

BARNSLEY METROPOLITAN BOROUGH COUNCIL

REPORT OF: EXECUTIVE DIRECTOR PLACE HEALTH & ADULT SOCIAL CARE

TITLE: Adult Social Care Fee uplift 2022/23 (community-based support including residential and specialist provision)

REPORT TO:	Cabinet
Date of Meeting	27 July 2022
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 2022/23. 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

The market's capacity directly impacts the authority's ability to make sure people who need extra support are provided with good quality care in their homes or a community setting. Performance on these arrangements forms part of the council's performance management framework and is part of national returns.

The proposals set out support the council's aim for promoting an inclusive economy, promoting a stable and sustainable environment that allows providers to grow and develop their businesses. It will help more people to work in the sector and encourage significant equity for roles across Barnsley.

Recommendations

That the Cabinet consider the approach taken in respect of the various community support provision and approve the uplift in fees for 2022/23 as outlined in section 4 of this report.

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, including community-based support – which covers a range of provisions such as 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.
- 1.2 The approach to setting fees and agreeing to appropriate uplifts is set out in the 'Adult joint commissioning, pricing and fee review strategy'. The strategy aims to assure all stakeholders, including care providers, that arrangements for determining fees and uplifts are 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.
- 1.3 The implementation of the national living wage (NLW) in 2016 meant that local authorities need 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 2022/23 (effective from 1 April 2022) at £9.50 (for workers aged 23 and above).
- 1.4 The council continues to honour the commitment to support direct care workers financially through the decision made in February 2020, when the Leader of the council announced the intention to make sure all direct care providers were paid £1 above the national living wage under the council's Adult Social Care contracts. Barnsley Clinical Care Group also supported this approach. This continues to ensure the majority of direct care workers are paid a minimum of £10.50 per hour across contracted services. £10.50 aligns favourably with NHS Band 3 posts which is a significant shift and gives recognition to work of the care sector.
- 1.5 Cost of living has had a significant impact on the market. Pressures across food, insurance and fuel prices have driven up costs across many areas, including how care and support is provided to people in Barnsley. The following paragraphs outline the approach and the proposed fee uplift for the various types of adult social care community-based support provision to ensure on-going market sustainability.

2. PROPOSAL

2.1 Residential and Nursing Care (Older People)

- 2.1.1 Barnsley currently has 44 care homes operating under a framework agreement for residential and nursing care. As from 20 May 2022, the council-funded 588 placements across those homes and a further 41 placements out of the borough at a gross cost to the Council of £23.325M (net of health funding).

- 2.1.2 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 (BARNSTABLE INDEPENDENT CARE HOME PROVIDERS)) as part of the council's consultation on fees. The association has previously rejected the costs of care model's fees; however, fee rates based on this model have been accepted for 2022/23.
- 2.1.3 Following discussions with the care home association (BICHP), the council has now reached an agreement on a 10.6% increase in the fee rates for residential and nursing care. The agreed fee rate for 2022/23 reflects the 6.6% increase in National Living Wage and takes account of other cost pressures such as the 1.25% National Insurance Contributions levy, Consumer Price Index (CPI) inflation, energy costs, etc.
- 2.1.4 Following a re-tender exercise for the residential care home framework, 31 out of 43 (72%) care homes have now accepted the enhanced rate (the rate that requires providers to pay the additional £1 above NLW); this is an increase of five from the 26 homes reported in the last financial year. 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 enhanced rate requires providers to pay all direct care staff £1 above the national living wage. 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.
- 2.1.5 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:

2020/21 Weekly Residential fee	Baseline rate	Enhanced rate
Standard residential care	£607.44	£652.82
Residential care (dementia)	£654.94	£708.65

* For Nursing care, the fees remain as above with the addition of the current FNC (Funded Nursing Care) rate of £209.19 FNC increased annually - Figure as of 1st of April 2022.

2.2 **Domiciliary Care**

- 2.2.1 In 2021/22 23% of home care provision was delivered via the Support to Live at Home (STLAH) framework contract, at an average hourly rate of £18.52 (baseline 2021/22). This includes the requirement for providers to pay staff £1 above the national living wage which all contracted providers signed up to. 77% of home care purchasing is with non-contracted providers under a spot purchasing arrangement at an average hourly rate of £19.68. The gross cost to the council of home care provision in 2021/22 was £9.271M (net of health funding).

- 2.2.2 There are currently four homecare providers within the STLAH framework. A further 50 providers operate outside the framework under a spot contract arrangement. The total number of commissioned home care hours for 2021/22 was 754,964.
- 2.2.3 The 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, national insurance contributions, rising costs of utilities, increasing fuel costs, and general inflation e.g., Consumer Price Index (CPI) rate.
- 2.2.4 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.
- 2.2.5 To address the above pressures, an uplift rate of 9% has been agreed for contracted home care providers. The 9% uplift to the hourly rate equates to a £1.66 increase per hour, giving an average hourly rate of £20.18, and covers the government confirmed increase in national living wage (6.6%) and inflationary increases (5.4% CPI forecast rate) in non-staffing costs/overheads.
- 2.2.6 The council is not required to pay the proposed 9% uplift to non-contracted providers as there is no written contract for these arrangements and Providers are generally priced higher than contracted providers, with average rates for 2021/22 showing as £19.68.
- 2.2.7 To align costs across contracted and non-contracted providers, commissioners have offered non-contracted providers an increase of 6%. This uplift covers the 6.6% increase in staff costs associated with the increase in the national living wage and a nominal uplift for inflation. 23 providers have accepted the 6% offer giving an average hourly rate of £20.36. (Please note this includes 4 providers with rates of £23+) The average excluding outliers is £19.57.
- 2.2.8 The Commissioning Plan for 2022/23 includes creating a new framework agreement to address the levels of spot activity and mitigate the risk of increased costs. We expect most spot providers will join the newly commissioned framework contract.

2.3 **Supported Living**

- 2.3.1 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).

- 2.3.2 The current hourly rates (21/22 baseline) under the ACSES contract vary between £16.59 and £20.24 to reflect the different provision types, with higher rates applicable to complex care provision. The gross cost to the council of the supported living provision in 2021/22 (net of health contributions) is £12.389M.
- 2.3.3 The hourly fees were initially set at the point of contract procurement, with uplifts to be considered annually, considering market cost pressures, which will include but are not limited to national living wage increases. Expected cost pressures are similar to those for domiciliary providers outlined in paragraph 2.2.3
- 2.3.4 A uniform uplift of 9% has been agreed for all contracted providers in the ACSES framework contract based on NLW increases and applied to the core and standard hours of care and sleep-in arrangements.

2.4 Specialist Residential (LD/MH)

- 2.4.1 This covers specialist residential care providers (learning disabilities and mental health) in and outside the borough who are not part of the older people residential care home framework contract. Gross spend to the council in 2021/22 (net of health funding) is £8.966M, with the fee payable ranging from £696 to £3,459.37 per week due to wide variation in needs.
- 2.4.2 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.
- 2.4.3 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 on a case-by-case basis. However, work is currently ongoing with providers to establish a framework contract and an approach to determining fees (supported using the Care Funding Calculator).
- 2.4.4 A 6.8% fee uplift has been agreed for specialist residential care provision for 2022/23. This uplift takes account of similar financial pressures as those in the older people residential framework contract, such as increases in National Living Wage (NI), NI contribution levy, rises in energy costs, and general inflation (Consumer Price Index rate).
- 2.4.5 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 2022/23:
- 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 6.8% subject to a case-by-case consideration on request for uplift received from the provider.

2.5 Direct Payments

- 2.5.1 Direct payments (DP) represent funding given to eligible adult social care clients to promote independence, choice, and control. It allows service users to manage their 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 2021/22 (net of contributions and funding clawback during the year) amount to £8.809M.
- 2.5.2 An increasing number of DP recipients employ personal assistants to meet their personal care needs. Assistants are paid a varying range of hourly rates., the person who uses services' is required as a minimum to comply with the national living wage requirements.
- 2.5.3 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 2022/23:

- Uplift (by 9%) the current DP hourly rate from £17.24 to £18.79 per hour. Whilst this rate falls below the average hourly rate paid for home care there are a small number of providers whose fees are within this. This is an area that commissioners will be looking at further in 2022/23.
- Increase the rates paid for personal assistants to £1 above the national living wage.
- Increase the rates paid for personal assistants on a higher rate than £1 above the national living wage by 5.4% in line with the Customer Price Index (CPI) rate for inflation.

2.6 Shared Lives

- 2.6.1 This scheme provides financial support to individuals and families (carers) who offer a person with a learning disability a short break 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 2021/22 on the scheme is £1.947M.
- 2.6.2 There is no legal basis to apply 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).

- 2.6.3 In light of the above, it has been agreed to apply a general inflationary uplift of 5.4% (CPI rate) to all the different rates/banding in the shared lives scheme.

2.7 **Other block and spot contracted provision**

- 2.7.1 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 £1.194M in 2021/22.
- 2.7.2 Placements are usually arranged with specific providers through block contract arrangements based on service specification 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.
- 2.7.3 Given the diverse nature of the service provided through these contracts (and the different contracting arrangements) an uplift up to the maximum of 6.8% has been agreed - to be considered and negotiated with providers on a case-by-case basis.

2.8 **National living wage**

- 2.8.1 Contracted providers benefitted from an additional increase in rates in December 2021. This increase was to allow providers to bring forward the increase to the national living wage and aid the recruitment and retention of care staff. Fees were increased by approx. 4% from 29 November 2021. This has now been included within the fee uplifts proposals for 2022/23.

2.9 **Social care reform – market sustainability and fair cost of care**

- 2.9.1 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 should be submitted to the government by October 2022 and will be used to support the future shaping of social care budgets.
- 2.9.2 The local authority is currently working with providers using toolkits developed by ARCC HR Ltd (for Home Care) in association with the Local Government Association (LGA) and Association of the Directors of Adult Social Services (ADASS) and Improvement and Efficiency Social Enterprise (IESE) (for residential care) to complete the FCOC exercise, a further, more detailed report will be brought to cabinet on completion of this exercise.
- 2.9.3 The government's impact assessment suggests increasing the basic costs of care that councils currently pay. This year £0.8M funding was made available to the council to support shifting the cost of care onto a more sustainable model. As a result, the above funding was used to support fee increases for

providers and start to address some of the challenges expected when fully implemented in 2023.

3 IMPLICATIONS OF THE DECISION

3.1 Financial and Risk

- 3.1.1 The Council's S151 officer or representative has been consulted as part of drafting this report.
- 3.1.2 The initial funding requirement built into the ASC budget for 2022/23 for NLW / cost of care uplift across the range of care provision is £3.6M (excluding demographic growth impact). The following assumptions inform the council's budgetary provision for 2022/23:
- 2021/22 forecast spend / outturn (Q2) used as the baselines
 - increase of 6.6% in National Living Wage (£9.50)
 - continuation of the increased pay (NLW+£1) to frontline care workers
 - new health & care levy, and rise in NI Contributions of 1.25% from April 2022
 - rise in the cost of living and inflation (latest CPI inflation rate)
 - exceptional factors, for example, rising energy/utility costs; etc
- 3.1.3 Concerns continue to be expressed, in discussions with care providers, regarding the Council's fee rates and the impact on capacity and market sustainability (i.e., not reflective of the true cost of providing care in Barnsley). As a result, the following approach was agreed upon:
- Review the 2022/23 cost of care models/uplift assumptions to address current sustainability concerns.
 - Over the medium term, develop a sustainable cost of care model based on a fair fee rate as required under the Adult Social Care reforms and cost of care policy guidance.
- 3.1.4 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	10.6%	2.406
Specialist residential care	6.8%	0.614
Home care	9.0%	0.707
Supported living	9.0%	0.756
direct payment	9.0%	0.659
Block/spot contracts	6.8%	0.040
Daycare / Respite	6.8%	0.029
Shared Lives	5.4%	0.105
		5,316

3.1.5 The annual uplift is estimated to cost £5.316M (based on forecast spend and activity levels in 2021/22). The above funding requirement has been mainly addressed via the Council's medium-term financial strategy (MTFS) - £3.6m, with the balance to be funded as follows:

- £0.9m – market sustainability grant allocated for 2022/23. The grant conditions allow councils to use this grant funding to increase fee rates as appropriate to local circumstances.
- £0.6m – increase in Better Care Fund (BCF) funding for 2022/23 (subject to approval by the CCG/HWB). A growth of 5.3% is anticipated for the year.
- £0.2m – from within ASC baseline budget for 2022/23 (for example, from increased service user/health funding).

3.1.6 The following summarises some of the financial risks in relation to Adult Social Care budgets and cost of care for 2022/23:

- 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 on 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.).
- Service users with assessed care needs choose not to access care and support due to the cost of client contributions
- Increased debts as a result of non-payment of client contributions.

3.2 Legal

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

3.3 Equality

3.3.1 Equality Impact Assessment Pre-screening completed determining full EIA not required

3.4 Sustainability

3.4.1 Decision-making wheel not completed – report relates directly to fees paid to care providers for existing adult social care services.

3.5 Employee

3.5.1 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.

3.6 Local people/service users

- 3.6.1 Overall, the increase in fees will help secure sustainable and diverse adult social care support for people focusing on outcomes, wellbeing, quality, and choice, where service users will be safer and enjoy a better quality of life.
- 3.6.2 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 greater choice and avoiding the necessity of having to look outside the borough for a care home that can meet their needs.

3.7 Communications

- 3.7.1 The council's approach and decision on fee increases for 2022/23 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.
- 3.7.2 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.

4. CONSULTATION

- 4.1 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.
- 4.2 The care sector is being consulted on the Fair Cost of Care as outlined in 4.9 of this report.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 There is a duty on the council to ensure the sustainability of the care market, including all care providers and those 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 4 of this report outlines the various approaches to determining fee uplift to providers for the different types of provision.

6. REASONS FOR RECOMMENDATIONS

- 6.1 Section 5 of the Care Act places a mandatory requirement on Councils to facilitate a diverse, sustainable high-quality market for their whole local population, including those who pay for their own care and to promote efficient and effective operation of the adult care and support market as a whole. Ensuring care providers are paid a fair fee requires councils to carry out annual fee reviews and where appropriate uplift fees to reflect increasing cost pressures such as national living wage and inflation.

- 6.2 The Health and Care Act 2022 places a requirement on councils to complete a fair cost of care exercise with its care market during the 2022/23 financial year. Ensuring fees are uplifted to reflect increasing costs should ensure that fees paid are reflective of the costs incurred by care providers.

7. LIST OF APPENDICES

None

8. BACKGROUND PAPERS

None

9. REPORT SIGN OFF

Financial consultation & sign off	Joshua Amahwe (08/06/2022)
Legal consultation & sign off	Approved by Deborah Broadhurst – Legal Services 15 th June 22

Report Author: Sharon Graham/Joshua Amahwe
Post: Head of Service Adult Joint Commissioning/Strategic Finance Manager