

Notice of Non-key Executive Decision containing exempt information

This Executive Decision is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to Information relating to the financial or business affairs of any particular person (including the authority holding that information), and the public interest in maintaining the exemption outweighs the public interest in disclosing the information

Subject Heading:	Approval to uplift the rates for ASC Contracts as part of the annual uplift for 2023/24
Decision Maker:	Barbara Nicholls, Director of Adult Services
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:	Increasing the rates for ASC Contracts will cost £277,727.36.
Relevant OSC:	People

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Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a non-key decision taken by an officer
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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. []

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

This decision seeks authority from the Director of Adult Services to approve an uplift to the ASC Contracts rates as part of the annual uplift. This equates to a maximum spend of £277,727.36.

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.

ASC has not historically uplifted existing contracts whilst they are in contract – the expectation being that providers have planned in operating the contract within the contract period they tendered for. However over 2022/23 ASC has seen the delivery of services put at risk because of inflationary pressures, with significant rises in operating costs, which will rise further from April 2023. This includes a rise of 9.7% in the national living wage, as well ongoing pressures as a result of energy inflation, food, costs of rent/mortgages on premises, broadband and telephony, and so on.

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ASC contracts

Adult Social Care contracts cover a range of services including our preventative offer for vulnerable people provided by the voluntary sector. It is of note that the inflationary pressures felt across the adult social care market have also impacted on our wider market who support vulnerable people and their carers, which support residents' independence and delays their need for statutory social care.

Consultation with the Market

A review of the contracts in place was undertaken to ensure that uplifts included in existing contracts were taken account of as part of the broader uplift modelling and commissioners spoke to individual organisations on request to better understand their pressures.

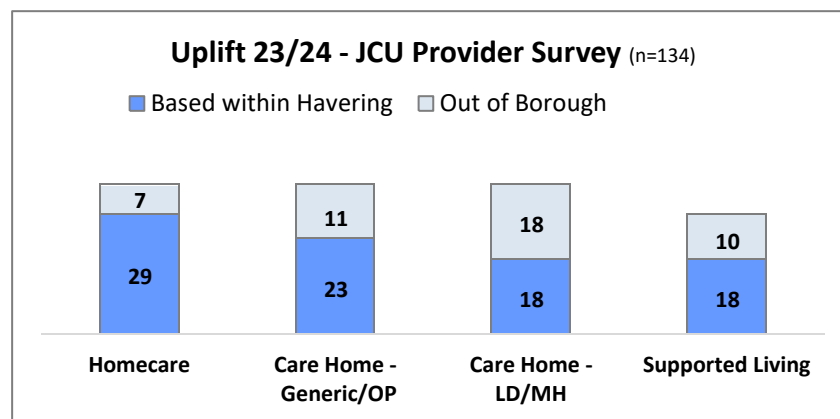
The Council opened a consultation with the adult social care market and asked for feedback based on the areas below:

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

Whilst this consultation was not specifically opened to non-adult social care providers, its outcomes are illustrative of pressures being felt by the providers that are the subject of this executive decision. Individual providers have signalled their sustainability issues, and these have been interrogated and dealt with on a case by case basis.

An Online Survey was emailed to adult social care providers (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).

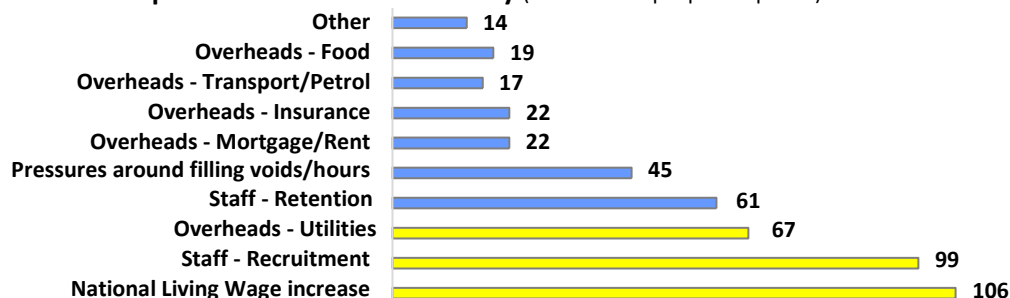
134 responses were received via Citizen Space in the period 25/01/23 to 08/02/23.



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Uplift 23/24 - JCU Provider Survey -134 Providers All Types

Top Pressures in service delivery (n= 472 multiple per response)



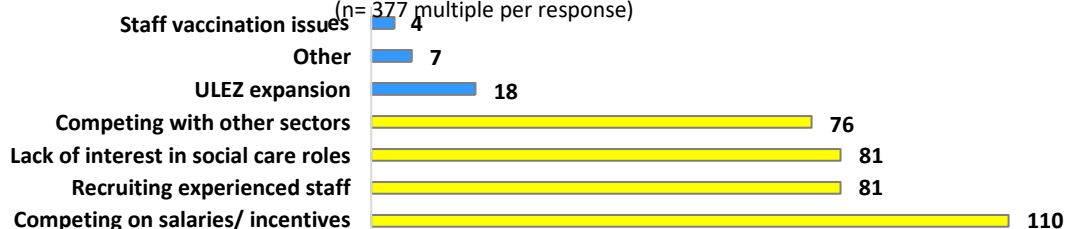
'Other' specified - different from above

Low Fees, Capital expenditure, Maintenance & repairs and Finding suitable accommodation

Uplift 23/24 - JCU Provider Survey - 134 All Provider Types

Staff Recruitment/ Retention Challenges

(n= 377 multiple per response)



'Other' specified - different from above

Transportation, Agency workers margins, Un-social hours and Recruitment resources drained by applicants not interested in posts

Inflation Variables

The latest figure for CPI was 10.4% in February 2023, up from 10.1% January 2023, and just down from 10.5% in December 2022, but lower than the peak in November at 10.7%. The Bank of England thinks inflation peaked last year, and expects it to keep slowing in 2023, falling to around 4% by the end of the year and the Office of Budget Responsibility (OBR), which assesses the government's economic plans, also predicts that inflation will fall to 3.75% by the final quarter of 2023, well below half the current level.

Taking this information into account the Council needs to achieve a balanced budget as well as ensure the uplifts are in line with the growth available as agreed by the Cabinet at its February meeting.

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

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(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 ASC contracts as outlined in the Exempt Appendix A

It is recommended that this proportional approach is applied to the 2023/24 yearly uplift with the intention of balancing the pressures on budgets against the risk of increased costs incurred due to provider failure.

Rationale

ASC CONTRACTS	<p>It is not appropriate to uplift all of the types of contract by the same amount as each has a very specific service specification which support clients.</p> <ul style="list-style-type: none">• Some contracts do have an annual uplift built in• Some providers are facing above inflation increases in costs such as one where the rent is increasing by 24%• Uplifts (with evidence of cost increases) range from 2% - 5%, with a very small provider asking for an uplift of 10.5%
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Financial Implications

The cost implications of these proposals and the estimated gross impact of this proposal is an increase of £277,727.36 per annum.

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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. 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 places a duty on the Council to have regard to the importance of ensuring the sustainability of the market.

On 8 February 2023, Cabinet delegated to the Director of Children's and Adults authority to agree inflation rates with social care providers for 2023/24.

FINANCIAL IMPLICATIONS AND RISKS

The recommendation in this report is to uplift the ASC Contract rates on the Exempt Appendix A as part of the annual uplift.

ASC has not historically uplifted existing contracts whilst they are in time – the expectation being that providers have planned in operating the contract within the contract period they tendered for. However over 2022/23 ASC has seen the delivery of services put at risk because of inflationary pressures, with significant rises in operating costs

This proportional approach is applied to the 2023/24 yearly uplift with the intention of balancing the pressures on budgets against the risk of increased costs incurred due to provider failure.

It is not appropriate to uplift all of the types of contract by the same amount as each has a very specific service specification which support clients and the detailed % each uplift are shown on the Exempt Appendix A.

The estimated impact of this proposal is an increase of £277,727.36 per annum.

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.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

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

BACKGROUND PAPERS

None

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APPENDICES

Appendix A - Exempt

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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

CMT Member title: Director of Adult Social Care & Health

Date: 11/04/2023

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 _____