

Notice of KEY Executive Decision (Special Urgency)

Subject Heading:	Approval to uplift the rates for Direct Payments 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. This 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 Direct Payments is estimated to cost £1,027,433.00.</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> <p>A significant change in demand or in the need of those requiring support would affect the projection.</p>

Key Executive Decision

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 Innovation 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 Direct Payments rates as part of the annual uplift. This equates to a maximum forecast spend of £1,027,433.00.

AUTHORITY UNDER WHICH DECISION IS MADE

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.

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 the 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 implementation of the care cap, was

Key Executive Decision

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 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 care 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 Adult Social Care Relative Needs Formulae (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, reducing 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 not only focussed on provision such as home care and care homes, but also has recognised that the Council's direct payment rate has required a major review for 2023/24. The rate has been in place for a number of years, as a base rate, from which exceptional cases could be negotiate if costs were higher than the agreed direct payment allowed for. In the last 2-3 years, this has invariably led to increased hourly rates in a growing majority of cases. Central to this uplift has been the further increase in the national living wage (NLW) of 9.7%, meaning direct payment holders would be paying their personal assistants below the NLW, which clearly would be illegal.

Benchmarking

It is difficult to get benchmarking information about rates paid for direct payments (unusually) as boroughs may have different rates for different levels of support provided.

All councils are having to consider significant uplifts for the 2023/24 financial year, with uplifts in NEL boroughs ranging from between 9% and over 16% uplifts for their care market, including their direct payment rate. The uplift is being driven by their particular market conditions,

Key Executive Decision

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.

Consultation with the Market

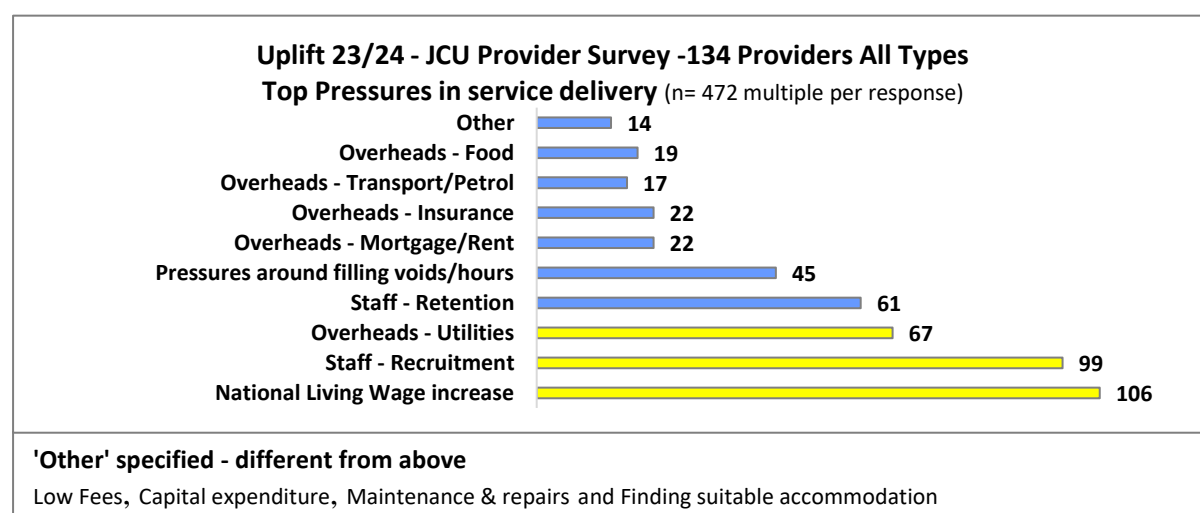
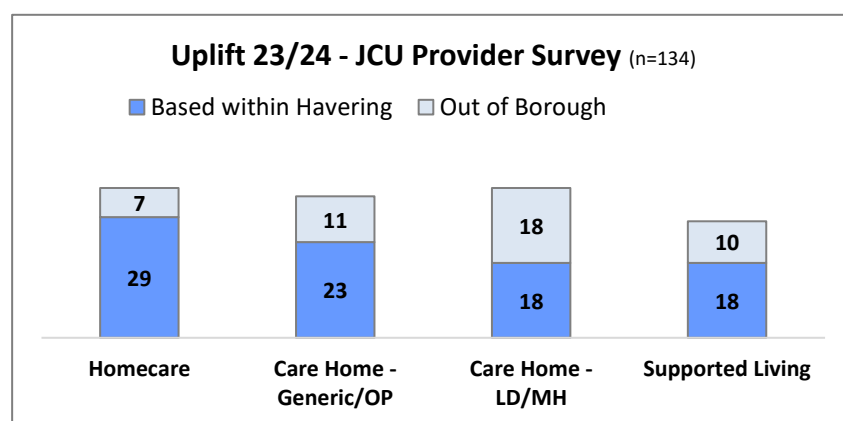
The Council opened a private consultation with the market and asked for feedback based on the areas below:

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

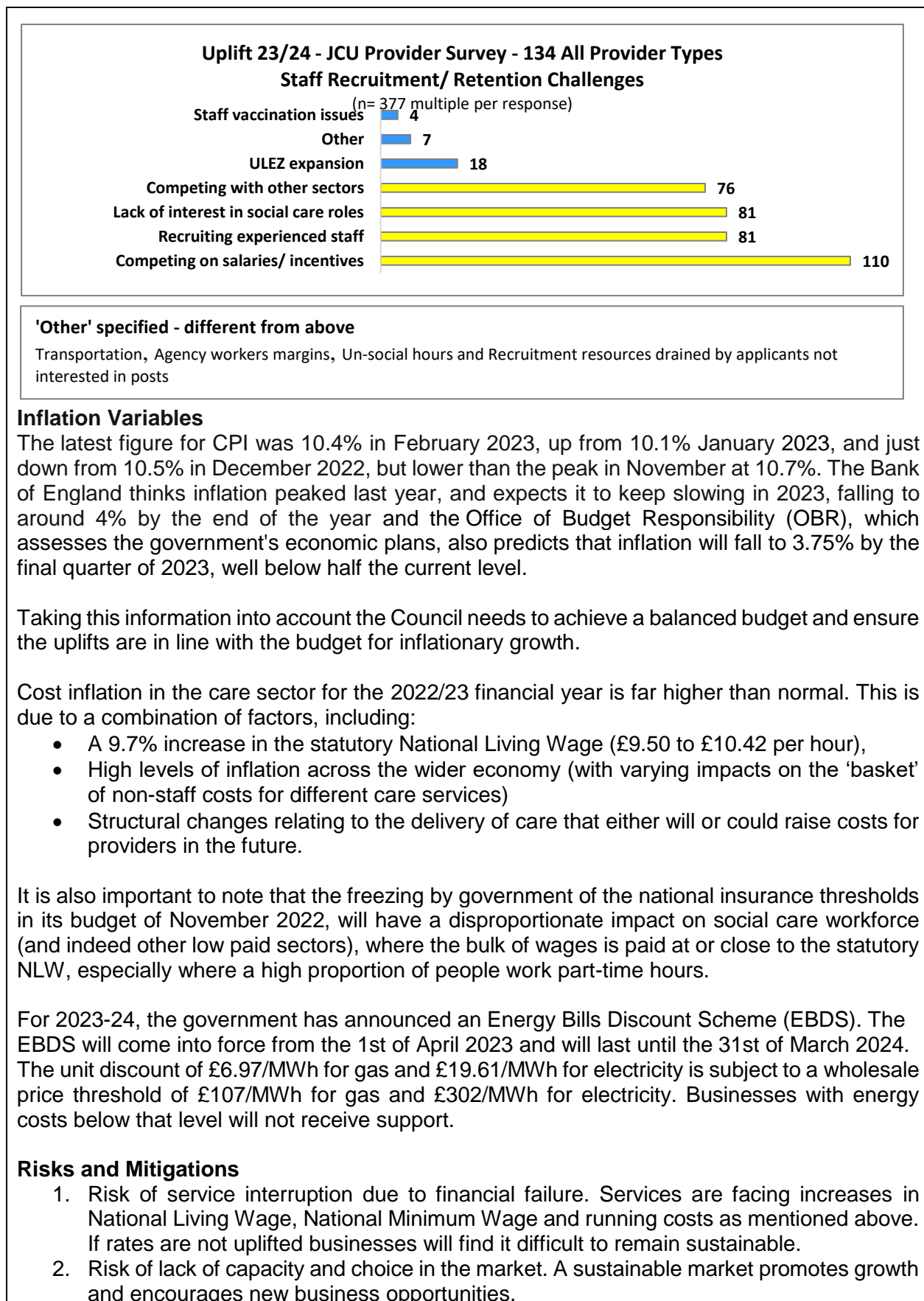
Whilst this consultation was not specifically opened to direct payment holders, its outcomes are illustrative of pressures being felt by the people with direct payments that are the subject of this executive decision.

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.



Key Executive Decision



Key Executive Decision

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 Direct Payments as outlined in the table below:

UPLIFT MODEL BY SERVICE TYPE & RATE					
SERVICE	FREQ	BAND	CURRENT ALIGNED RATE	% UPLIFT	NEW RATE
CARERS PAYMENT	Weekly	LOW	£6.50	7.69%	£7.00
	Weekly	MEDIUM	£13.00	7.69%	£14.00
	Weekly	HIGH	£16.25	4.62%	£17.00
HEMOCARE	Hourly	STANDARD RATE	£12.92	23.84%	£16.00
LIVE IN CARE	Weekly	STANDARD RATE	£1,045.00	5.26%	£1,100.00
NIGHT SERVICES	Nightly	NIGHT SITTER	£65.44	22.25%	£80.00
	Nightly	WAKING NIGHTS	£121.95	0.00%	£121.95
PAYROLL	Weekly	STANDARD RATE	£5.70	0.00%	£5.70
	Weekly	INVOICE ONLY	£2.54	0.00%	£2.54
RESPITE	Daily	STANDARD RATE	£92.70	0.00%	£92.70
SOCIAL INCLUSION	Hourly	STANDARD RATE	£12.92	4.49%	£13.50
TRANSPORT	Journey	TAXI	£7.50	0.00%	£7.50
	Journey	TRANSPORT SERVICES	£10.00	0.00%	£10.00
	Mile	MILEAGE	£0.45	0.00%	£0.45

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

DIRECT PAYMENTS	<p>The current spend on direct payments is £9,992,287.90. The total spend is made up from 11 types of direct payments that support clients' needs. The rates paid for each of these types of direct payments have not been uplifted in 10 years.</p> <p>It is not appropriate to uplift all of the types of direct payment by the same amount as each has a very specific service type which support clients by enabling them to purchase care of varying levels.</p> <ul style="list-style-type: none"> • Carers Payment, is a payment given to carers and the level of payment is determined by completion of a carer's assessment. There is a need to increase the rate that carers receive as they
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Key Executive Decision

	<p>play a vital role in preventing clients from entering the adult social care system. The recommended 8% uplift would increase the weekly rates to £7.00, £14.00 and £17.00. This will ensure that carers continue to feel valued as they deliver a vital role in society.</p> <ul style="list-style-type: none">• Homecare, is a payment given to clients for personal care provided by personal assistants & homecare services. There is a need to increase the rate that is paid for homecare as it is important to maintain choice for care at home rather than in a residential home. The recommended 24% uplift would increase the hourly rate to £16.00. This is still significantly lower than the 2022/23 rate of £19.68 paid for commissioned homecare, but will ensure that we can maintain and grow the personal assistant market, as the current rate paid is not sustainable.• Live in Care, is a payment given to clients for care provided 24 hours a day, 7 days a week. There is a need to increase the rate that is paid for live in care as it is important to maintain choice for clients in the social care market. The recommended 5% uplift would increase the weekly rate to £1,100.00 and will ensure that we can maintain and sustain the choice in the market.• Night Services, is a payment given to clients for either a night sitter who stays in the home overnight to maintain routine or waking nights carer who stays in the home overnight to maintain routine but can be woken up to provide care. There is a need to increase the rate that is paid for night sitter as it is important to maintain choice for clients in the social care market. The recommended 22.25% uplift would increase the nightly rate to £80.00. The current rate is not sustainable and is below minimum wage at £8.18 per hour for 8 hours. The increase to the rate will ensure that we can maintain and sustain the choice in the market. There is not a need to increase the rate paid for waking nights as the rate is sufficient to allow clients to purchase care from the social care market.• Payroll Fees, is a payment paid to clients when they are employing a personal assistant. There is not a need to increase these rates currently as an increase was agreed in the last 6 months.• Respite, is a payment given to clients for respite to be used either during the day or overnight. There is not a need to increase the rate paid as the rate is sufficient to allow clients to purchase respite from the social care market.• Social Inclusion, is a payment given to clients to enable them to develop their confidence and skills in the community. There is a need to increase the rate that is paid for social inclusion as it is important to maintain choice for clients in the community. The
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Key Executive Decision

recommended 4.5% uplift would increase the hourly rate to £13.50 and will ensure that we can maintain and sustain the day services and community groups that provide this support to clients.

- Transport, is a payment given to clients for transport via taxi, transport services or travel mileage. There is not a need to increase the rates paid as the rates are sufficient to allow clients to purchase transport from the community.

It should be noted that there is a risk to the sustainability of these packages if an uplift is not applied to reflect the increased cost of purchasing care services in these areas. There is a risk that people may choose to stop receiving direct payments as they will experience difficulties purchasing care within their funding envelope and will approach the Council to directly commission service instead. This could result in increased spend for the Council.

Financial Implications

Below are the cost implications of these proposals and the estimated gross impact of this proposal is an increase of £1,027,433.00 per annum.

PROJECTED ESTIMATED COST OF 2023-24 UPLIFT BY SERVICE TYPE		
DIRECT PAYMENTS	Homecare	£852,936
	Social Inclusion	£129,664
	Night Services	£21,256
	Live-in Care	£17,206
	Carer Services	£6,370
	SUB-TOTAL	£1,027,433

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.

Key Executive Decision

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

Key Executive Decision

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.

Section 5(2)(d) of the Care Act 2014 places a duty on the Council to have regard to the importance of ensuring the sustainability of the market.

In accordance with its duties under the Care Act the Council is required to review a resident's care and support plan. This also involves reviewing the level and amount of direct payment a service user receives for their assessed needs.

FINANCIAL IMPLICATIONS AND RISKS

The recommendation in this report is to uplift current direct payment rates by the below %'s for financial year 2023/24.

CARERS PAYMENT	Weekly	LOW	7.69%
	Weekly	MEDIUM	7.69%
	Weekly	HIGH	4.62%
HEMOCARE	Hourly	STANDARD RATE	23.84%
LIVE IN CARE	Weekly	STANDARD RATE	5.26%
NIGHT SERVICES	Nightly	NIGHT SITTER	22.25%
SOCIAL INCLUSION	Hourly	STANDARD RATE	4.49%

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 an increase of £1,027,433.00 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

Key Executive Decision

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.

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.

Key Executive Decision

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.

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>

APPENDICES

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 Social Care & Health

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 _____