

Notice of KEY Executive Decision (Special Urgency)

Subject Heading:	Approval to uplift the rates for Supported Living as part of the annual uplift for 2023/24
Cabinet Member:	Councillor Gillian Ford, Cabinet Member for Health and Adult Care Services
SLT Lead:	Barbara Nicholls, Director of Adult Services
Report Author and contact details:	Laura Wheatley Laura.wheatley@havering.gov.uk 01708 434019
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:	<p>Increasing the rates for Supported Living is estimated to cost £1,108,656.00.</p> <p>This is based on a snapshot of placements from the end of February 2023. The estimated costs and income assumes that current client numbers will continue at the same level.</p> <p>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 2023/24 financial year.</p>

Key Executive Decision

	A significant change in demand or in the need of those requiring support would affect the projection.
Reason decision is Key	Expenditure or saving (including anticipated income) of £500,000 or more
Date notice given of intended decision:	27 th March 2023
Relevant OSC:	People's Overview and Scrutiny Sub Committee
Is it an urgent decision?	Yes, the Council's 2023/24 budget was agreed on 8/2/2023 at its Cabinet meeting and approved by Full Council, including council tax uplift, at its meeting on 1/3/2023. Whilst planning and consultation with the social care provider market started in late 2022, once the budget was agreed, a model was developed and updated to ensure the Council met its statutory obligations around market management, and took into account new government requirements introduced in the Market Sustainability and Improvement Fund. It has not been confirmed until week commencing 28 th March 2023 what the uplift would be and therefore the value of the totality of the uplift across the different sectors in social care. The decision is required as soon as possible due to the new financial year starting from 1 st April 2023
Is this decision exempt from being called-in?	Yes, the chair of OSC has waived the right to call-in the decision

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

People - Things that matter for residents [X]

Place - A great place to live, work and enjoy []

Resources - A well run Council that delivers for People and Place. []

Key Executive Decision

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This decision seeks authority for the Director of Adult Services to approve an uplift to the Supported Living rates as part of the annual uplift. This equates to a forecast spend of £1,108,656.00.

AUTHORITY UNDER WHICH DECISION IS MADE

Havering Council's Constitution:

Part 3 [Responsibility for Functions]

2.2. Corporate functions of Cabinet

Finance

(a) To take decisions on all matters relating to the Council's finances including but not exclusively:

(v) budget revisions

Part 3: Responsibility for Functions,

2 – Executive Functions

The Leader of the Council is responsible for arranging for the exercise of all executive functions and may by way of written notice delegate Executive functions to:

1. Cabinet
2. A committee of the Cabinet
3. Individual Cabinet Members
4. Staff
5. Joint Committees

Part 2, Article 1.03(d) – Definitions

The Director of Adult Social Services is a Senior Leadership Team Director, for the purposes of the Constitution.

At the Budget Setting Cabinet meeting of 8th February 2023, Cabinet delegated to the Directors of Children's and Adults authority to agree inflation rates with social care providers for the financial year 2023/24.

STATEMENT OF THE REASONS FOR THE DECISION

Background

The Joint Commissioning Unit undertakes an Annual Uplift Project as part of the strategy to support and sustain the Provider Market. The 22/23 Uplift Project gave uplifts to 240 Provisions, based on detailed research on business demands and pressures.

Since the implementation of these uplifts in April 2022, there have been significant additional economic pressures nationally, and a number of providers have approached the Council raising concerns regarding their ability to sustain their provisions.

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2022/23 also saw the government policy around funding reform start in earnest with council's required to complete cost of care exercises through the summer of 2022 for a submission to the Department of Health & Social Care in mid-October 2022. This was part of the preparation required for the planned introduction of the care cap in October 2023, however government announced a pause in implementation of the cap for approximately two years to October 2025. Funding that was to come to local authorities to support implement of the care cap, was repurposed by government to create a new Market Sustainability and Improvement Fund (as well as further funding made available for the Hospital Discharge Fund).

The Market Sustainability & Improvement Fund is to be ring fenced to adult social care to support the government objectives of addressing discharge delays, social care waiting times, low fee rates, workforce pressures and to promote technological innovation in the sector. It is of note that this funding was distributed to councils using the Adult Social Care Relative Needs Formulae (ASC RNF), which takes no account of the size of provider market, particularly the care home market, who have larger fixed costs than home care agencies, and therefore have experienced larger cost pressures due to inflation, notably utilities and mortgages. By way of example, one inner North East London borough has seven care homes providing care for people over the age of 65, with a total 254 beds (although it is of note that four of these homes, 72 beds in total, provide care to all adults over the age of 18 and are specialist learning disability or mental health providers), with this borough receiving a grant over £3m. Havering have 34 generic care homes for older people with 1533 registered CQC beds, yet will only receive £2.355m.

This fund should not be seen in isolation from other government funding announcements, primarily the Hospital Discharge Fund and the Social Care Grant. As with the Market Sustainability Fund, the Social Care Grant was distributed via the ASC RNF, whilst the Discharge Fund was distributed via the improved Better Care Fund (iBCF RNF), which sees Havering, despite having the highest proportion of older people in North East London, getting an even further reduced comparative grant as compared to inner North East London boroughs. The local ICB recognises that the discharge pressures in the outer North East London are larger due to the age profile, with older people more likely to use NHS services, particularly acute hospitals.

This disparity makes it almost impossible for Havering to meet the government objective of moving meaningfully towards a reasonable cost of care, supporting discharges from hospital, social care waiting times, and other workforce pressures, particularly as the 2024/25 grants will be distributed via the ASC RNF (or iBCF RNF) also.

Government Guidance for the Market Sustainability and Improvement Fund was published on 29 March 2023 for the financial year 2023/24. The guidance allows for its usage in the 18-64 care market, which was unexpected. Up to then government and therefore national funding focus was on services that primarily work with older people – ie care homes and home care (18+). However in setting our uplift rates, we were already using sustainable models of care in those markets that work with people with learning disabilities, mental health, and physical and sensory disabilities also – residential and nursing care as well as supported living.

Our uplift approach has endeavoured to start the journey towards the median cost of care, taking into account inflationary pressures but also focussing on higher uplifts for those parts of the social care market (older people's care homes and homecare) where fee rates needed to be raised by a higher percentage, because of the distance from the median cost of care as at October 2022, recognising that the median cost of care as assessed at that time, will have moved on considerably because of the impacts of inflation since the work was done.

Benchmarking

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As part of the consultation process, the Council contacted a number of neighbouring local authorities to obtain the usual rates they pay for older person's nursing care home placements and the rationale behind any rate increases (where available).

All councils are having to consider significant uplifts for the 2023/24 financial year, with NEL boroughs ranging from between 9% and over 16% uplifts for their care market – with the uplift being driven by their particular market conditions, commitments to London Living Wage, and their size of government grant. The higher the grant to boroughs, the better their ability to meet government objectives.

For supported living schemes, it is very difficult to work to a 'usual rate' and therefore to benchmark against other local authorities. This is because of the huge variation in need being met from sometimes similar to needs that older people in care homes have through to very complex, requiring 1-1 or 2-1 care. ASC did review per head of population spend for the 2021/22 year for the People Overview & Scrutiny Sub-Committee for its meeting on 9th March 2023. Whilst it was not specific to the supported living market, the average spend in 2021/22, suggests that Havering across all services was about average for services for the 18-64 resident population, at around £223 per head of the total 18-64 population in the borough but is much lower than partners on its spend on older people. A table is set out below

Per head of population spend 2021/22, north east London boroughs

LA name	18 to 64	65 and Over	Total popn
	Per head of population 18-64	Per head of population 65 and over	Per head of population all adults
Barking and Dagenham	£217	£1,237	£343
City of London	£321	£1,435	£494
Hackney*	[x]	[x]	[x]
Havering	£223	£772	£348
Newham	£227	£1,503	£349
Redbridge	£206	£947	£327
Tower Hamlets	£220	£2,596	£389
Waltham Forest	£229	£1,179	£355

* Hackney have not been able to submit statutory returns since 2019/20, due to the serious cyber-attack in November 2020

Consultation with the Market

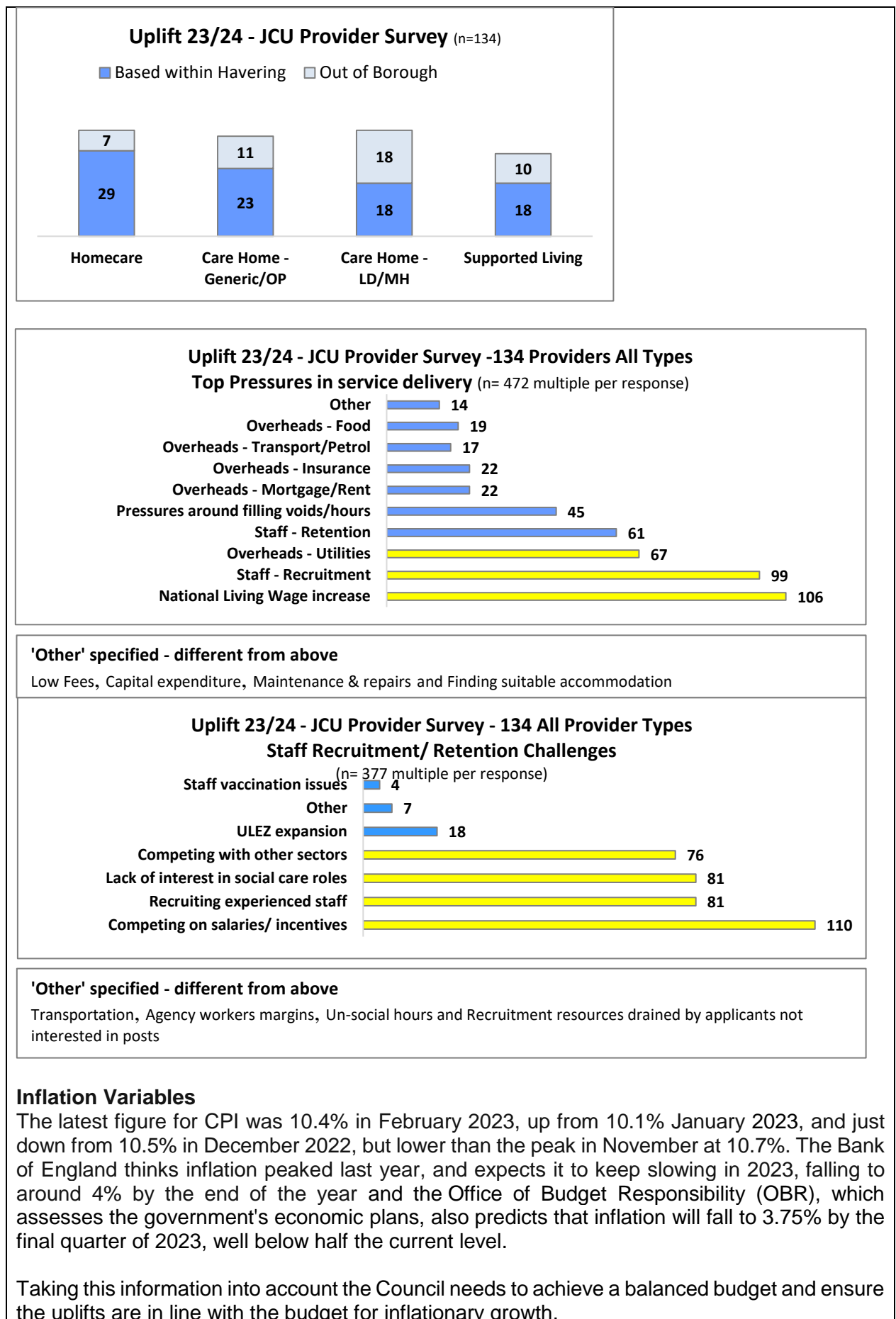
The Council opened a consultation with the market and asked for feedback based on the areas below:

1. Top pressures in service delivery
2. Staff recruitment and retention challenges

An Online Survey was emailed to multiple contacts (finance and operational) for 350+ commissioned providers based in and out of borough (89 Homecare providers, 77 OP Care Homes, 91 Specialist Care Homes, 101 Supported Living provisions).

134 responses were received via Citizen Space in the period 25/01/23 to 08/02/23.

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Cost inflation in the care sector for the 2022-23 financial year is far higher than normal. This is due to a combination of factors, including:

- A 9.7% increase in the statutory National Living Wage (£9.50 to £10.42 per hour),
- High levels of inflation across the wider economy (with varying impacts on the 'basket' of non-staff costs for different care services)
- Structural changes relating to the delivery of care that either will or could raise costs for providers in the future.

It is also important to note that the freezing by government of the national insurance thresholds in its budget of November 2022, will have a disproportionate impact on social care workforce (and indeed other low paid sectors), where the bulk of wages is paid at or close to the statutory NLW, especially where a high proportion of people work part-time hours.

For 2023-24, the government has announced an Energy Bills Discount Scheme (EBDS). The EBDS will come into force from the 1st of April 2023 and will last until the 31st of March 2024. The unit discount of £6.97/MWh for gas and £19.61/MWh for electricity is subject to a wholesale price threshold of £107/MWh for gas and £302/MWh for electricity. Businesses with energy costs below that level will not receive support.

Risks and Mitigations

1. Risk of service interruption due to financial failure. Services are facing increases in National Living Wage, National Minimum Wage and running costs as mentioned above. If rates are not uplifted businesses will find it difficult to remain sustainable.
2. Risk of lack of capacity and choice in the market. A sustainable market promotes growth and encourages new business opportunities.
3. 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.
4. Increasing gap between inflation increase to cost and Council rates. This will be mitigated by the uplift.

Recommendation

It is recommended that the Council uplift the rates for Supported Living as outlined in the table below:

UPLIFT MODEL BY SERVICE TYPE & RATE				
SERVICE	RATE	Current rate	% UPLIFT	New rate
SUPPORTED LIVING	VARIABLE WEEKLY	variable	8.00%	variable

It is recommended that this proportional approach is applied to the 23/24 yearly uplift with the intention of balancing the pressures on budgets against the risk of increased costs incurred due to provider failure.

Rationale

SUPPORTED LIVING	<p>Snapshot data from end February 2023 shows a gross weekly cost across all schemes of £268,331 with the average weekly cost of a supported living placement costing £975.</p> <p>Snapshot data shows there were 210 placements with the majority of these (154) for service users with a learning disability.</p> <p>The recommendation is to uplift rates paid to supported living providers by 8% for the 2023/24 financial year.</p>
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Key Executive Decision

The new supported living rate recognises the increased cost pressures the providers face in relation to staffing and retention when compared to last year.

Financial Implications

The cost implications of these proposals and the estimated gross impact of this proposal is an increase of £1,108,656.00 per annum.

This is based on a snapshot of placements from the end of February 2023. 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 2023/24 financial year.

A significant change in demand or in the need of those requiring support would affect the projection.

OTHER OPTIONS CONSIDERED AND REJECTED

1. Offer no uplift to the usual rate the Council pays for services.

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 services, including the National Minimum Wage and inflation increases.

PRE-DECISION CONSULTATION

The Annual Uplift Project 2023/24 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: Laura Wheatley

Designation: Senior Commissioner and Project Manager

Signature: *L Wheatley*

Date: 05/04/2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Care Act 2014 places a duty on the Council to assess and support adults with their eligible care needs. The Act also introduced duties on local authorities to facilitate a vibrant, diverse and sustainable market that provides high quality care and support in their area, for the benefit of their whole local population, regardless of how the services are funded.

The Care Act 2014 also identifies the right for individuals to exercise choice in the care that they receive, which clearly extends to a residential care establishment given that this will be the person's home. The implementation of a cost rate increase supports local providers to meet the increased wages of staff as a result of the increase in the remit of the National Minimum Wage from April 2023 and the cost of living. This falls within the remit of the Care Act 2014.

Section 5(2)(d) of the Care Act 2014 requires the Council to have regard to the importance of ensuring the sustainability of the market in performance of its duty.

The cumulative values of the contracts and proposed modifications are above the relevant threshold for Light Touch Regime procurements as defined in Schedule 3 of the Public Contracts Regulations (as amended) 2015 (PCR). Therefore, the contracts and any modifications are subject to the PCR and the Council's Contract Procedure Rules.

The contract between the Council and the service provider states that the Council will undertake a fee review/ uplift every 12 months. Thus an uplift was provided for within the contract and is compliant with Regulation 72(1)(a) PCR and CPR 19.1.

FINANCIAL IMPLICATIONS AND RISKS

The recommendation in this report is to uplift current provider rates for supported living placements by 8% for financial year 2023/24. 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, high inflationary rates and to aid recruitment and retention. High level benchmarking has been carried out with 3 other local authorities on their 2023/24 rates and consultation with the market has also taken place, as outlined earlier in the report.

The estimated impact of this proposal is a net increase of £1,108,656.00 per annum. This is based on a snapshot of placements from the end of February 2023. 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 2023/24 financial year.

The uplift approach has also taken into consideration the median cost of care, taking into account inflationary pressures but also focussing on higher uplifts for those parts of the social care market where fee rates needed to be raised by a higher percentage as the margin to the median cost of care is greater for these areas. The 2023/24 funding announcements committed a total of £562 million for Councils in a new Adult Social Care Market Sustainability and Innovation Fund, of which Havering will receive £2.355 million. This funding is being used to move towards the median cost of care.

Key Executive Decision

The council built into its Medium Term Financial Strategy an allocation of growth for Adult Social Care, Government funding has also been applied to the budget, consisting of the market sustainability and innovation grant, the hospital discharge grants, a share of the social care grant and the adult social care precept for 2023/24.

The total growth available for Adult Social Care is £9.486m. The costs arising from this inflationary increase will be funded from the growth allocation.

The total estimated costs for all of the inflationary uplifts (separate decision papers) across Adult Social care is £6,452,526. The growth funding is sufficient to meet this cost.

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 affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the different contributions, perspectives and experience that people from different backgrounds bring.

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, gender, race and disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

HEALTH AND WELLBEING IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable Health and Wellbeing risks or implications that would affect either the Council or its workforce. Without the annual uplift to meet market prices, local care sector will face service disruption and will not be able to maintain safe and effective care because local providers will not be able to retain or recruit staff and maintain the structures to meet the care needs of the vulnerable residents.

Key Executive Decision

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable environmental implications.

BACKGROUND PAPERS

<https://www.gov.uk/government/publications/market-sustainability-and-improvement-fund-2023-to-2024/market-sustainability-and-improvement-fund-2023-to-2024>

APPENDICIES

None

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

CMT Member title: Director of Adult Services

Date: 06/04/2023

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____