



# Havering

LONDON BOROUGH

## Notice of KEY Executive Decision - wholly 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

<b>Subject Heading:</b>	ASC Yearly Uplift 2024-25 – ASC Contracts
<b>Decision Maker:</b>	Barbara Nicholls, Strategic Director of People
<b>Cabinet Member:</b>	Councillor Gillian Ford, Cabinet Member for Health and Adult Care Services
<b>SLT Lead:</b>	Barbara Nicholls, Strategic Director of People
<b>Report Author and contact details:</b>	Laura Wheatley Laura.wheatley@havering.gov.uk 01708 434019
<b>Policy context:</b>	<p>The Council has a duty under the Care Act 2014 to shape the social care market.</p> <p>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>	Increasing the rates for ASC Contracts will cost £181,152.00.
<b>Reason decision is Key</b>	(a) Expenditure or saving (including anticipated income) of £500,000 or more

**Key Executive Decision – Part Exempt Report**

	(c) Significant effect on two or more Wards
<b>Date notice given of intended decision:</b>	17/11/2023
<b>Relevant OSC:</b>	People's Overview and Scrutiny Sub Committee
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

**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

For reasons detailed in this report, the Strategic Director of People agrees to approve an uplift to the ASC Contract rates as part of the annual uplift project. This equates to a forecast spend of £181,152.00.

### 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

At the Budget Setting Cabinet meeting of 14<sup>th</sup> February 2024, Cabinet delegated to the Strategic Director of People and Director of Start Well authority to agree inflation rates with social care providers for the financial year 2024/25.

### STATEMENT OF THE REASONS FOR THE DECISION

The Joint Commissioning Unit (now the Havering Place Integrated Team) undertakes an Annual Uplift Project as part of the strategy to support and sustain the Provider Market. The 2023/24 Uplift Project gave uplifts to 240 Provisions, based on detailed research on business demands and pressures.

Since the implementation of these uplifts in April 2023, 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.

2022/23 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

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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 government is providing a further £205 million of ring-fenced funding across financial year 2024 to 2025 to local authorities to improve and increase adult social care provision, with a particular focus on workforce pay (the MSIF – Workforce Fund). The Council expects this additional funding to support more workforce and capacity within the adult social care sector. This will help to ensure that appropriate short-term and intermediate care is available to reduce avoidable admissions and support discharge of patients from hospital when they are medically fit to leave.

The government recognises that local areas are best placed to design and deliver care initiatives tailored to meet local needs effectively. Local authorities can choose to use the funding to:

- increase fee rates paid to adult social care providers, particularly as the Council continue to prepare for the implementation of charging reform
- increase adult social care workforce capacity and retention
- reduce adult social care waiting times

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 second 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 improved Better Care Fund (iBCF) also.

The Council's 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.

### **ASC contracts**

Adult Social Care contracts cover a range of services including the Council's 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 the Council's 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.

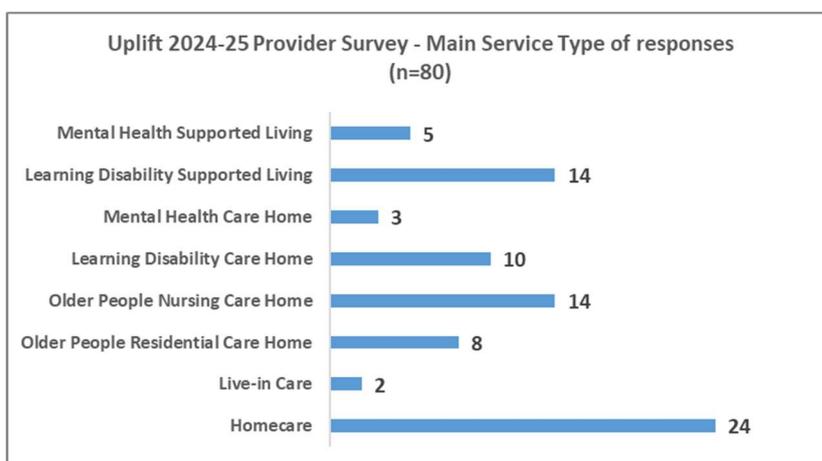
The Council opened a consultation with the market and asked for feedback based on the areas below:

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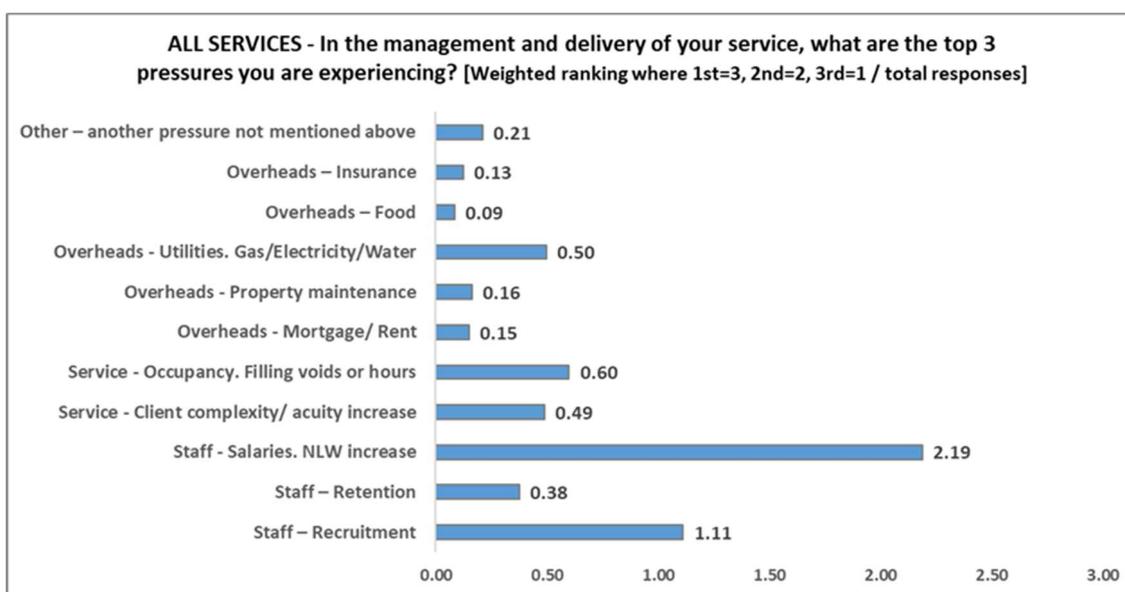
1. Top pressures in service delivery
2. Staff recruitment and retention challenges
3. Other additional pressures and challenges

An Online Survey was emailed to 128 Havering based ASC Providers/Parent Organisations, of which 80 responses were received via Citizen Space in the period 04/12/2023 to 18/12/2023.

Service type	Providers surveyed	Survey responses
Homecare/Live-in	46	26
Supported living	38	19
Specialist Care Homes	14	13
OP Residential Homes	15	8
OP Nursing Homes	15	14
<b>Total</b>	<b>128</b>	<b>80 (62.5%)</b>



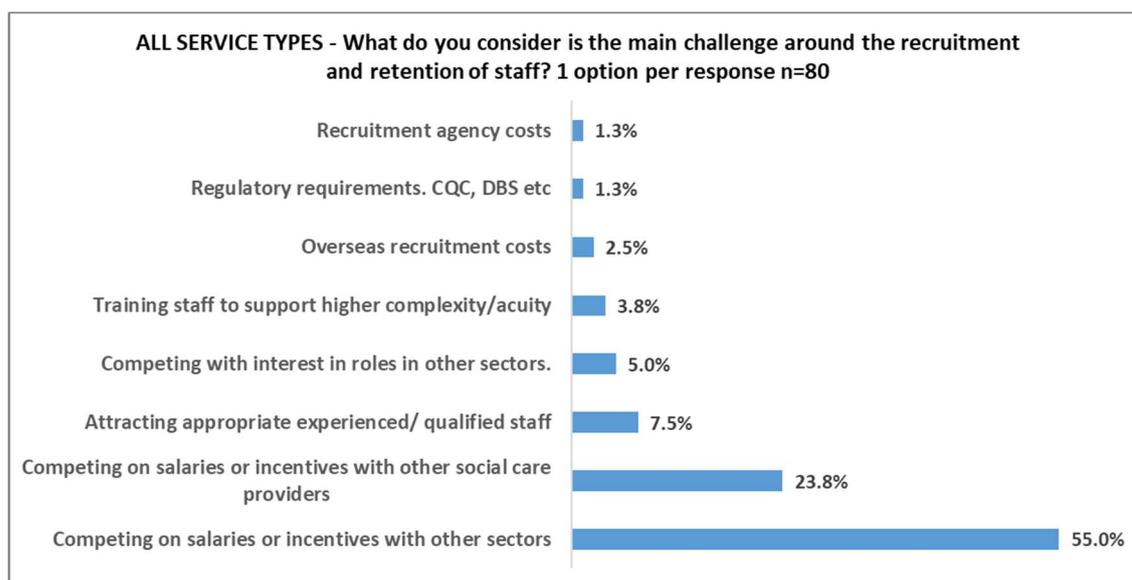
**Q1 In the management and delivery of your service, what are the TOP 3 pressures you are experiencing?** 3 ranked options per response - Weighted ranking 1st=3, 2nd=2, 3rd=1 / total responses - max score is 3 per Pressure



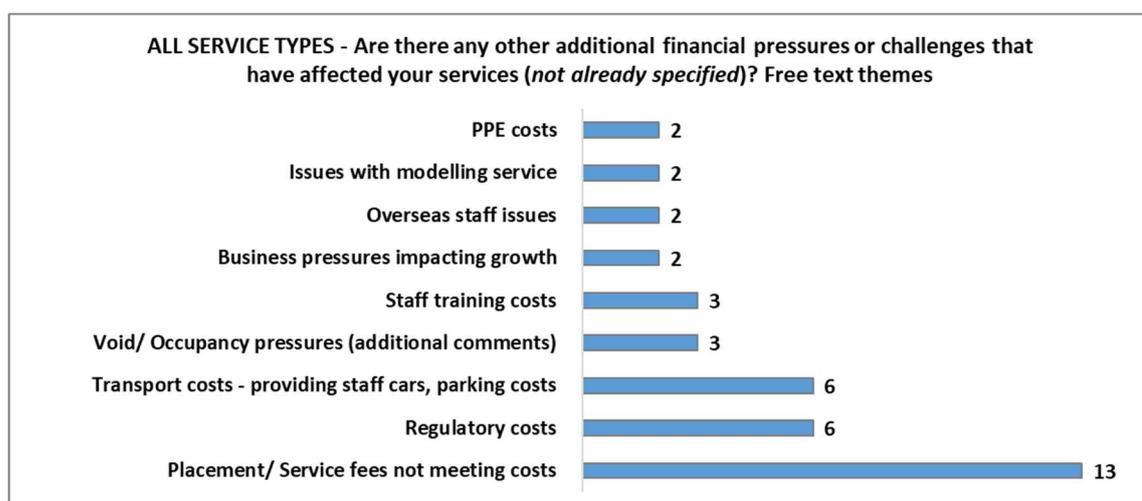
## Key Executive Decision – Part Exempt Report

ALL SERVICES - 'Other' Pressure selected in TOP 3	Responses
Service - Placement fees	3
Overheads - All (not categorised)	3
Overheads - IT	2
Overheads - Transport / petrol	1
Service - Communication issues with LA	1
Staff - Overseas staff expenses	1
<b>Total</b>	<b>11</b>

**Q2 What do you consider is the main challenge around the recruitment and retention of staff in your service area? 1 option per response**



**Q3 Are there any other additional financial pressures or challenges that have affected your services, which are not mentioned above? Free text main themes summary, multiple themes per response possible**



### Inflation Variables

The cost of living increased sharply across the UK during 2021 and 2022. The annual rate of inflation reached 11.1% in October 2022, a 41-year high, before subsequently easing. High inflation affected the affordability of goods and services for households and businesses.

## Key Executive Decision – Part Exempt Report

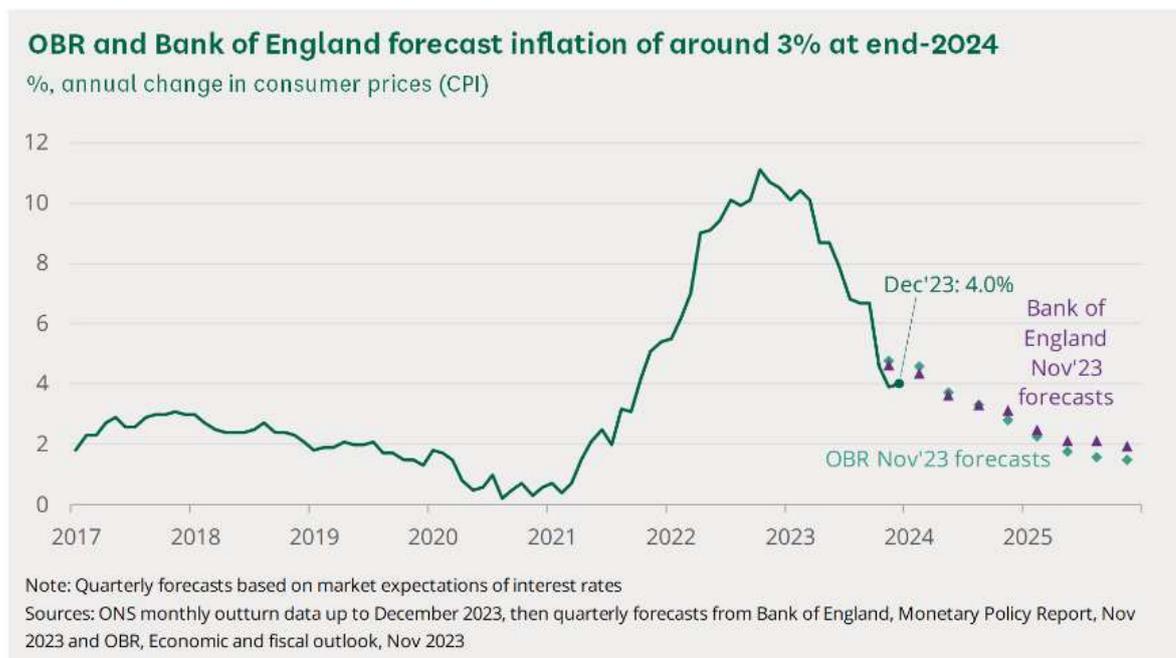


Recent data shows the UK Inflation Rate is at 3.20%, compared to 3.40% last month and 10.40% last year. This is higher than the long term average of 2.83%.

The UK's annual inflation rate is expected to continue falling in 2024, though more gradually than in 2023, due to lower energy prices and reduced inflation in consumer goods and food. The average forecast among economists surveyed by the Treasury in the first half of January 2024 was for inflation to average 2.2% in the fourth quarter (Q4) of 2024.

The Bank of England expects inflation to continue to fall in 2024. In its latest set of forecasts published in early November 2023, it forecast the CPI inflation rate to average 3.1% in Q4 2024. In forecasts published alongside the Autumn Statement, the Office for Budget Responsibility (OBR) expects inflation to average 2.8% in Q4 2024.

The Bank of England expects inflation to continue to slow, before reaching their 2.0% target by the end of 2025.



The National Living Wage (NLW) has increased from £10.42 per hour in 2023-24 to £11.44 per hour in 2024-25. This is a £1.02 or 9.8% increase. The increase in the NLW is well above current general inflation (3.9% for the 12-months to November 2023 based on CPI). As a high proportion of staff working in the care sector are paid at or close to the statutory NLW, this means that cost inflation in adult social care will be far higher than inflation in the wider economy.

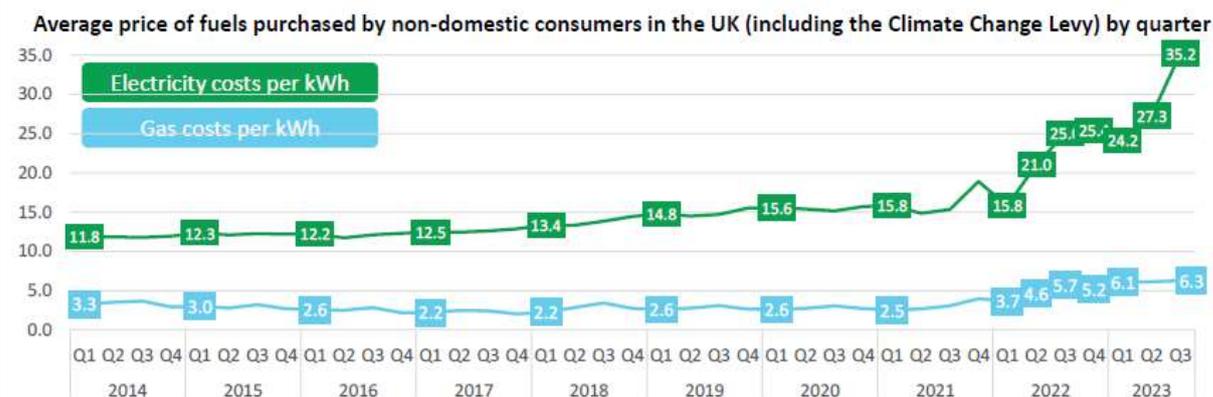
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The qualifying thresholds for employer national insurance have been frozen for 2024-25; and are planned to remain frozen until April 2028. This means national insurance costs will continue to rise at a greater level than the percentage increase in wages each year. This applies to both employer national insurance (paid by the employer in addition to wages) and employee national insurance (paid from the workers' wages).

There is also no indication that the qualifying thresholds for statutory pensions will increase, as they have remained frozen in recent years. When statutory pension thresholds are frozen, more staff are auto-enrolled into company pension schemes, and a greater proportion of wages are subject to pension charges (so costs increase disproportionately more than wages).

The freezing of national insurance and pension thresholds compounds the financial impact of any wage increases. For example, the 9.8% increase in the NLW for 2024-25 will add between 10.0% and 11.0% to the costs of staff paid the NLW. The effect on overall inflation is dependent on (i) the staff composition of each business in terms of how many hours' staff work each week, and (ii) the proportion of total costs that is staff related, which varies by type of service.

In the last quarter of 2023 calendar year, gas and electricity prices for businesses are more than double that of summer 2021 –with most of the increase taking place in 2022. Although long-term projections are for wholesale energy costs to fall by the end of the decade, significant falls are not expected any time soon.



The various schemes put in place by the government to support businesses with energy costs have effectively ended. For the time being, the evidence therefore suggests the new normal is a doubling of energy prices compared to 2021-22.

Patterns of energy consumption can vary significantly between care homes depending on factors such as the age and energy efficiency of the building, and the type of heating system in place. However, for a typical older adult care home, a doubling of gas and electricity prices equates to a cost increase of between circa £20-25 PRW over roughly three years –with most of the increase taking place during 2022-23 (which would feed into 2023-24 fee uplifts).

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.

### 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.

## **Key Executive Decision – Part Exempt Report**

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 as outlined in the table below:

See Exempt Appendix A.

### **Rationale**

The significant financial challenges faced by the Council mean that it may be in the position where the Council's expenditure is more than the level of resources it has available, putting the Council at risk of not being able to set a legally balanced budget.

Havering is a well-run, cost-effective Council and it is in this position due to drastically reduced funding from central government, high inflation and increased demand for services. These challenges place a large amount of pressure on its finances and require the Council to take important and immediate action to manage its spending while keeping its commitment to residents.

A review of rates has taken place for all providers as the Council does each year as part of its annual uplift project. The market consists of both Council funded rates and private rates which are generally much higher than the Council's. The Council needs to be able to continue making placements in the market at a standard rate rather than negotiating placements on an individual basis most likely at a higher cost.

Therefore, its uplift approach for 2024-25 is to apply a proportional approach 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 uplifts will only be given where they are built into the contract and the detailed % each uplift are shown on the Exempt Appendix A.

### **Financial Implications**

The cost implications of the recommendation and the estimated gross impact of this proposal is an estimated cost of £181,152.00.

## **OTHER OPTIONS CONSIDERED AND REJECTED**

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 – Part Exempt Report**

**PRE-DECISION CONSULTATION**

The Annual Uplift Project 2024/25 consulted with Finance, Legal, Adult Social Care, Financial Assessment, Business Systems and Performance. Externally the Council consulted with providers who it commissions with in Havering and outside the borough.

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

Name: Laura Wheatley

Designation: Portfolio Manager – Live Well

Signature: 

Date: 22/04/2024

## **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 2024 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 the performance of its duty.

The cumulative values of the contracts are above the relevant threshold for Light Touch Regime procurements as set out in Regulation 5(1)(d) of the Public Contracts Regulations (as amended) 2015 (PCR). Therefore, the contracts and any modifications are subject to the PCR.

Officers have confirmed that the uplift is in line with the contractual provisions.

### **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, the contracts included in this uplift have them built into the contract to ensure that they can continue to provide a service for our residents.

This proportional approach is applied to the 2024/25 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 £181,152.00 per annum.

The council built into its Medium Term Financial Strategy an allocation of growth for Adult Social Care, this growth figure includes Government funding, consisting of the market sustainability grant, the hospital discharge grants, a share of the social care grant and the adult social care precept for 2023/24.

The total growth allocated to Adult Social Care is £17.8m as an expected worst case scenario, with £14.3m being the anticipated likely requirement. Adult Social Care has seen unprecedented pressure in the 2023/24 financial year due to an increase in provider rates and an increase in complexity of cases. This significant growth figure is being allocated to ensure sufficient budget to cover the costs of commissioning care that resulted in a large overspend in

## **Key Executive Decision – Part Exempt Report**

23/24 and to also cover the cost of expected demographic increases and the inflationary uplifts for the 24/25 financial year.

### **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.

**Key Executive Decision – Part Exempt Report**

**BACKGROUND PAPERS**

<https://www.gov.uk/government/publications/market-sustainability-and-improvement-fund-2024-to-2025/market-sustainability-and-improvement-fund-2024-to-2025>

<https://www.gov.uk/government/publications/discharge-fund-grant-determination-2024-to-2025/discharge-fund-grant-determination-2024-to-2025>

**APPENDICES**

<b>Appendix A</b>	ASC Contracts	Exempt
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**Key Executive Decision – Part Exempt Report**

**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 People

Date:

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