



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

CABINET

Thursday, 6 April 2023

Report of the Executive Director - Adult Social Care and Health

Home Care and Day Care Fee Proposals for 2023-24

(Cabinet Member for Adult Care)

1. Divisions Affected

1.1 County-wide

2. Key Decision

2.1 This is a key decision because it is likely to result in the Council incurring expenditure over £500,000

3. Purpose

3.1 To seek Cabinet approval;

- to make an inflationary increase of 9.2% for independent sector home care provision from 1 April 2023
- to increase travel/visit rates by an average of 9% from 1 April 2023
- to increase the fee rate for in-house home care and extra care provision from 1 April 2023 by 9.2%
- to make an inflationary increase of up to 9.2% for specialist home care placements where evidence is provided of inflationary pressures
- to make a standard inflationary increase of 9% for day care provision for individual commissioned placements from 1 April 2023

4. Information and Analysis

- 4.1 Under the Care Act 2014, Councils have a duty to ensure that there is a sustainable and affordable social care market. This includes establishing fee levels that providers will receive for commissioned care that is delivered to meet a person's assessed needs. To ensure that the Council is aware of and take account of the cost pressures affecting local providers of care, engagement and consultation with local homecare providers has been undertaken.

This report summarises the engagement findings, the reported cost pressures and feedback from providers. The report sets out details of the funding model and the proposed rates for 2023/24 for standard for homecare services. The findings from this exercise are then used to inform fee modelling for specialist homecare and day care.

- 4.2 There are approximately 3,500 people currently in receipt of long-term home care support from up to 50 commissioned independent sector home care providers. The in-house homecare service is focused on providing tailored short-term reablement services which are focused on supporting people to regain or learn new skills to be able to live safely at home following an illness.

The Council engages regularly with Derbyshire Homecare Association ("the Association") to understand how the market can be supported to meet the local demand for homecare services. The Association represent many of the local independent home care providers and they are consulted each year on determining sustainable fee levels for the following financial year.

- 4.3 **Costs Highlighted by Home Care Providers**

The Association met with Council officers on 19 January 2023 to discuss the sector's views about current market conditions and inflationary pressures. The views shared at this meeting and in further written submissions made to the Council have informed the fee proposals detailed in this paper.

The Association have reported that they "do have some concerns that it (Council's Fee Model) is presenting an inaccurate picture of the realities of running a care business. In particular the costs of running the business are quite materially underestimated." They stated, "We would like to work with the council during the year, possibly as part of the fair

cost of care work, to develop a more accurate model to use for future fee discussions.”

In responding to the providers’ request for an inflationary fee increase, the Council has identified the main budget headings that need to be considered when setting home care fee rates. Appendix 1 details these headings and the proposed inflationary increases and justification are set out below.

Adult Social Care Reform

Providers have expressly asked that the following fee analysis should also be informed by the Fair Cost of Care exercise that the Council undertook during the summer of 2022 as part of the Department of Health and Social Care’s (DHSC) adult social care reform agenda. The specific ask was that the Council should ensure that the Council’s fee model should better reflect office costs as their view is that these are undervalued when considered alongside the findings of the FCoC exercise.

As part of the adult social care reform agenda, local authorities were required to complete a cost of care exercise to better understand the local cost of providing care. The home care market was surveyed using a fee tool to better understand their costs. The DHSC requirement of this exercise was to identify the Median Cost and compare against the current fees paid by the Council. In the original DHSC guidance the Median Value is described as a ‘Fair’ Cost (FCoC) value. The findings and analysis of this exercise is detailed at [Cost of care report - our home care \(derbyshire.gov.uk\)](https://www.derbyshire.gov.uk/cost-of-care-report)

The Council Response

The Council notes the intentions of the DHSC cost of care exercise and the potential benefits in terms of greater understanding of the market. However, the Council cannot stress strongly enough that the FCoC median costs alone are not an appropriate basis to inform Derbyshire County Council’s commissioning fee rates.

Whilst it is fair to say that the median is less skewed by high outlier values (as opposed to mathematical averages), the median values themselves can be skewed if the dataset does not comprise an appropriate and representative sample of the existing make-up of providers in the local market. It is also vitally important to recognise (and ensure) that it was not possible via this process to be assured that the data that has been obtained reflects an overall pool of efficient

providers as referenced in the requirements of Section 4.31 of the Care and Support Statutory Guidance.

For this reason, we must be clear that the FCoC median costs obtained through this exercise do not have sufficient robustness to provide an absolute basis sufficient to inform any finalised sustainable fee rates for future Council commissioning of home care. The data collected through this process will provide rich intelligence on which to base further work to support future Council commissioning and market shaping. There are significant concerns as to the quality and completeness, relevance and reliability of the data received from Providers. For instance, there has been no opportunity to validate any of the information presented by Providers, all submissions have been made in good faith.

It is our intention to continue to use the Council's current fee model for identifying fees for 2023-24 and will undertake further detailed analysis of the data obtained through the FCoC exercise with Providers. The focus of this activity will be on better understanding the costs that contribute towards office costs and return on investment. The results of this further work to be undertaken with Providers and will inform the Council's usual fee rates and commissioning arrangements for home care provision and will be part of the Council's Market Sustainability Plan.

National Living Wage

Providers have identified that the National Living Wage is due to increase by 9.7% for staff aged 25 and over from 1 April 2023 (from £9.50 per hour to £10.42 per hour a 92p increase). They note that they have very few staff aged under 25 and that they do not want a two-level pay system, as this would be detrimental to recruitment and retention of under 25's to the industry. This increase in minimum wage is supported by Providers however they would want to pay more than this to be able to recruit and retain staff and maintain differentials between staff groups.

Providers have consistently reported to the Council on-going difficulties with recruitment and retention of staff. They report that they are competing with other services that are increasing wage levels and offering better terms than they can offer. Providers have had to hand work back to the Council because they are no longer able to cover calls due to staff leaving. The impact has been a reduction in the numbers of people being supported by Home Care providers and the Council has faced difficulties in gaining support for new Home Care packages.

The Association have proposed the fee model should increase by National Minimum wage, “so we have proposed an increase to £15.06 on the ‘Net Hourly Rate’”

Council response

To reflect the National Living Wage, increase the Council has decided to apply a 9.7% increase on the calculation of hourly home care wages for all staff including those aged under 25. The previously increased contribution made in 2022-23 fee setting towards National Insurance costs, which were not fully implemented will remain within the fee model and Providers will be encouraged to ensure any surplus is used to contribute to staff wages.

The Fee Model in Appendix 2 shows this calculation and sets a new net hourly rate of £15.06.

Travel time

The Association have highlighted that when Her Majesty’s Revenue and Customs (HMRC) undertake checks payment of wages by home care providers they are focused on ensuring that providers pay their home care staff at least the minimum wage for their travel time between calls. The Association would like the Council to ensure that the travel rates paid reflect journey time and allow them to meet their national minimum wage obligations.

In discussions they have also noted that urban calls are often challenging to pick up due to the current rate paid by the Council and have asked if any inflationary increase could be positively weighted to this fee rate.

Providers have also highlighted the substantial increase in fuel costs and have asked that the Council increases the Travel Payment to ensure staff are satisfactorily reimbursed for fuel and servicing.

Council response

The Council makes an additional payment per home care visit to assist providers in paying staff travel time and to meet the costs incurred by staff. The National Minimum Wage rules require home care providers to count travel time between visits towards the calculation of working time. The impact of the National Living Wage means that providers should have to pay staff more to compensate for the travel time element.

As noted, the Council pays an additional amount to providers for each home care visit to assist providers to meet costs associated with travelling from one call to the next. There are currently four values as shown in the table below:

Value per Home Care Visit	2022-23 Updated 18* July	Proposed	Increase %
Urban	£2.74	£3.19	16.4%
Semi-Rural	£3.46	£3.76	8.7%
Rural	£4.41	£4.66	5.7%
Extra Rural	£6.36	£6.61	3.9%
Average			9%

The values are linked to population density at ward level and the likely travel time between calls. The highest travel payment is meant to encourage take up of new work in the more rural parts of the county where travel time between calls and impact of weather and isolated nature of the calls can be difficult to cover. It is noted that encouraging providers to take on new work in isolated rural areas is always challenging. The travel payment represents an element of staff time and a contribution towards the cost of using their vehicle. Providers have asked that the increase in travel payments is weighted slightly towards the lowest rate of travel.

Following requests in summer 2022 from Providers for assistance to help with meeting additional fuel costs the Council agreed to make an interim additional payment of 16 pence per travel visit. This additional payment was passed onto home care worker staff to assist with the increased petrol and diesel costs. This increase has been included in the travel rates.

Other cost increases.

Providers have also expressed concerns about other organisational costs, including but not limited to the increase in costs of Protective Personal Equipment (PPE) and the increase use of alcohol gels to meet infection prevention and control procedures.

Providers have also raised concerns about the national standard of living increases and the increases in gas and electricity prices which will impact on their organisational on-costs.

Council Response

The Council acknowledges that PPE costs have increased substantially. However, providers can still obtain free PPE from the national PPE hub as stocks allow.

It is however accepted that not all of the PPE requirements of Home Care workers will be met by the national PPE Hub. It is therefore proposed to increase head office costs as shown in Appendix 1 by 9.2% in line with CPI for December 2022 to assist with additional costs being experienced by individual businesses.

4.4 Council Fee Proposal

The home care fee rate proposals for 2023-24 have taken account of the feedback received from Home Care providers about inflationary pressures as detailed earlier in this report. Appendix 2 details how these inflationary pressures impact on the standard cost headings used in Derbyshire County Council Home Care fee model to give a proposed inflationary uplift of 9.2% for 2023-24.

The proposed inflationary value of 9.2% on the hourly rate for the provision of Independent Sector Home Care is also used as a standard inflationary value for the other service types as shown in the table below.

Service Type	Rate 2022-23	Rate 2023-24
Independent Sector Home Care Hours	£17.04 per hour	£18.60 per hour
Non-Contracted Home Care Hours	£16.08 per hour	£17.52 per hour
Independent Sector Sleep In (10pm-7am)	£88.74 per night	£96.93 per night
Independent Sector Live- In Carer	£1,510.18 per week	£1,649.16 per week
In-House Home Care Hours	£25.32 per hour	£27.60 per hour
In-House Extracare (Day)	£16.68 per hour	£18.24 per hour
In-House Extracare (Night)	£20.64 per hour	£22.56 per hour
Well Being	£15.19 per week	£16.56 per week
Shared Lives - Medium DRE	£356.91 per week	£391.07 per week

Shared Lives - High DRE	£365.79 per week	£391.07 per week
Shared Lives - Respite	£54.80 per day	£67.94 per day

Staff recruitment and retention

Providers continue to report that recruitment and retention of Home Care workers is extremely difficult. They highlight concerns about how low wages in the sector coupled with low unemployment in parts of the county and poor status of a career in social care impact on their ability to recruit and retain sufficiently well-trained staff.

The workforce has a high level of turnover locally and although some of this movement may be between jobs in the sector, providers frequently lose staff in whom they have made a considerable investment in terms of training and development. This volatility in the workforce creates instability in the market with Providers having to hand back work to the Council when they lose staff.

The recruitment and retention of staff is particularly problematic in the more rural parts of the county. The impact of the difficulties in recruiting staff is that Adult Care is unable to arrange packages of care which can impact for instance on delaying hospital discharge.

In response to the workforce challenge Adult Social Care and the Care Association held a Recruitment and Retention workshop on 26 January 2023. Providers shared ideas and proposals on how they can be more effective and challenged the Council to offer more support and to increase fees further to enable them to be more competitive in an employment market that shows only 2.6% (in December 2022) unemployment rate. The national unemployment average at the same period was 3.8%.

Adult Social Care are working in partnership with other Local Authorities in the East Midlands to develop support and guidance for Providers looking to further expand their workforce via International Recruitment of home care workers. These planned support arrangements and toolkits for recruitment of overseas workers are a clear priority to safeguard workers and potentially grow the workforce. Few of the Providers commissioned to work on behalf of the Council have experience of this approach and are asking for support.

Council's Direct Care Service

The Council's Direct Care Service continue to shift priority from provision of long term to short-term care. The Direct Care service will focus more on provision of short-term care with an emphasis on assisting people who may have been unwell to regain skills. Direct Care will no longer take on new long-term care packages unless there is no alternative provider available. Private Providers will have to increase their own workforce capacity to facilitate this shift to ensure this change in priority is a success.

Providers Response

Providers are encouraged by the opportunity to expand their service offer but have asked for it to be noted that they are restricted by difficulties with recruiting and retaining staff which limits their opportunities to grow their service. They believe that it would be beneficial if the Council could increase fees to enable them to pay staff more and to introduce some block contracts to give certainty of activity

4.5 Impact of the Proposals on Independent Sector Specialist Fees

The proposals made in this report, and summarised in Appendix 2, focus on the basic fee rates for the provision of home care. The Council also funds specialist home care services for people who live in supported living care settings.

Supported living is an alternative to residential care, providing home care support and accommodation to people who are assessed as eligible for adult care services. In a supported living service, the housing provider and support provider are separate, and the client is a tenant with their accommodation costs being met by Housing Benefits. Accommodation is homely not institutional with clients contributing directly to daily tasks around their own home.

Specialist home care providers have reported that they are also experiencing unprecedented difficulties with recruitment and retention of staff with Providers having to cover staffing vacancies with Agency staffing which they report is costlier than fees received. It is proposed that an increase in payments of up to 9.0% can be agreed with providers that provide specialist home care provision in supported living care settings where they can evidence that their costs have increased.

5. Consultation

- 5.1 The Council is required as part of Care Act 2014 duties to undertake a fee setting exercise each year to ensure that fees allow for a sustainable market.

The local Home Care Provider Association have been requested to detail their member's concerns about current inflationary pressures so that the Council can ensure fee increases respond to these pressures. The outcome of these fee discussions will be further shared with Providers for their comments and are specifically addressed above

6. Alternative Options Considered

- 6.1 Not to increase the fees from 1 April 2023. This would severely impact the market as providers would be unable to pay their staff the national minimum wage increase. Any failure to pay increased fees would destabilise what is already a fragile market that is struggling to recruit and retain staff. This would also further reduce Providers' ability to pick up new home care packages which would result in further delaying hospital discharges and failure to support people to live safely at home. As noted above it is a requirement of the Care Act 2014 that the Council undertakes a fee setting exercise each year to support a sustainable market. Failure to do so will leave the Council open to legal challenge.
- 6.2 Pay providers more than has been proposed in this paper. The Council believes that the fee modelling is fair and affordable, and the fees are comparable to those paid by other Local Authorities in the East Midlands.

7. Implications

- 7.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

8. Background Papers

- 8.1 Home Care Cost of Care Report

9. Appendices

- 9.1 Appendix 1 – Implications
- 9.2 Appendix 2 – Fee Modelling

10. Recommendation(s)

That Cabinet agrees to :

- a) make an inflationary increase of 9.2% for independent sector home care provision from 1 April 2023;
- b) to increase travel/visit rates by an average of 9% from 1 April 2023;
- c) to increase the fee rate for in-house home care and extra care provision from 1 April 2022 by 9.2%;
- d) to make an inflationary increase of up to 9.2% for specialist home care placements where evidence is provided of inflationary pressures.
- e) make a standard inflationary increase of 9% for day care provision for individual commissioned placements made with providers on the Council's Day Care Framework from 1 April 2023

11. Reasons for Recommendation(s)

- 11.1 The recommendations to increase a range of fee levels by up to 9.2% will enable providers to pay their staff the equivalent of the National Minimum wage increase from the 1 April 2023.
- 11.2 The proposed increases are in line with the duty placed on the Council by the Care Act 2014 to promote a sustainable market.
- 11.3 Failure to increase fees in line with inflationary pressures will undermine the Council's ability to secure services for people with an assessed social care need.

12. Is it necessary to waive the call in period?

- 12.1 No

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Implications

Financial

- 1.1 The proposed increase of 9.2% on home care fees and 9% on travel rates from 1 April 2023 will cost an estimated £5.9M. The proposed increase of up to 9.2% from 1 April 2023 on specialist homecare fees for Supported Living Schemes will cost an estimated £3.7M per annum. The proposed increase of 9.2% from 1 April 2023 on the Well Being Service will cost an estimated £0.019M per annum. For day care placements, the proposed uplift of 9% will cost an estimated £0.37M.

The estimated cost of this proposal to increase fee rates from 1 April 2023 is £10M per annum. This will be funded from the service pressure growth bid for Adult Care fee increases which was approved as part of the Revenue Budget Report 2023-24 by Full Council on 16 February 2023.

Legal

- 2.1 section 5 of the Care Act 2014 places a duty on the Council to promote an efficient and effective market, with a view to ensuring that any person in its area wishing to access services in the market:
- a) has a variety of providers to choose from who (taken together) provide a variety of services;
 - b) has a variety of high-quality services to choose from; and
 - c) has sufficient information to make an informed decision about how to meet the needs in question.

In performing that duty, the Council must have regard to the importance of ensuring the sustainability of the market. Sufficient inquiries should be undertaken, to ensure the Council is properly informed of the local market conditions.

The Care and Support Statutory Guidance further details the duties on local authorities to facilitate markets that offer a diverse range of high-quality and appropriate services. The Council must assure itself that the fee levels do not compromise the provider's ability to (1) support and promote the wellbeing of people receiving care and support; (2) meet the statutory obligations to pay at least the national minimum wage; and (3) provide effective training and development of staff.

Case law is clear that the Council should take steps to ensure that fee levels reflect the actual cost of care. The rates should also take into account the legitimate current and future costs, and the potential for improved performance and most cost-effective ways of working. The Council is under a duty to promote diversity and quality in the market of care and support provision. As set out in this paper the Council will continue to work with providers to re-balance the fee model to increase the emphasis on meeting office costs prompted by the findings of the Cost of Care exercise.

Human Resources

- 3.1 There are no human resources considerations associated with this report.

Information Technology

- 4.1 There are no Information Technology considerations associated with this report.

Equalities Impact

- 5.1 Providers are required to adhere to Derbyshire County Council's Equal Opportunities policies.

Corporate objectives and priorities for change

- 6.1 This proposal will support local business to recruit and retain staff to provide support to people so that they may continue to live in their own homes to control their personal circumstances and aspirations.

Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.
- 7.2 These services are reliant on Home Care staff travelling between client's homes. The primary mode of transport is the use of cars to enable staff to efficiently move between calls during all sorts of weather and during antisocial hours. Some of these calls are also undertaken across rural locations of the County. Calls are often time critical and the Council must cover the cost of the transport and the pay of the staff member as they travel between calls. The cars used are often owned

by the care worker and they are likely to be older models that will be higher emitters of carbon as the use of alternatives are currently not covered by the fees paid by the Council.

Appendix 2

Proposed Home Care Fee Rate for 2023-24 Fee Model

	2022-23	Proposed	
	£	2023-24	Increase
		£	%
Wages	10.82	11.87	9.7
Employers NI	0.65	0.71	9.6
Pension	0.33	0.36	7.9
Hourly Cost	11.80	12.94	9.6
Holiday Pay 4 weeks	0.90	0.99	9.6
Sickness pay assume 2 weeks per year	0.45	0.49	9.6
5 training days per year	0.23	0.25	9.6
Bank holidays 8 days per year	0.36	0.39	9.6
Net Hourly Rate	13.74	15.06	9.6
Head office and profit	3.31	3.61	9.1
Total Hourly Rate	17.05	18.67	9.5
Rounded Rate Divisible by 12	17.04	18.60	9.2

Assumptions used

Staffing costs were inflated in line with National Minimum wage Increases

Head Office Costs inflated in line with CPI Inflationary rate for December 2022