreed upon for 2023/24:
- Where costs have been set using the CFC and are currently within the agreed bandwidth, an update of the CFC will be completed. This would be subject to a case-by-case consideration following a request for uplift.
 - For past or old care packages where the CFC has not been used in setting the fee, the uplift would be limited to a maximum of 10.3% subject to a case-by-case consideration on request for uplift received from the provider.

Direct Payments

- 3.18 Direct payments (DP) represent funding given to eligible adult social care clients to promote independence, choice, and control. It allows service users to manage the care or support (For example: employ a personal assistant or use a home care agency of their choice) to meet their assessed needs that the council would otherwise have managed for them. Total direct payments made in 2022/23 (net of contributions and funding clawback during the year) amount to £7.486M.
- 3.19 An increasing number of DP recipients employ personal assistants to meet their personal care needs. Assistants are paid a varying range of hourly rates, where the

person who uses services is required as a minimum to comply with the national living wage requirements. However, the Council, by exception, will fund PAs at higher rates to reflect support needs.

3.20 Under the Care Act, there is a requirement to meet the assessed care needs of those eligible for support. Whilst there is no specific legal basis to uplift the DP for national living wage increases, failure to do so would leave the Council open to challenge. It would mean the DP rate is significantly below the new home care rate, and DP recipients would be unable to procure support to meet their assessed needs with the funding allocated to them. Given this, the following approach has been agreed for 23/24:

- Uplift (by 11.3%) the provisions for contracted homecare providers, used via a direct payment, in line with the average increase to homecare providers (see paragraph 3.9)
- Increase the rates paid for personal assistants by 9.7% (in line with the National Living Wage increase).
- Increase the rates paid for personal assistants on a higher rate than £1 above the national living wage by 4% in line with public sector pay assumptions.

Shared Lives Carers scheme

3.21 This scheme provides financial support to individuals and families (carers) who offer a person with a learning disability a short break/respite or long-term care in their own home. Shared lives carers are paid allowances (at different rates/banding that reflect needs) for the period of support/accommodation (long-term or respite) provided to service users. The total gross spend for 2022/23 on the scheme is £1.941M.

3.22 There is no legal basis for applying uplift for national living wage increases (as shared lives carers are deemed 'self-employed'). However, there is a justifiable reason to consider an inflationary uplift to allowances to cover the increase in general living costs (and support provided by carers).

3.23 In light of the above, it has been agreed to apply a 10.1% (CPI rate) inflation rate to the scheme costs. It is proposed that a higher uplift rate is applied to day-care/respite compared to long-term carers. This is to ensure fairness, address concerns on the impact of the cost of living increases, and bring day care/respite rates closer in line with neighbouring authorities shared lives rates. As all carers (except two) provide a mix of all services, no one cohort of carers would be disproportionately affected by the proposed changes in uplifted rates.

Other block and spot contracted provision

- 3.24 These cover a range of building-based care provisions provided by the independent sector and mainly relate to day-care, short stay placements or respite provision within a residential or nursing home setting or in an adult placement scheme. Total contracted spend across this range of provision is £1.830M in 2022/23.
- 3.25 Placements are usually arranged with specific providers through block contract arrangements based on service specifications and activity levels (e.g., number of beds). Alternatively, provision is arranged on a spot purchase / ad-hoc basis depending on the person who uses the services' needs.
- 3.26 Given the diverse nature of the service provided through these contracts (and the different contracting arrangements) an uplift up to the maximum of 10.3% has been agreed - to be considered and negotiated with providers on a case-by-case basis.

4. FINANCIAL AND RISKS

- 4.1 The council's Director of Finance (S151 Officer) or representative has been consulted as part of drafting this report.
- 4.2 The funding requirement built into the ASC budget for 23/24 for NLW / cost of care uplift across the range of care provision is **£7.1M**. The following assumptions inform the Council's budgetary provision:
- 22/23 forecast spend / outturn (Q3) used as the baselines
 - increase of 9.7% in National Living Wage (£10.42)
 - continuation of the increased pay (NLW+£1) to frontline care workers
 - rise in the cost of living and inflation (latest CPI inflation rate 10.1%)
 - exceptional factors, for example, rising energy/utility costs; etc
- 4.3 The following details the agreed fee uplift and funding requirement following changes to the Council's cost models/assumptions to address care providers' sustainability concerns:

	% Fee uplift rate	Funding Requirement £'000
OP residential care	11.3%	2.868
Specialist residential care	10.3%	1.030
Home care	11.3%	1.139
Supported living	9.6%	0.801
direct payment	11.3%	0.846
Block/spot contracts	10.3%	0.133
Daycare / Respite	10.3%	0.051
Shared Lives	10.1%	0.196
		7,065

- 4.4 The estimated uplift cost of £7.065M (based on forecast spend and activity levels in

2022/23) has been funded through the Council's MTFS process as follows:

- £2.9m – ASC improvement fund/market sustainability grant allocated for 23/24. This is in line with the grant conditions (see para 2.4 and 2.5), which expects councils to use this grant funding on adult social care.
- £2.2m – Other Council core resources (efficiencies).
- £2.0m – Council Tax Adult Social Care Precept (2%)

4.5 The following summarises some of the risks in relation to Adult Social Care budgets and cost of care for 2023/24:

- Rises in demand for care/support (i.e. activity levels) over and above the level assumed in the budget
- There is the risk that negotiated uplift rates (e.g. specialist residential provision) may come in higher than planned
- Actual operating costs/prices are higher than assumed in the cost models and, therefore, budgets – which may impact market sustainability.
- Increased cost pressures faced by care providers due to rising inflationary pressures (rise in general inflation and other costs, e.g. energy/utilities, etc.).
- Legal challenge (and associated legal costs) and reputational damage.
- Risk of providers leaving the care market and provider failure due to financial instability.
- Potential impact on prevention and early intervention, which keeps people from needing more expensive care packages/interventions.

5. LEGAL

5.1 The fee uplifts proposed in this paper align with existing contractual arrangements with care providers.

6. EQUALITY

6.1 Sustainable good quality provision should be available to all residents of Barnsley that need it, irrespective of individual financial circumstances.

7. SUSTAINABILITY

7.1 Sustainability and capacity levels in the care market are monitored to make sure the authority can fulfil its statutory duties to meet the needs of an adult who may need care and support. The council is responsible for dealing with provider failure and making sure they have continuity of care.

7.2 Ensuring care home fees are set within an appropriate cost model will support providers to remain sustainable, maintaining current provision and therefore giving the people of Barnsley a greater choice and avoiding the necessity of having to look outside the borough for a care home that can meet their needs.

8. EMPLOYEE

8.1 There are no implications for council employees associated with this report. The intended impact will be to improve the pay and conditions for those employed in the

independent sector market, encouraging better recruitment and retention of good quality staff.

9. COMMUNICATIONS

- 9.1 The Council's approach and decision on fee increases for 2023/24 would need to be communicated to care providers. This is to assist care providers in their planning and to help agree on terms of pay with their care staff.
- 9.2 Barnsley Council communications and marketing team will assist with messages and accompanying press releases, media communications and messages on Council platforms linking in with our Proud to Care campaign, highlighting the benefits of working in care.

10. CONSULTATIONS

- 10.1 Whilst no formal consultation is required to support fee uplifts, officers from the council have consulted with the Barnsley Independent Care Home Provider Association to discuss fee proposals for residential care homes. Further correspondence has also been received from a number of other care providers, and these will be responded to on a case-by-case basis.

11. ALTERNATIVE OPTIONS CONSIDERED

- 11.1 There is a duty on the Council to ensure the sustainability of the care market, including all care providers and that fees are set at a level that reflects the cost of providing care in the local area. This means that the Council needs to consider market costs and other pressures facing providers in setting fees and deciding on annual uplifts. Section 3 of this report outlines the various approaches to determining fee uplift to providers for the different types of provision

12. LIST OF APPENDICES

- 12.1 Appendix 1 - Market Sustainability Plan

13. REPORT SIGN OFF

If you would like to inspect background papers for this report, please email governance@barnsley.gov.uk so that appropriate arrangements can be made.

Financial consultation & sign off	Senior Financial Services officer consulted and date <i>Joshua Amahwe (24/03/2023)</i>
Legal consultation & sign off	Legal Services officer consulted and date <i>Marianne Farrell, Team Leader (Social Care) (5th April 2023)</i>

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