

Notice of Non-key Executive Decision

Subject Heading:	Approval to uplift rates for Supported Living placements 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:	Chris Atkin, 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:	Recommendation for uplift of 2% of current rates with an estimated projected net cost to the Council of £171,540 per annum.
Relevant OSC:	Individuals
Is this decision exempt from being called-in?	Yes, it is a non-key decision by a member of staff

Non-key Executive Decision

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

Communities making Havering	<input checked="" type="checkbox"/>
Places making Havering	<input type="checkbox"/>
Opportunities making Havering	<input type="checkbox"/>
Connections making Havering	<input type="checkbox"/>

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

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:

Approval to uplift rates for Supported Living placements for the financial year 2020-2021 paid to service providers that support service users based in Supported Living schemes.

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

(a) To incur expenditure within the revenue and capital budgets for their allocated

Non-key Executive Decision

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 local authority has a duty under the Care Act (2014) to ensure services that support vulnerable service users are of good quality and sustainable. The Council has taken in previous reviews with regard to addressing and interacting 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 individualised service area cost pressures.
2. This report concerns rates paid to supported living providers for Havering residents placed in services both in and out of borough.

Benchmarking

3. As part of the consultation process, the Council contacted a number of authorities to obtain the normal rates they pay for supported living placements and the rationale behind the increases in rates (if given).
4. Information provided by our colleagues in other authorities has been sporadic due to responsiveness and previous uplift proposals have been difficult to obtain.
5. Benchmarking data for 19/20 has been displayed in the table below:

Authority	Uplift
LA1	Providers are invited to apply for uplift and a decision made based on the individual's needs. Generally increases are around 3%.
LA2	They do not have agreed day/night rates. Uplifts were separated into two contract types, LLW compliant and spot

Non-key Executive Decision

	purchases. Increases in the LLW contract were based split into staffing and costs. Increases only applied to hourly rates within the LLW bracket with none attached to salaries paid above. Spot purchases were uplifted by 2%.
LA3	Applied a 2% maximum cap for both day and night rates (3% for the year before).
LA4	Use block contracts for supported living provision. The contract made no provision for uplift until the point of extension which was agreed. Providers were invited to submit a bid for the uplift required using a template displaying running costs for justification. For spot purchases, a 1% uplift was offered with providers invited to provide evidence to justify larger increases. Prior to this a systematic approach had not been adopted.
LA5	All of LA5's current supported living is spot purchased and the price is individually negotiated depending on hours of support required. Due to this approach an annual percentage uplift has not been adopted.

6. Data supplied by three other local authorities shows an increase in of 3.5% for the last financial year.
7. Given the nature of the provision, each service user will be placed at an individual rate based on their assessed needs.

Consultation with the market

8. 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

Non-key Executive Decision

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?
- When looking at running your service and speaking in broad terms what percentage of your costs are incurred in paying for staff and non-staff items?

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

- Providers have reported that pressures are financial. This can be due to occupancy, increasing staffing costs (such as increases in National Living/Minimum Wage) and the changing needs of the service users not being assessed quickly enough leading providers not being paid the total amount of support hours. Recruitment was also flagged as a pressure point.
- There were no high level concerns raised relating to Brexit.
- With regard to the recruitment and retention of staff, providers reported that the financial climate has made it difficult to close the pay gap between sectors and to incentivise employment in the care sector.
- There is an average split of 70% for staffing costs and 30% running costs/overheads.

10. 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

11. 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.

12. As of January 2020 there has been no publication regarding minimum employer pension contributions with the rate still fixed at 3%.

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

14. The issues and risks with leaving the rates as they are and providing no uplifts

Non-key Executive Decision

have been outlined below:

Risks and Mitigations

- Risk of service interruption due to financial failure. Services are facing increases in national 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.

Quality

15. The supported living model acts as a mechanism whereby service users (often with a learning disability and/or mental health need) are assisted with learning skills such as the ability to successfully maintain a tenancy, basic living skills such as cooking and cleaning and assistance with budgeting and finances.
16. The model is aimed at those service users who have been assessed to “step down” into independent living with some floating support often put in place as a measure to maintain a baseline of ability. The majority (though not all) of service users that occupy this service area do not require assistance with personal hygiene and need only soft prompting with administering their own medication, negating the requirement for some services to need a registration from CQC.
17. To form a view of quality of supported living provision within Havering, the Quality Outcomes team provided data collected during the first three quarters of the current year that was then averaged out across the 3 quarter period. Of the supported living providers visited during this period, 7% were placed on an action plan and 1% were suspended indicating that 92% of providers operating this model are of good quality.

Current position

18. Snapshot data from 31st December 2019 shows a weekly cost across all schemes of £166,775, with the average weekly cost of a supported living placement costing £1,069.07.
19. Snapshot data shows there were 156 placements as of 31st December 2019; The majority of these (117) were for service users with a learning disability.

Recommendations

Non-key Executive Decision

20. The recommendation is to uplift rates paid to supported living providers by 2% commencing April 1st 2021.
21. As mentioned during the consultation with the market, there is an average split of 70% staffing costs and 30% running costs/overheads. This does cover a wide spectrum of services, from light touch settings to 24 hour purpose built schemes.
22. The identified cohort with relation to the proposed uplift does include split health funded placements, and health colleagues have been consulted with to ensure the Council's uplift submission is proportionate to the CCG's own response to the market.
23. This recommendation would apply to both in borough and out of borough supported living placements.
24. An uplift of 2% to supported living services would be at a net annual cost of £171,540.00.

OTHER OPTIONS CONSIDERED AND REJECTED

Option 1 – Do nothing and continue to pay the current rate.

The current rates supplied to providers are not sustainable and would pose a risk to the longevity, growth and quality of the current market. Alternatively, it would mean a larger uplift is required for future year creating a greater cost pressure for the Council in that year

Option 2 – Provide a greater uplift than 2%.

It is thought that a 2% uplift balances the need to sustain the market against the Council's limited resources. It should also be noted Health usually uplift in the region of 2% so if the Council were to uplift significantly more than Health it would create disparity between the Council's contribution and Health's contribution to jointly funded placements.

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 operate in Havering.

Non-key Executive Decision

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

Name: John Green

Designation: Head of Joint Commissioning

Signature:

A handwritten signature in cursive script, appearing to read 'J Green', written in black ink.

Date: 23/03/2020

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 placements for the 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 2% uplifts and its compliance with CPR 19.1 and Regulation 72 of the Public Contracts Regulations 2015 as it relays to the proposed contract modification/variations.

Non-key Executive Decision

FINANCIAL IMPLICATIONS AND RISKS

The recommendation in this report is to uplift current provider rates for supported living care by 2% for financial year 2020/21. The proposal is to apply the uplift for in and out of borough provision. This is reflective of various factors which have been outlined earlier in this report, including National living/minimum wage considerations, and to aid recruitment and retention. High level benchmarking has been carried out with 5 other local authorities on their 2019/20 rates and consultation with the market has also taken place, as outlined earlier in the report.

The estimated impact of this proposal is an annual increase of £173,914 per annum, and after a projected increase in income of £2,374, the impact is expected to be £171,540 per annum, based on a snapshot of placements at the end of December 2019. 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.

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

Number of clients	Average current cost per week	Average uplift at 2% (per week)	Average cost after uplift per week	Estimated annual impact for a 2% increase	Estimated annual impact after including increase in income
156	£1,069.07	£21.38	£1,090.45	£173,914	£171,540

Table 2 below provides a breakdown of the unit cost, following the 2% uplift by Service Type.

Table 2: Supported Living Placement Unit Cost per week following Uplift based on December 2019 Client placement data

Non-key Executive Decision

Age and Location	Learning Disability	Memory and Cognition	Mental Health	Physical Support	Total
18-64					
In Borough	1,086	1,054	631	1,326	1,055
Out of Borough	1,759	1,485	432	1,505	1,478
18-64 Total	1,234	1,140	565	1,367	1,155
65+					
In Borough	685	579	245		653
65+ Total	685	579	245		653
Grand Total	1,154	980	548	1,367	1,090

The uplift of £171,540 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.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

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.

Sign off from HR below:



RE Request for HR
comments for Suppor

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

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.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender

Non-key Executive Decision

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 _____

Non-key Executive Decision