

## Commissioning and Procurement Sub-Committee – 9<sup>th</sup> February 2021

|  |  |                                 |   |
|--|--|---------------------------------|---|
| <b>Subject:</b>  | Fee Rates for Adult Social Care Services 2021/22   |                                 |   |
| <b>Corporate Director(s)/ Director(s):</b>   | Hugh White, Corporate Director Strategy and Resources<br>Steve Oakley, Acting Director of Commissioning and Procurement  |                                 |   |
| <b>Portfolio Holder(s):</b>  | Councillor Adele Williams – Portfolio Holder for Adult Care and Local Transport  |                                 |   |
| <b>Report author and contact details:</b>  | Jo Pettifor – Category Manager - Strategy and People<br>Tel: 0115 8765026<br>Email: jo.pettifor@nottinghamcity.gov.uk  |                                 |   |
| <b>Other colleagues who have provided input:</b>   |  |                                 |   |
| <b>Key Decision</b>  | <input checked="" type="checkbox"/> Yes  | <input type="checkbox"/> No     | <b>Subject to call-in</b>   |
|  |  |                                 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   |
| <b>Reasons:</b>  | <input checked="" type="checkbox"/> Expenditure  | <input type="checkbox"/> Income | <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision |
|  |  |                                 | <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital                                |
| Significant impact on communities living or working in two or more wards in the City   |  |                                 | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |
| <b>Total value of the decision: £3.757m</b>  |  |                                 |   |
| <b>Wards affected:</b> All   | <b>Date of consultation with Portfolio Holder(s):</b> Cllr Williams, Portfolio Holder for Adult Care and Local Transport – 13 <sup>th</sup> & 27 <sup>th</sup> January 2021; Cllr Webster, Portfolio Holder for Finance, Growth and the City Centre – 20 <sup>th</sup> & 27 <sup>th</sup> January 2021 |                                 |   |
| <b>Relevant Council Plan Key Theme:</b>  |  |                                 |   |
| Nottingham People  |  |                                 | <input checked="" type="checkbox"/>   |
| Living in Nottingham   |  |                                 | <input type="checkbox"/>  |
| Growing Nottingham   |  |                                 | <input type="checkbox"/>  |
| Respect for Nottingham   |  |                                 | <input type="checkbox"/>  |
| Serving Nottingham Better  |  |                                 | <input type="checkbox"/>  |
| <b>Summary of issues (including benefits to citizens/service users):</b>   |  |                                 |   |
| This report presents proposals for fee rates in 2021/22 across adult social care contracted provision. Nottingham City Council is contractually bound to consider fee rates on an annual basis where it has a statutory duty to provide a service. The Council will consult with providers on these proposals and consider responses prior to implementation from April 2021.  |  |                                 |   |
| <b>Exempt information:</b>   |  |                                 |   |
| Appendices 1, 2 and 3 to this report are exempt from publication under paragraph 3 and paragraph 5 of Schedule 12A to the Local Government Act 1972 because having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Financial advice is exempt from publication under paragraph 3 of Schedule 12A to the Local Government Act 1972 because it contains commercially sensitive information relating to the Councils pricing structure and financial modelling. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information as declaring financial modelling to suppliers would prevent the Authority from managing the market efficiently, which could cost it more. Legal advice is exempt from publication under paragraph 5 of Schedule 12A to the Local Government Act 1972 because it contains information that is subject to legal professional privilege. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, because the information sets out the legal implications inherent in the course of action proposed here, which the decision maker is arguably entitled to consider without the Council's position being affected by consideration of those implications. |  |                                 |   |
| <b>Recommendation(s):</b>  |  |                                 |   |

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| <p><b>1</b> To approve proposals for fee rates for Adult Social Care Services in 2021/22 as outlined in the pricing details at exempt Appendix 1, which will be consulted upon with service providers</p>   |
| <p><b>2</b> To delegate authority to the Head of Contracting and Procurement to agree fee rates in accordance with the proposals detailed in the exempt Appendix 1 pricing detail. This is subject to the outcome of consultation with providers and in line with the Council budget. Subject to consultation and Recommendation 4, the agreed rates will be implemented from April 2021.</p> |
| <p><b>3</b> To approve the total spend associated with this decision of <b>£3.757m</b>. Note: Approval to spend against the high cost placement provision will be through the Council's scheme of delegation for Adults Care Packages.</p>  |
| <p><b>4</b> To note that if upon completion of the consultation the financial impact of any revised proposals exceed the budget available, further approval will be required.</p>   |

## **1 Reasons for recommendations**

- 1.1 Nottingham City Council (the Council) is contractually bound to consider fee rates in respect of services that it has a duty to provide. This is balanced against budget commitments and pressures for the Council.
- 1.2 In accordance with the Council's legal obligation, it is proposed to consult with adult social care providers with regard to these proposals during February – March 2021. The Head of Contracting and Procurement will take account of consultation responses and issue variations to existing contracts reflective of the proposals in this report should no significant issue arise. Should the outcome of these consultations require consideration of significant change to the shape and financial consequence of these proposals (with due regard given to the available budget) a further report will be presented through the appropriate governance process.
- 1.3 These proposals and the associated financial modelling are based on information currently available about service utilisation and demand changes as a result of Covid 19. Recommendations in future years will be based on the relevant circumstances at the time and the financial considerations arising.

## **2 Background (including outcomes of consultation)**

- 2.1 Following its budget announcement in July 2015, the government introduced the National Living Wage (NLW), which replaced the National Minimum Wage as the statutory minimum wage payable to workers in the United Kingdom. The Council has a legal duty to consider fee rates for social care contracted services and in doing so, it must consider the implications of the NLW for adult social care providers.
- 2.2 Every year officers undertake analysis of the potential impact of fee rates on adult social care providers meeting National Living Wage requirements as well as other pressures such as cost of living, pensions, profit and voids. This analysis also considers budget savings required across adult provision as a consequence of reductions in the funding the Council receives and other financial pressures. Analysis takes place on a sector by sector basis across the social care budget against a backdrop of increased demand for social care provision arising from demographic pressures, policy change and increased difficulty in attracting

workers into the care sector due to increased competition from other sectors. The Council's inflationary fee rate modelling is therefore key to support social care providers to meet NLW and other inflationary pressures, and to manage the social care market. This is balanced against budget commitments and pressures for the Council.

### **3 Other options considered in making recommendations**

- 3.1 Do nothing – the Council is contractually bound to review contract fee rates on an annual basis. Doing nothing would present a risk of legal challenge and for this reason, this option was rejected.
- 3.2 Offer different fee rate proposals. This option is not recommended as the proposals have resulted from significant work and modelling between finance and contracting, taking into account knowledge of the market and feedback from providers, and the overall budget pressures for Adult Social Care. The final proposals have taken account of the potential impact on service delivery and risk of market failure. Offering different fee rate proposals would place further pressure on the Adult Social Care budget and this is not a feasible option.
- 3.3 To undertake analysis of individual provider costs and offer fee rates based on factors such as wage rates paid, pension contributions, profit and void levels etc. This option would not be feasible at this time as it would be administratively burdensome due to variations in rates of pay and other costs across the sector.

### **4 Finance colleague comments (including implications and value for money/VAT)**

- 4.1 Finance comments are contained within exempt Appendix 2.

Hayley Mason, Strategic Finance Business Partner (Adult Social Care and Public Health), 26<sup>th</sup> January 2021

### **5 Legal and Procurement colleague comments (including risk management issues, and including legal, Crime and Disorder Act and procurement implications)**

- 5.1 Legal comments are contained within exempt Appendix 3.

Dionne Screamon, Solicitor, Contracts Commercial and Employment: 14<sup>th</sup> January 2021

### **6 Social value considerations**

- 6.1 None applicable

### **7 Regard to the NHS Constitution**

- 7.1 Not applicable

### **8 Equality Impact Assessment (EIA)**

- 8.1 Has the equality impact of the proposals in this report been assessed?

No



An EIA is not required because:

An EIA will be undertaken following consultation with providers on the proposals and prior to final approval. The consultation will include specific questions about the potential impact of the proposed fees and mitigating actions that could be taken. Consultation responses will be reviewed and risks identified will be analysed to assess the impact of the proposal on services as a whole, citizens within those services, and providers. (Please explain why an EIA is not necessary)

**9 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)**

9.1 None

**10 Published documents referred to in this report**

10.1 None