



**Havering**  
LONDON BOROUGH

## Notice of Non-Key Executive Decision

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| <b>Subject Heading:</b>                   | Approval to uplift the rates for Children's Direct Payments to match the Adult's rates as part of the annual uplift for 2023/24  |
| <b>Decision Maker:</b>                    | Barbara Nicholls, Strategic Director of People   |
| <b>Cabinet Member:</b>                    | Oscar Ford, Cabinet Member Children's Services   |
| <b>SLT Lead:</b>                          | Tara Geere, Statutory Director of Children's Services  |
| <b>Report Author and contact details:</b> | Laura Wheatley<br>Laura.wheatley@havering.gov.uk<br>01708 434019   |
| <b>Policy context:</b>                    | <p>The Council has a duty under the Children's Act 1989 to safeguard and promote the welfare of children in general within its area.</p> <p>The Council also 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"><li>• Services are of good quality, operate with a valued and well trained workforce and are appropriately resourced.</li><li>• Service provisions are sustainable.</li></ul> |
| <b>Financial summary:</b>                 | <p>Increasing the rates for Direct Payments is estimated to cost £196,174.71 in a full year. The effect of this uplift will be felt in this current financial year.</p> <p>This is based on a snapshot of placements from the end of August 2023. The estimated costs and income assumes that current client numbers will continue at the same level.</p>  |

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|  | <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> |
| <b>Relevant Overview &amp; Scrutiny Sub Committee:</b> | People's Overview and Scrutiny Sub Committee   |
| <b>Is this decision exempt from being called-in?</b>   | The decision will be exempt from call in as it is a Non key Decision.  |

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

People - Things that matter for residents

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 Strategic Director of People to approve an uplift to the Direct Payments rates to match the Adult's rates as part of the annual uplift. This equates to a maximum forecast spend of £196,174.71.

#### 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 Statutory Director of Children Social Services is a Senior Leadership Team Director, for the purposes of the Constitution.

At the Budget Setting Cabinet meeting of 8<sup>th</sup> 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.

As part of the annual uplift project for 2023/24 the rates for the Adult's Direct Payments were uplifted as below:

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| 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     |

At the time of uplifting the Adult Direct Payment Rates it was not possible to uplift the Children's Direct Payment rates as there was a process change and data cleansing that needed to be completed before the rates could be uplifted in the same manner. This work has now been concluded and moving forward all rates will be uplifted at the same time each April.

### 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, 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.

### 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 and ensure the uplifts are in line with the budget for inflationary growth.

Cost inflation in the social 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),

## Key Executive Decision

- 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.

### 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 Children's Direct Payments to match the Adult's rates as outlined in the table below:

| UPLIFT MODEL BY SERVICE TYPE & RATE |         |               |                      |          |          |
|-------------------------------------|---------|---------------|----------------------|----------|----------|
| SERVICE                             | FREQ    | BAND          | CURRENT ALIGNED RATE | % UPLIFT | NEW RATE |
| HOMECARE                            | Hourly  | STANDARD RATE | £12.67               | 26.28%   | £16.00   |
|                                     | Hourly  | NON TERM TIME | £12.67               | 26.28%   | £16.00   |
|                                     | Hourly  | TERM TIME     | £12.67               | 26.28%   | £16.00   |
| NIGHT SERVICES                      | Nightly | NIGHT SITTER  | £70.17               | 14.01%   | £80.00   |
| RESPIRE                             | Daily   | STANDARD RATE | £65.44               | 41.66%   | £92.70   |
| SOCIAL INCLUSION                    | Hourly  | STANDARD RATE | £12.67               | 6.55%    | £13.50   |

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

|                        |   |
|------------------------|---|
| <b>DIRECT PAYMENTS</b> | <p>The current annual spend on direct payments is £1,539,408.29. The total spend is made up from 10 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>The Adult direct payment rates were uplifted in April 2023 and the proposed uplifts will match the rates paid to Adults.</p> |
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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.

- 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 26.28% 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.
- Night Services, is a payment given to clients for either a night sitter who stays in the home overnight to maintain routine. 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 14.01% 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.
- Respite, is a payment given to clients for respite to be used either during the day or overnight. The recommended 41.66% uplift would increase the respite rate to £65.44 and will ensure that we can maintain and sustain the choice in the 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 recommended 6.55% 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.

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 £196,174.71 per annum over current costs and this increase would increase budget pressures in the current financial year 2023/24.

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### PROJECTED ESTIMATED COST OF 2023-24 UPLIFT BY SERVICE TYPE

|                 |                  |                    |
|-----------------|------------------|--------------------|
| DIRECT PAYMENTS | Homecare         | £186,755.23        |
|                 | Night Services   | £1,025.07          |
|                 | Respite          | £3,168.82          |
|                 | Social Inclusion | £5,225.59          |
|                 | <b>SUB-TOTAL</b> | <b>£196,174.71</b> |

This is based on a snapshot of placements from the end of August 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.

It is essential that the review of these placements is carried out consistently going forward and the effectiveness of the payments is monitored to demonstrate that they achieve best value in service delivery. The review of these payments should happen in synchronisation with the market reviews across both children's and adults payments.

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.

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

Name: Laura Wheatley

Designation: Senior Commissioner and Project Manager

Signature: *LWheatley*

Date: 02/10/2023

## **Part B - Assessment of implications and risks**

### **LEGAL IMPLICATIONS AND RISKS**

The Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009 as amended require direct payments made by the Council to be set at such a rate as the authority estimate to be equivalent to the reasonable cost of securing the provision of the service concerned.

As set out in this report, officers have reviewed the existing rates and recommend the uplifts as reflecting a reasonable rate to secure each provision.

### **FINANCIAL IMPLICATIONS AND RISKS**

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 £196,174.71. This is based on a snapshot of placements from the end of August 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 decision to increase the homecare direct payment rate for personal assistants to £16.00 per hour in Adult services has implications for Children's Services, where the corresponding rate is £12.67 per hour. This leaves the authority open to challenge as there is no justification for the difference.

Due to the expected growth in this area, £200,000 has already been included in the P3 forecast for the service, as reported to the recent Children's Star Chamber meeting.

### **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:

## **Key Executive Decision**

- 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**

<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: Strategic Director of People

Date: 18/10/2023

**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 \_\_\_\_\_