

# Adult Social Care Committee

Item No.....

<b>Report title:</b>	<b>Fee levels for adult social care providers 2019/20</b>
<b>Date of meeting:</b>	<b>14 January 2019</b>
<b>Responsible Chief Officer:</b>	<b>James Bullion, Executive Director of Adult Social Services</b>

## **Strategic impact**

Norfolk County Council (the Council) invests more than £280m a year in purchasing adult social care services from the market. The Council has legal duties under the Care Act 2014 to promote the effective and efficient operation of this market including its sustainability including setting and maintaining adequate fee levels.

## **Executive summary**

The Care Act requires the Council to promote the effective and efficient operation of the care market to secure the sustainable supply of high quality care services for adults in Norfolk. The Council purchases almost all adult social care services from the care market investing more than £280m annually. The prices that the Council pays must continue to reflect the actual cost of care having due regard to inflationary pressures to secure sustainable supply.

The Council continues to implement key strategies and approaches that directly affect the care market including Living Well, Promoting Independence and the Commissioning and Market Shaping Framework.

The Council has developed an inflationary pressures price adjustment mechanism working with the provider market. This mechanism enables prices to reflect increases in the national minimum/living wage announced in the Autumn budget statements as well as the estimate for Consumer Price Index (CPI) inflation calculated by the Office of Budget Responsibility (OBR) and actual wage rates from the National Minimum Data Set (NMDS). This means that the increases proposed are above the core price inflation included in the growth pressures for the Adult Social Care Committee (the Committee).

Additional growth pressures have been included within the budget plans for 2019/20 to manage both increase in prices arising from the cost of care exercise and impact of increases in the national living wage in 2018/19. This report sets out the recommended approach for 2019/20.

## **Recommendations**

**The Committee is recommended to consider and agree the approach to fee uplifts for the 2019/20 financial year as set out below:**

- a) In respect of contracts where an inflation index or indices are referenced an uplift is implemented to match any changes in the relevant index or indices**
- b) In respect of contracts where there is a fixed price for the duration of the contract, no additional uplift in contract prices takes place**
- c) In other contracts, where the Council has discretion in relation to inflationary uplifts, that uplifts are considered in line with those set out in this report**
- d) In the case of residential and nursing care any final uplift including other adjustments is subject to formal consultation with implementation being through the use of Chief Officer delegated powers following that process**

## 1. Proposal

- 1.1 The proposal is to implement fee uplifts for the 2019/20 financial year in accordance with specific contractual obligations where they exist and otherwise as set out in the table below:

**Table 1 Inflation Uplifts by Sector**

<b>Sector</b>	<b>2018/19</b>
Home Support spot	5.56%
Home Support framework Band 1	4.83%
Residential and Nursing older people	4.09%
Residential and Nursing working age adults (including physical disabilities)	3.79%
Day Care	3.00%
Supported Living	3.60%
Supported Accommodation	2.00%
Direct Payments*	4.83%
Carers	4.83%
Other	2.00%

\* Direct payments are proposed to be increased by 4.83%. It has been estimated that 48% of the £28.8m spend on Direct Payments is used to employ a personal assistant. An inflationary increase of 9.37%, has been allowed for this element of spend. The remaining areas of Direct Payment spend has had a CPI increase of 2.00% applied.

## 2. Evidence

### 2.1 The legal framework Care Act 2014

- 2.1.1 The Care Act places duties on local authorities to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves or in other ways.
- 2.1.2 The ambition is for local authorities to influence and drive the pace of change for their whole market leading to a sustainable and diverse range of care and support providers, continuously improving quality and choice, and delivering better, innovative and cost-effective outcomes that promote the wellbeing of people who need care and support.
- 2.1.3 The statutory guidance to the Care Act requires local authorities to commission services having regard to cost effectiveness and value for money. The guidance also states, however, that local authorities must not undertake any actions that might threaten the sustainability of the market as a whole, that is the pool of providers able to deliver the services required to an appropriate quality - for example by setting fee levels below an amount which is not sustainable for providers in the long term. The guidance emphasises the need to ensure that fee levels are sufficient to enable providers to meet their statutory obligations to pay at least the national minimum wage and provide effective training and development of staff.

### 2.2 Contracts

- 2.2.1 The Council spends over £280m a year in securing the care services needed through a large number of contracts. These contracts contain legally binding provisions regarding fee levels and often the treatment of inflationary and deflationary pressures on the fee levels which vary from contract to contract. The various contractual requirements are described below.

2.2.2 At current usage rates the fee levels proposed in this report would add £11.2m to the value of our total investment in the care market in 2019/20. This is considered to be essential to enable the Council to continue to discharge its legal obligations as well as securing stable supply in the longer term

## 2.3 Indexation of prices

2.3.1 These contracts specify an annual variation by reference to a specific price index or indices. In these cases, the Council is contractually obliged to apply whatever the indexation requires by way of price variation.

## 2.4 Fixed prices

2.4.1 These contracts set a fixed price for the duration of the contract. The Council is not contractually obliged to adjust prices in these types of contracts.

## 2.5 Pre-agreed tendered prices

2.5.1 In these contracts the provider is required to set out in advance the prices they require over the life of the contract including their assessment of inflation with no facility for altering those prices. In these circumstances the Council is not contractually obliged to make any changes to prices but has a discretion to consider changes in wholly exceptional circumstances.

## 2.6 Prices subject to annual inflation consideration

2.6.1 These contracts typically require the Council to consider any changes in provider costs that may have occurred in the previous year and/or may occur in the forthcoming year and to make adjustments to reflect these changes at its discretion. In exercising its discretion the Council must have due regard to its market shaping duties under the Care Act. The proposed inflationary uplifts in respect of contracts where the Council is required to consider inflation each year are shown in Table 1 above.

## 2.7 Home Support

2.7.1 In 2017 an overarching framework approach was initiated to improve delivery of homecare. During this period analysis of arrangements was undertaken to determine how far the framework contributed to improving and stimulating local markets, supported sustainability and growth of the market and improved the amount of NCC's investment that actually reached carers. It is important to note that there are a variety of providers in the market which include: big national providers with a local operation, business led organisations with a focus on return on investment and smaller enterprises with low overheads. NCC recognises the need to support more efficient ways of working if the Norfolk market overall is to remain sustainable.

2.7.2 The review has highlighted that the framework approach has some very clear advantages including enabling provision to be established at pace and agreements to be formed based on service types however banded pricing has not driven the growth that is required in the market. A factor which providers are clear about is that guarantee of investment drives certainty about capacity. Hence it is proposed to make adjustments to our current strategy as follows:

### 2.7.3 Table 2 – Home Support Framework Pricing

Contract	Hourly rate 19/20
Framework contracts	
Band 1	£18.24
Band 2 (no change)	£19.68
Band 3 (no change)	£21.72
Spots	£18.24

2.7.4 This inflation approach will support the continued development and expansion of the homecare market. As the framework approach becomes business as usual the option of guaranteed hours will facilitate growth of the sector, more collaborative working and service development and improvement. Equalising rates between the framework and spots and emphasizing the use of framework providers to drive improvements and developments will be discussed with providers in the new year and forms the next phase of the homecare strategy.

## 2.8 Independent residential and nursing care for older people

2.8.1 In the case of residential and nursing care for older people provided by the independent market the Council has undertaken a cost exercise with the market and as a result has calculated the cost of providing care as detailed in Table 3. Cost of care increases proposed are independent of any inflationary uplift.

2.8.2 The cost model, developed as part of the cost of care process for older people, was reviewed during the course of 2018/19 to enable usual prices to be determined for 2019/20 and onwards. The cost model has been developed with providers and consideration has been given to value for money, sustainability and quality. Actual costs of care were considered by applying relevant inflationary uplifts to pay and non pay elements in the cost model. Adjustments were made for potential increased staffing due to complexity and regulation among other factors.

2.8.3 For residential and nursing care there is a requirement to complete a consultation process prior to the implementation of any usual prices for 2019/20. It is intended to commence this process on 16 January 2019 closing on 13 February 2019. It is proposed that implementation of the new prices will be undertaken through the exercise of delegated powers as approved at the 29 April 2016 Committee meeting.

2.8.4 Detailed below are the proposed usual prices for residential and nursing care provided by the independent sector for older people in 2019/20, including the cost of care increase and inflationary pressures for older people. For completeness the inflationary element is also set out in Table 1 above.

**Table 3 Residential and Nursing Care – cost of care and inflationary uplift**

Older People	A	B	C	D	E
Single Room Only	2018/19 Usual Price	19/20 Cost of Care % increase	19/20 Price inflation % increase	19/20 Total % price increase	Proposed 2019/20 Usual Price
Band					
Residential - Standard	£496.61	3.79%	4.09%	8.03%	£536.49
Residential - Enhanced	£555.96	6.85%	4.09%	11.22%	£618.37
Nursing - Standard	£518.62 + FNC of £158.16 = £676.78	2.61%	4.09%	6.81%	£553.94+FNC of £158.16 = £712.10
Nursing - Enhanced	£544.96 + FNC of £158.16 = £703.12	6.00%	4.09%	10.34%	£601.30 + FNC of £158.16 = £759.46

\*1 The Funded Nursing Care (FNC) is set nationally by the Government and the figure included in the above table may be subject to change.

## 2.9 Independent residential and nursing care for working age adults (WAA)

2.9.1 Packages of care for WAA have a range of pricing structures in place and in many cases are specific to needs being met. An overarching review of all WAA care packages is being undertaken and hence current costs will be inflated with no other changes and no cost of care adjustments.

## 2.10 Day Care and Supported Living

2.10.1 The annual cost for these services has been assessed and uplifts outlined in Table 1. These uplifts are above the Office of Budget Responsibility (OBR) forecast for inflation over the next year and reflect the diversity of provision in the market and projected demand for these services going forward. Day Care and Supported living continue to be reviewed in terms of strategic relevance and cost over the coming year.

## 2.11 Approach for evaluating cost changes for 2019/20.

2.11.1 The Council introduced a provider dialogue process during 2016 and this has enabled the development of an inflation adjustment mechanism which underpins the proposed uplifts to support the Council in the exercise of its discretion as set out in Table 1 above. Dialogue has continued with providers and provides a sound basis for exploring cost pressures.

2.11.2 The basis for evaluating price changes is set out below:

**Table 4**

Cost	Market Sector	Evidence
Pay	All	National minimum dataset
Prices	All	Office of Budget Responsibility October estimates for inflation in 2019-20
Pensions	All	Relevant auto enrolment rate

2.11.3 The key cost drivers affecting care provision are:

- a) General inflation, is based on the County Council's financial planning forecast of 2.0%. This is considered reasonable when compared to the OBR October forecast for inflation of 2.0% in 2019 and 2.0% in 2020. The overall rate for 2019/20 is 2.0%
- b) The national living wage, which will increase from £7.83 to £8.21 from April 2019 represents a 4.85 % increase. The national minimum dataset information sets out actual pay rates which tend to be slightly above the national living wage. The Council recognises however that in order to compete in the labour market increases in pay rates in line with increases in the national minimum wage rates will be required. In addition, the council recognises that pay differentials need to be supported to aid retention of skilled and experienced staff

2.11.4 It is proposed that Direct Payments budget is increased by 4.83 %. Direct payments reflect costs relating to both services and direct employment. The increase therefore needs to enable those that directly employ staff i.e. as personal assistants, to pay in line with the national living wage. The proposal would enable the hourly rate for care to increase to £8.46. Other costs would be increased by inflation at 2.0%. In addition, other mechanisms are in place that will ensure that an individual is able to meet their assessed unmet eligible needs, including reviews of needs and support plans to ensure that they accurately reflect those needs.

## 2.12 Consideration of affordability – budget planning

- 2.12.1 Having taken due consideration of cost pressures in the various care market sectors together with quality and sustainability the Council needs to take into consideration the level of increase that is affordable in the light of other pressures and priorities.
- 2.12.2 The financial context continues to be challenging. Overall, councils will see a reduction in central government support to local government of £16bn between 2010 and 2020, with a local impact of £218m. Independent estimates show the national social care funding gap is set to reach £2.1bn by 2020 and locally in this financial year we are targeting delivery of £27m savings with a further £38m of recurrent savings by 2022, which is due in part to £33m of potential inflationary pressures and £22.1m of expected demographic pressures over the next three years.
- 2.12.3 The Strategic and Financial Planning paper to this Committee, sets out the wider financial position and the impact of the Autumn Budget 2018 and Local Government Finance Settlement. The medium term financial strategy agreed by the County Council in February 2018 identified a funding gap of £94.7m between 2019 and 2022. As part of the revised financial strategy in September 2018, additional savings were required including an additional £11.9m of savings within adult social care, which are set out within the budget planning paper to this Committee. At October 2018, there remained an additional gap to be closed across the three year planning period of £45.980m. This figure will be revised and reported to January 2019 Policy and Resources Committee, following the budget planning process and the local government finance settlement, but is expected to increase.
- 2.12.4 The Council's plans are based on the government's spending plans.
- 2.12.5 There is no specific support for the implications of legislative changes to national living wage on provision of social care and these costs have to be met within the Council's financial means. The future financing of social care will be set out in a Green Paper, which was intended to be published in 2017, however this has now been postponed until spring 2019.
- 2.12.6 To provide additional support for social care, in 2016/17 the Government introduced the Adult Social Care precept, giving local authorities with social care responsibilities the flexibility to raise an additional 2% on council tax. For Norfolk County Council the precept is forecast to provide funding of £10.8m in 2019/20. The Council's medium term financial plans include budget assumptions for council tax increase. The Council is currently consulting on a general council tax increase of up to 2.99% for 2019/20. As the Council increased the adult social care precept by 3% in 2017/18 and 3% in 2018/19, which was the maximum increase allowed over the period 2017/18 to 2019/20, there can be no increase to the adult social care precept in 2019/20.
- 2.12.7 In addition, the Local Government Finance settlement, include announcements regarding a continuation of the winter funding for a further year totaling £4.178m and one-off funding for social care (including Children's social care) of £7.1m. Both funds are one-off and therefore use of this funding to support recurrent pressures gives rise to an increased unfunded pressure in 2020-21.
- 2.12.8 The winter funding is one off ring-fenced funding for adult social care and is subject to inclusion within the Better Care Fund and Department of Health and Social Care reporting. The purpose is to support provision of social care to alleviate pressures within the NHS.
- 2.12.9 In total the service is budgeting for additional net pressures of £20m in 2019/20.
- 2.12.10 The budget plans for 2019/20 have included growth for inflationary cost pressures for pay

and non-pay budgets (price inflation at 2.0%); legislative changes, demographic cost pressures for adult social care of £6.1m.

- 2.12.11 These plans for adult social care services require net savings to be delivered amounting to £17.9m in 2019/20 to enable services to both be delivered within reduced funding and to enable increased investment in the service to support unavoidable cost pressures.
- 2.12.12 Delivery of net savings of £17.9m, would enable a further £20.6m to be invested in the care market to cover demand, inflationary increase, the impact of the national living wage increase, and to work towards the increases identified through the cost of care review. However, there is insufficient funding to apply the cost of care increase in full. The Council's methodology has been to set its usual prices between the total operating costs level and the operating costs plus returns. Taking into account the three year financial position, uncertainty about future funding, the level of savings already required and the extent that the service is in receipt of one-off funding, it is proposed that the increase to a revised usual price should be phased over a two year period with 75% paid in 2019/20 with the remaining cost of care increase paid in 2020/21.
- 2.12.13 Despite this, the proposed level of investment enables a core inflationary increase totalling £5.4m; additional costs arising through the older people residential cost of care review of £2.9m; and an additional £5.741m to manage the impact of the national living wage.
- 2.12.14 In overall terms this enables inflationary pressures on pay, including the impact of the national minimum wage as determined by our cost model, to be funded in full.
- 2.12.15 Application of the process described in 2.11 in conjunction with factors including effective operation in the market, alternative ways of working and innovative business practice, as well as the overall affordability for the Council, have resulted in the proposed uplifts detailed in Table 1. (section 1.1)

### **3 Financial Implications**

- 3.1 The financial impact of the recommended price uplifts, excluding cost of care totals is £11.118m in 2019/20. This increase is included in the budget proposals set out to Committee elsewhere on this agenda. In addition, the budget proposals to be agreed by County Council will include a further increase in fee levels for older people residential and nursing to reflect the changes arising from the cost of care review and after taking into account affordability, as set out in this paper. These changes are included in the usual price proposals set out in Table 3 of this report. The additional cost of care increase totals £2.9m for 2019/20.

### **4. Issues, risks and innovation**

- 4.1 The Care Act requires councils with adult social care responsibilities to promote the effective and efficient operation of the market so that sustainable value for money quality services are available to care consumers. If a provider fails, the Council has specific responsibilities to ensure that services remain available to meet needs.
- 4.2 The Committee has approved a new Commissioning and Market Shaping Framework which supports the development of detailed sector-based plans that will be further developed working with providers and care consumers to realise the Promoting Independence strategy.
- 4.3 Combined with the strengths-based approach to care needs assessment and review greater effectiveness and efficiency will be secured.

## 5. Background

5.1 The Committee reports dealing with the Cost of Care considered on 29 April 2016 and 10 October 2016 are relevant to the proposals regarding uplifts in the residential and nursing care market sectors.

### 5.2 Background Papers –

[Usual price of residential and nursing care in Norfolk 29 April 2016](#) – p4

[Usual price of residential and nursing care in Norfolk 10 October 2016](#) - p55

## 6 Recommendations

6.1 The Committee is recommended to consider and agree the approach to fee uplifts for the 2019/20 financial year as set out below:

- a) In respect of contracts where an inflation index or indices are referenced an uplift is implemented to match any changes in the relevant index or indices
- b) In respect of contracts where there is a fixed price for the duration of the contract, no additional uplift in contract prices takes place
- c) In other contracts, where the Council has discretion in relation to inflationary uplifts, that uplifts are considered in line with those set out in this report
- d) In the case of residential and nursing care any final uplift including other adjustments is subject to formal consultation with implementation being through the use of Chief Officer delegated powers following that process

### Officer Contact

If you have any questions about matters contained in this paper or want to see copies of any assessments, eg equality impact assessment, please get in touch with:

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