

Notice of Non-key Executive Decision

Subject Heading:	Approval to uplift the usual rates for residential and nursing care home placements predominantly for older people for the financial year 2020 - 2021
Cabinet Member:	Councillor Jason Frost, Cabinet member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director for Adult Services and Health
Report Author and contact details:	Paul Burgin, Senior Commissioner and Project Manager
Policy context:	<p>The Council has a duty under the Care Act 2014 to shape the social care market and includes the responsibility to ensure:</p> <ul style="list-style-type: none"> • Services are of good quality, operate with a valued and well trained workforce and are appropriately resourced; • Service provisions are sustainable.
Financial summary:	Based on the projected forecast for 2020/21, the changes to rates outlined in this paper will cost up to an estimated £562,828 balanced by a projected increase in income of £106,969 making the net cost £455,859.

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Relevant OSC:	Individuals
Is this decision exempt from being called-in?	Yes, it is a non-key decision by a member of staff

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

1. The Senior Leadership Team Director with responsibility for Adult Social Care is asked to approve the following in line with the evidence presented in this report:
2. Approve an uplift to the usual rates for residential and nursing care home placements predominantly for older people for the financial year 2020-2021 paid to service providers that support service users based in these homes.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution:

Part 3: Responsibility for Functions, Article 3.3 Powers of Members of the Senior Leadership Team.

Members of the Senior Leadership Team (SLT) have delegated authority to act as follows within the assigned service service/portfolio of responsibilities, subject to the general provisions and limitations set out in section 3.1 above.

General powers

(a) To take any steps necessary for proper management and administration of allocated portfolios.

(b) To exercise all the powers delegated to them personally and those powers delegated to Second Tier Managers and other staff members in their directorate where circumstances require and so far as legally permissible. Exercise of such powers should be recorded where appropriate. Where possible, a SLT member should give notice to a relevant staff member that he or she intends to exercise a specified power that is delegated to that staff member.

(c) To make arrangements to secure continuous improvement in the way the Council's functions are exercised having regard to a combination of economy, efficiency and effectiveness etc as required by external regulatory agencies.

(e) To restructure within existing service budgets and/or if budgetary provision is already made in the budget.

(f) Each member of SLT shall ensure that the rules of procedure set out in Part 4 of this constitution are observed throughout their service.

Financial responsibilities

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(a) To incur expenditure within the revenue and capital budgets for their allocated portfolio as approved by the Council, or as otherwise approved, subject to any variation permitted by the Council's contract and financial procedure rules.

(b) To oversee the delivery of programmes agreed by Council and Cabinet.

At the Cabinet meeting of 12th February 2020, cabinet members delegated authority to the Directors of Children's and Adults authority to agree inflation rates with social care providers for the financial year 2020/21.

STATEMENT OF THE REASONS FOR THE DECISION

Background

1. The Council has taken into account previous reviews and have interacted with the market, this paper will help to address and contextualize some of the issues that providers have raised over the last financial year and the evolving national and individual service area cost pressures.
2. This report concerns rates paid to residential and nursing care home placements for people placed at the usual rates predominantly aged 65 and over placed in services both in and out of the borough.

Benchmarking

3. As part of the consultation process, the Council contacted a number of authorities to obtain the usual rates they pay for older person's nursing and residential care home placements and the rationale behind any rate increases (where available).
4. The Council contacted the West London Alliance which includes Kensington and Chelsea, Hammersmith and Fulham, Barnet, Ealing and Brent, Hillingdon and Hounslow. In 2019-20 these boroughs increased their rates by an average of 3.2-5.0%, with the residential dementia rate increased by between 3.25 and 5.8%. The residential rates varied from £525 to £642 per week, compared with the rate on offer by Havering for the same period of £538 per week.
5. The nursing rate across the alliance partners has increased by 2.7 - 9% at the upper end, and it would appear that the reason for this was to reduce the differential between the participating authorities. The nursing rates range from £556 to £728 per week compared to Havering's nursing rate of £550.
6. Norfolk were the only authority the Council were able to obtain information on proposed uplift for 2020-21. This information is indicated below:

	Norfolk	Norfolk	Havering
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	20/21	uplift %	19/20
Residential	£567	5.82	£538
Residential Dementia	£655	6.79	£604
Nursing	£584	5.44	£550
Nursing Dementia	£651	6.53	£589

Consultation with the market

7. The Council opened a private consultation with the market and asked for feedback based on the questions below:

- In the management and delivery of your service what are the pressures you are experiencing and why?
- With the imminent prospect of the United Kingdom leaving Europe has this presented you with any unique challenges that have had an impact on your service?
- Are you experiencing any challenges around the recruitment and retention of staff, could you tell us what these challenges are?

8. Responses to the above questions have been provided below:

- Providers have reported a range of pressures from financial: due to increasing staffing costs (due to increases in the National Living/Minimum Wage and pension contributions). Additional staffing needed to manage service users with higher needs, older and more complex levels of dementia. Recruitment and retention of staff was identified as a pressure, especially of nurses.
- In this Sector, concerns were expressed about staff shortages having to be backfilled with more expensive agency staff relating to Brexit.
- With regard to the recruitment and retention of staff, the challenges expressed in general were around the quality of staff, retention and shortage of applicants.

9. The next financial years, current year and previous years National Living and Minimum wage have been outlined in the table below:

Age range	2019/2020	2020/2021
25+	£8.21	£8.72
21 to 24	£7.70	£8.20
Under 18	£4.35	£4.55
Apprentice	£3.90	£4.15

10. Rates for 2020/2021 have been published on the GOV.UK website in line with recommendations by the independent Low Pay Commission. The increase in National Living Wage of 6.2% is higher than what was previously anticipated (around 5%), the biggest rise yet, placing additional cost pressures on service providers.

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11. As of October 2019, the Consumer Price Index (including owner/occupier housing) is at 1.5%.

12. The issues and risks with leaving the rates as they are and providing no uplifts have been outlined below:

Risks and Mitigations

- Risk of service interruption due to financial failure. Services are facing increases in national living wage and running costs as mentioned above. If rates are not uplifted businesses will find it difficult to remain sustainable.
- Risk of lack of capacity and choice in the market. A sustainable market promotes growth and encourages new business opportunities.
- Risk to recruitment and retention of staff. Service providers need to have a well-trained and motivated workforce and need to be able to compete with other sectors with rates that staff are paid.
- Increasing gap between inflation increase to cost and Council rates. This will be mitigated by the uplift.

13. Havering Council placements are only about a quarter of the total number of people placed in care homes in the borough. The Council therefore has a role to play in the sustainability of the market but does not control it.

14. The problem will come if those homes that the Council predominantly use become unsustainable and those that will only accept higher rates begin to make it an ever increasingly sellers' market where Havering has few options. Short term cost savings, in either the Residential or Nursing markets, could lead to long term problems with the market and far greater costs. It is therefore a careful balancing act that the Council needs to recognise and that this paper proposes to address in the best way possible, with limited resources.

Quality

15. Care homes are regulated by the Care Quality Commission who monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and publish what they find, including performance ratings to help people choose care.

16. In Havering older persons care homes are rated by CQC, as follows:

- 15% are rated as requiring improvement
- 80% are rated as good
- 5% are rated as outstanding

17. In this area our Quality Outcomes team works well on bringing standards up and supporting providers to meet our requirements. Quality has remained but continued investment is required in the sector to ensure the future sustainability and improved quality of the market.

Working with Care Homes to Understand Costs

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18. In recent years the Council has been working with providers to understand costs which make up a residential care placement.

19. One of the criticisms from providers has been a lack of communication with the Council and no clear rationale for uplift. Developing a breakdown of costs which inflation can be applied to has been designed to resolve this issue.

Below is the final model agreed:

Breakdown of costs in Residential/Nursing Care	
Care assistant staff (including activities)	43%
Management/administration/reception staff	7%
Catering, cleaning and laundry staff cost per resident	10%
Training expenses	1%
Registration fees and recruitment	1%
Total staff	62%
Accommodation costs per resident	
Food	4%
Utilities (gas, oil, electricity, water, telephone)	2%
Handyman and gardening (on contract)	1%
Insurance	1%
Non-food supplies and rentals	1%
Repairs and maintenance	2%
Rent and mortgage payment	19%
Corporate overhead	8%
Total accommodation	38%
	100%

20. It should be noted that care and accommodation costs are separated. No model can reflect nor should attempt to reflect the full range of provider operating models or local circumstances. This provides a transparent starting point for discussion and negotiation.

Rate increase

21. The recognised percentage increases have been fed in to the relevant sections of the model:

- Added 6.2% to the staffing costs
- Added 1.5% to the non-staffing costs to cover increases to utilities and corporate overheads (based on Consumer Price Index inflation rate).

22. The outcome is a recommendation to uplift the usual rates predominantly for older people by **4.4%** commencing April 1st 2020.

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23. If agreed these proposals will continue to support a sustainable market. This would demonstrate the Council have listened to provider feedback, considered other factors, and increased the rate further to meet the needs of residents.
24. The proposed figure has been shared with providers with the explanation that it is a proposed figure and has not been agreed.

Cost of proposals

25. These proposals are projected to cost £562,828 balanced by a projected increase in income of £106,969 (see below) meaning an overall increase of £455,859.
26. The total estimated cost of these proposals is a projection based on current in-borough and out of borough placements at our usual rates. A significant change in demand or in the need of those requiring support would affect the projection.

Charging Implications

27. An increase to the usual rates would mean an increased charge which would result in increased income to the Council. The projected increase in income would be £106,969 for the year based on those currently paying the full cost of residential care. It should be noted this figure includes deferred payment arrangements meaning the Council will receive this income however the timescale is not known. This figure could increase over the year if new full cost payers require residential care over the coming year.

OTHER OPTIONS CONSIDERED AND REJECTED

- a) Offer no uplift to the usual rate the Council pays for residential and nursing care home placements for older people.

This option was considered and rejected because:

- The Council wants to sustain its ability to be a key purchaser in the market.
- The Council recognises additional pressures placed on care homes, including the National Living Wage/National Minimum Wage and inflation increases.

- b) Offer uplift below the increases to wages and inflation.

This option was considered and rejected because:

- The Council are not sustaining the market.
- It will not address the immediate cost pressures faced by providers through NLW/NMW increase.
- It would contradict the approach and rationale to uplift agreed with the market.
- It would mean the possibility of a greater uplift in future years.

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- The Council needs to be mindful of the risks to the sustainability of the market where annual price uplifts that are below cost inflation

PRE-DECISION CONSULTATION

Internally we have consulted with Finance, Legal, Adult Social Care, Financial Assessment, Business Systems and Performance. Externally the Council consulted with providers who we commission with in Havering and outside the borough.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: John Green

Designation: Head of Joint Commissioning

Signature:



Date: 23/03/20

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. This report seeks the approval of the Director for Adults Social Care and Health an uplift to rates paid to the providers of supported living for residential and nursing care home placements predominantly for older people for the financial year 2020-2021 (1st April 2020 to 31st March 2021).
2. The Care Act 2014 places a duty on the Council to assess and support frail and disabled adults with their eligible care needs. The Act also introduced duties on local authorities to facilitate a vibrant, diverse and sustainable market for high quality care and support in their area, for the benefit of their whole local population, regardless of how the services are funded.
3. The Care Act 2014 also identifies the right for individuals to exercise choice in the care that they receive, which clearly extends to a nursing care establishment given that this will be the person's home. The implementation of a cost rate increase supports local providers to meet the requirements of the National Living Wage and cost of living increases falls within the remit of the Care Act 2014.
4. The Council's Contract Procedure Rule 19 (**VARIATIONS, EXTENSIONS AND MODIFICATIONS OF CONTRACTS**) at 19.1 states that "subject to the authority given under the Council's Scheme of Delegation and CPRs 3 and 4, an officer who has responsibility for the day to day management and performance of an awarded contract may (subject to having the authority to do so) approve a variation or modification by way of additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement provided that one of the following applies:
 - i. The modifications have been provided for in the initial procurement documentation;
 - ii. A change in contractor cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or, would cause significant inconvenience or substantial duplication of costs for the Council provided that an increase in price does not exceed 50% of the value of the original contract;
 - iii. Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement;
 - iv. Where a new contractor replaces the one to which the Council had initially awarded the contract as a consequence of universal or partial succession into the position of the initial contractor."
5. The body of the report sets out the particulars of the proposed contract 4.4% uplifts and its compliance with CPR 19.1 and Regulation 72 of the Public Contracts Regulations 2015 as it relates to the proposed contract

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modification/variations.

6. The aggregate value of the proposed service provisions as set out within the body of the report are such that these services must be procured in accordance with the Public Contracts Regulations 2015 and in compliance with the Council's Finance and Contract Procedure Rules.

FINANCIAL IMPLICATIONS AND RISKS

1. The recommendation in this report is to uplift the current usual rates for commissioned residential and nursing care home placements, predominantly for older people, by 4.4%, for the financial year 2020/21. This is reflective of various factors which have been outlined earlier in this report including National living/minimum wage considerations and that Havering Council placements represent around a quarter of total care home placements in the borough. High level benchmarking has been carried out with 7 other local authorities on their 2019/20 rates, one local authority has also shared their 2020/21 rates. Consultation with the market has taken place and an agreed methodology with Care Homes has been adopted which provides a rationale for the basis of inflationary increases on care and accommodation costs, as outlined earlier in this report.
2. The estimated impact of this proposal is an annual increase of £562,828 per annum, and after a projected increase in income of £106,969 the net impact is expected to be £455,859 per annum. This is based on a snapshot of placements on 31st December 2019. The estimated income would be subject to deferred payment arrangements so the timing of receipt of this income is not limited to 2020/21.
3. The estimated costs and income assumes that current client numbers will continue at the same level. Since the actual financial impact is linked to the number of clients at the time of the uplift, the figure could increase or decrease, depending on actual client numbers during the 2020/21 financial year.
4. A summary of the snapshot data and the assumptions behind this uplift are summarised in Table 1 below.

Table 1: Costs of Uplift based on December 2019 client numbers

Overall number of clients	Average current cost per week	Average uplift at 4.4% (per week)	Average cost after uplift per week	Estimated annual impact for a 4.4% increase	Estimated annual impact after including increase in income
421	£582.73	£25.64	£608.37	£562,828	£455,859

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5. The estimated annual costs of the proposed inflationary uplift has been based on current client data. Table 2 provides a breakdown of the current unit costs by placement type. Table 3 then applies the 4.4% uplift to provide the proposed unit cost, by placement type, based on current client data, and assuming all other factors remain the same.

Table 2: Usual Rates for Residential and Nursing Placement - Unit Cost per week prior to uplift (based on December 2019 Client data)

Age and Location	Learning Disability	Memory and Cognition	Mental Health	Physical Support	Total
18-64					
In Borough		597		552	560
18-64 Total		597		552	560
65+					
In Borough	560	599	589	566	585
Out of Borough		561		545	555
65+ Total	560	597	589	565	583
Grand Total	560	597	589	565	583

Table 3: Usual Rates for Residential and Nursing Placement - Unit Cost per week following uplift (based on December 2019 Client data)

Age and Location	Learning Disability	Memory and Cognition	Mental Health	Physical Support	Total
18-64					
In Borough		623		577	585
18-64 Total		623		577	585
65+					
In Borough	585	625	615	591	611
Out of Borough		586		569	580
65+ Total	585	623	615	590	609
Grand Total	585	623	615	590	608

6. The uplift of £455,859 for 2020/21 will be partly funded by additional inflationary budget provision of £913k for Adult Social Services as a whole. The current inflation costs for all Adult Social Care contracts for 2020/21 are currently estimated at £1.155m, leaving a current estimated shortfall of £242k. This is based on current client numbers and any additional inflationary shortfalls, including this budget pressure, will need to be met from within existing Adult Social Services budgets.

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(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

1. The recommendations made in this report do not give rise to any identifiable HR risks or implications that would directly or indirectly affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

1. The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:
 - (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
 - (iii) foster good relations between those who have protected characteristics and those who do not.
2. Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.
3. The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.
4. If the recommendation to uplift what we pay providers is agreed, it should only have a positive impact on equality groups. It will mean the Council remains competitive in the market giving residents more choice and better quality care. It will also help support the development of the local workforce.

BACKGROUND PAPERS

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: Barbara Nicholls

Cabinet Portfolio held:

CMT Member title: Director of Adult Social Care

Head of Service title

Other manager title:

Date: 23rd March 2020

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____