

## Commissioning and Procurement Executive Committee – 10 January 2023

<b>Subject:</b>	Fee Rates for Adult Social Care Services 2023/24		
<b>Director:</b>	Katy Ball, Director of Commissioning and Partnerships		
<b>Portfolio Holder:</b>	Councillor Linda Woodings – Adult Social Care and Health		
<b>Report author and contact details:</b>	Jo Pettifor – Category Manager, Strategy and People 0115 8765026 <a href="mailto:jo.pettifor@nottinghamcity.gov.uk">jo.pettifor@nottinghamcity.gov.uk</a>		
<b>Other colleagues who have provided input:</b>	Steve Oakley, Head Procurement Hayley Mason, Strategic Finance Business Partner		
<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 £750,000 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>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital		
<b>Total value of the decision:</b> £10.133m			
<b>Wards affected:</b> All			
<b>Date of consultation with Portfolio Holder:</b> 7 December 2022			
<b>Relevant Council Plan Key Outcome:</b>			
Clean and Connected Communities	<input type="checkbox"/>		
Keeping Nottingham Working	<input type="checkbox"/>		
Carbon Neutral by 2028	<input type="checkbox"/>		
Safer Nottingham	<input type="checkbox"/>		
Child-Friendly Nottingham	<input type="checkbox"/>		
Healthy and Inclusive	<input checked="" type="checkbox"/>		
Keeping Nottingham Moving	<input type="checkbox"/>		
Improve the City Centre	<input type="checkbox"/>		
Better Housing	<input type="checkbox"/>		
Financial Stability	<input type="checkbox"/>		
Serving People Well	<input checked="" type="checkbox"/>		
<b>Summary of issues (including benefits to citizens/service users):</b>			
This report presents proposals for fee rates in 2023/24 across Adult Social Care contracted provision. Nottingham City Council is contractually obliged to consider fee rates on an annual basis where it has a statutory duty to provide a service. Consultation will be undertaken with providers on these proposals and the responses will be fully considered prior to implementation from April 2023.			
<b>Exempt information: State 'None' or complete the following</b>			
Appendices 1, 2 and 3 to this report are exempt from publication under paragraphs 3 and 5 of Schedule 12A to the Local Government Act 1972.			
Financial advice is exempt under paragraph 3 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 under paragraph 5 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.

**Recommendations:**

- 1** To approve proposals for fee rates for Adult Social Care Services in 2023/24 as outlined in the pricing details at exempt Appendix 1, which will be consulted upon with service providers.
- 2** To delegate authority to the Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care to agree fee rates in accordance with the proposals detailed in the exempt Appendix 1, subject to the outcome of consultation with providers and in line with the Council budget. Subject to consultation and recommendation 4 below, the agreed rates will be implemented from April 2023.
- 3** To approve the total spend of £10.133m associated with this decision, including approval to spend against high cost placement provision through the Council's scheme of delegation for Adults Care Packages.
- 4** To note that, if upon completion of consultation, the financial impact of any revised proposals exceed the budget available, further approval from this Committee will be sought.

**1. Reasons for recommendations**

- 1.1 Nottingham City Council is obliged to consider the fee rates it pays for its commissioned social care services, and in doing so to take account of a number of factors, within the context of the wider financial position of the Council. Section 5 of the Care Act 2014 obliges Local Authorities to promote the efficient and effective operation of the market for adult social care as a whole. They must have regard to the need for sufficient services to be available in the area and the importance of sustainability in this market. 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 on these proposals during January - February. The Director of Commissioning and Partnerships in consultation with the Director for Adult Health and Social Care 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.
- 1.4 The recommendations presented take account of the implications of inflationary pressures on the adult social care market and aim to represent a fair allocation of funding and to support the market across all service areas. It is considered that a balanced, reasoned and informed approach has been taken and that the proposals seek to support a sustainable, efficient and effective market within the available resources.

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

- 2.1 The Council's fee rates for adult social care services are reviewed annually and decisions are based on an established methodology for calculating inflationary increases. An evidence base for pricing was originally developed based on the UK Homecare Association model for Care at Home type services and independent review of residential care pricing. These tools have been adjusted to account for current factors including the current market position, cost of living indices and Office of National Statistics data.
- 2.2 Every year, these established tools are used to undertake analysis of the potential impact on the cost of adult social care of National Living Wage requirements and other pressures such as cost of living, pensions, profit and voids. This analysis also considers budget savings required due to 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 difficulty in attracting workers into the care sector due to competition from other sectors. The fee rate modelling process is therefore key to support social care providers to meet NLW and other cost pressures, and to manage the social care market, whilst balancing against the Council's other budget commitments and pressures.
- 2.3 In December 2021 the Department of Health and Social Care (DHSC) announced the new Market Sustainability and Fair Cost of Care (FCOC) Fund, available to support local authorities to begin preparing local care markets for reform and moving towards sustainable funding for this market. Local authorities were expected to use this funding for activities such as conducting a cost of care exercise; improving data on costs; strengthening capacity for market oversight; and increasing fee rates as appropriate to local circumstances. In 2022-23 Nottingham City Council received an allocation of £1.043m from this fund and this has been used to source a full review of local costs and a sustainable level of funding. The review is continuing and the outcomes will be reported as appropriate when concluded.
- 2.4 In October 2022, Committee approved an additional temporary increase to the rates paid for adult social care services in 2022-2023, effective from 1st October 2022 and pending completion of the cost of care review. This was in response to the impact during 2022/23 of inflationary pressures upon these services and the adult social care market overall. These temporary increases were funded in part using the Market Sustainability Funding allocated to 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 take account of the potential impact on service delivery and

risk of market failure. Offering different fee rates 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. **Consideration of Risk**

- 4.1 Affordability - The Council's financial pressures are significant and further savings are required in 2023/24, with cost pressures anticipated to continue. The analysis undertaken has taken account of the wider budget position and these proposals are considered the fairest way to distribute the funding available across all adult social care provision.

- 4.2 Risk of market or provider failure. A number of market related factors have been considered including size of the market; any evidence of market failure; whether providers are managing to deliver and cover their costs under the current fee rates and whether pricing is equitable and supports an efficient, effective and sustainable market. The proposals take account of provider feedback on the costs of delivering services and financial pressures.

- 4.3 It is proposed to consult with service providers on these proposals during January - February 2023. Officers from Contracting and Finance will consider consultation responses and report the key themes and any risks arising to the Director of Commissioning and Procurement in consultation with the Director for Adult Health and Social Care. Should the outcome of these consultations require consideration of significant changes to the proposals (with due regard given to the available budget) a further report will be submitted through the appropriate governance process.

- 4.4 Legal considerations of risk are contained within exempt appendix 3.

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

- 5.1 Finance comments are contained within exempt appendix 2.

#### 6. **Legal colleague comments**

- 6.1 Legal comments are contained within exempt appendix 3.

#### 7. **Other relevant comments**

##### 7.1 **Procurement colleague comments**

There are no procurement implications arising from this decision. The commissioned services in question are contracted through open and compliant procurement processes, and the fee rates proposed have been developed through a robust methodology which considered factors impacting on the provider market and which seeks to ensure fairness and consistency across all providers.

**8. Crime and Disorder Implications (If Applicable)**

8.1 Not applicable.

**9. Social value considerations (If Applicable)**

9.1 Commissioned adult social care services in the City are predominantly delivered by providers with a local operating base, therefore these proposals will support local employment and investment in the local economy.

**10. Regard to the NHS Constitution (If Applicable)**

10.1 Not applicable.

**11. Equality Impact Assessment (EIA)**

11.1 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.

**12. Data Protection Impact Assessment (DPIA)**

12.1 A DPIA is not required because this decision does not involve personal data. The data protection implications of the contracted services involved is addressed in the existing contractual arrangements.

**13. Carbon Impact Assessment (CIA)**

13.1 A CIA is not required because there are no carbon implications arising from this decision. It does not make any proposals for the delivery of services or activities but relates to the funding levels of existing contracted services.

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

14.1 None.

**15. Published documents referred to in this report**

15.1 None.