

## **Cabinet – 12 August 2020**

### **Update on Supplier Relief Payments to Contracted and Non-contracted Adult Social Care Providers**

**Portfolio:** Councillor Rose Martin, Adult social care

**Related portfolios:** All

**Service:** Adult Social Care

**Wards:** All

**Key decision:** Yes

**Forward plan:** No

#### **1. Aim**

This report seeks Cabinet's approval for the Council to continue to financially support or provide financial relief to Adult Social Care providers and ensure continuity of care for service users. To do this the Council will continue to make payments outside of usual contracted arrangements, as COVID-19 continues to have an impact on the cost of service provision. Thus, meaning further additional expenditure of up to £500,000.

#### **2. Summary**

- 2.1. In line with Government guidance and as part of the Adult Social Care's response to COVID-19, a number of measures have been adopted, to enable providers of commissioned care services to be paid in a way that supports their cash flow and sustainability.
- 2.2. In May 2020, Cabinet approved funding of £200,000 for additional supplier relief to contracted and non-contracted Adult Social Care providers following a task and finish analysis of provider Covid-19 related additional expenditure.
- 2.3. Since May, the Council has received over £400,000 worth of claims from over 40 providers and paid £330,000 funded from the approved £200,000 supplier relief, the Infection, Prevention and Control Grant funding and the recovery of unspent direct payments.
- 2.4. The £200,000 approved additional supplier relief budget has now been exhausted however the pandemic is continuing to have a significant impact on providers and Adult Social Care commissioners do not foresee an end to the additional cost in the near future.

- 2.5. In accordance with the Council's Constitution, this is a Key Decision for the following reasons:
- The decision will incur 'significant' expenditure of greater than £250,000.
  - The decision is likely to have a significant impact on two or more wards of the borough as the proposed alternative model is a change to the way in which service is delivered.

### **3. Recommendations**

#### **That Cabinet:**

Approves funding of a further £500,000 for additional supplier relief to contracted and non-contracted Adult Social Care providers. This will be subject to agreed governance, as set out in this report.

### **4. Report detail**

#### **Know**

- 4.1 Adult Social Care have approximately 200 providers who deliver domiciliary care, residential and nursing care, supported living, day centres and social clubs. Domiciliary, supported living, residential and nursing care providers have contractual agreements in place with the Council for the provision of care services.
- 4.2 On the 15th May, the Government announced a £600 million Infection Control Fund to tackle the spread of COVID-19 in care homes. With care homes being asked to restrict permanent and agency staff to working in only one care home wherever possible, the funding can be used to fund sick pay, pay whilst in self-isolation, staff backfill, overtime and some transport costs.
- 4.3 The allocation for Walsall was £2.8 million with 75% being passed directly to residential and nursing care providers in two equal instalments based on registered bed. The second payment is contingent on the first being used for infection control. Walsall Council took the decision to allocate the remaining 25% to domiciliary care provides on the same basis.
- 4.4. Despite the injection of funding from the Government and ongoing support from the Council, providers continued to report additional expenditure as a result of COVID-19. In May 2020 Cabinet approved funding of £200,000 for additional supplier relief to contracted and non-contracted Adult Social Care providers which has been allocated to providers through an open-book process overseen by the Supplier Payment Action Group (SPAG).
- 4.5 As the pandemic continues to impact the way in which providers can operate, the associated cost and inflated price of essential supplies including personal protective equipment (PPE) remains a significant financial pressure.
- 4.6 In addition and in line with our Care Act 2000 responsibilities, and as agreed in the Cabinet report on Provider Payments in May 2020, an open-book accounting exercise has been undertaken to review the financial impact of voids on individual Care Home providers and this has been cross-referenced against the previous

open-book accounting exercise conducted with these providers. This initial review has not highlighted any significant concerns about provider financial viability.

- 4.7. Although there have been a limited number of Provider Representations there have been no requests for emergency payments from providers.
- 4.8. Providers have received financial support in the form of the Infection Prevention Grant and Additional Expenses claims.
- 4.9. On the basis of the findings in the initial work, it is recommended that an initial payment is not made to providers and that providers continue to be supported through the additional expenses claims and that work progresses; using the tools adapted by the regional commissioning network to establish the full extent of provider risk in the medium to long term.
- 4.10. The recommendation to not award emergency payments to Residential and Nursing providers will release a projected commitment of £1.9 million.

### **Decide**

- 4.11 Option 1 – Do nothing, cease additional expense payments. The Council is not obliged to fund the additional COVID-19 related expenditure faced by providers, however, failure to do so could see an already limited local market stretched to the point where operation becomes financially unviable for some providers and they may not be in operation post-pandemic.
- 4.12. Option 2 (**Preferred**) - To continue to make payments through an open-book process up to a fixed value. The current approach places the onus on providers who need financial assistance to submit a claim to the Council. The claim can then be scrutinised through the open book accounting process and appropriate payments to cover additional costs arising directly from the pandemic can be made.
- 4.13. Option 3 – Pay a flat uplift to ASC providers. Whilst this option would be simpler to transact and would offer greater clarity on projected costs, this approach does not target the funding on those providers in greatest need and most at risk of provider failure and is likely to cost significantly more. Nor is this option in line with the decision taken by Cabinet on 19 May 2020
- 4.14. This approach is considered to be the most cost effective and has the strongest rationale in terms of transparency and providing consistent support to the market during the pandemic and preventing provider failure.

### **Respond**

- 4.15. Following the Cabinet approval in May 2020 providers were invited to submit claims for additional COVID-19 related expenditure along with supporting evidence.
- 4.16. The claims have been considered by a panel of representatives from Adult Social Care commissioning, procurement and finance who have subsequently made recommendations regarding payment based on their collective knowledge of the sector. Where additional information or clarification is required, Adult Social Care

commissioners have contacted the provider directly to ensure that the claim can be reconsidered at the next panel meeting. Panel meetings have taken place twice weekly to ensure the timely processing of payments.

- 4.17. The approach to date has been welcomed by providers and the structure remains in place to continue to review and process provider claims subject to the availability of funding.
- 4.18. Additional supplier relief to contracted and non-contracted Adult Social Care providers will continue to be monitored and allocated to providers through an open-book process overseen by the Supplier Payment Action Group (SPAG).
- 4.19. Since the May report to Cabinet, the Council has received over £400,000 worth of claims from more than 40 providers and paid £330,000 funded from the approved £200,000 supplier relief, the Infection, Prevention and Control Grant funding and the recovery of unspent direct payments.

## **5. Council Corporate Plan priorities**

- 5.1. This proposal links to the Council's corporate priority 'Communities are prospering and resilient. The most vulnerable are protected from avoidable harm, including treating and caring for people in a safe environment through working within the local community. It enhances quality of life for people with care and support needs and those with long term conditions; out of hospital, community based provision provides a safe and more appropriate environment for individuals recovering from ill health and/or injury or requiring long term care.
- 5.2. More specifically this proposal seeks to align to the Care Act Duty of Market Oversight.

## **6. Risk management**

- 6.1. The monitoring of the expenditure will be overseen by the Adult Social Care directorate in conjunction with finance and procurement colleagues. This agenda is also discussed as part of the COVID-19 chain of control groups (BRONZE; SILVER and GOLD), which has representatives of all internal and external Stakeholders responsible for delivering safe outcomes as a result of COVID-19.
- 6.2. There is potential challenge in relation to the equity of impact/benefit of the preferred option on providers. This is understood and will be managed and mitigated as necessary.
- 6.3. The Walsall Adult Social Care Market is a fragile market in ordinary times; our Adult Social Care Commissioners continue to flag that sustainability of ASC provision is a significant risk.

## **7. Financial implications**

- 7.1. The financial implication of this proposal is up to £500,000 taking the total financial impact to £700,000. The impact of the proposal on Providers financial sustainability, in creating capacity and ensuring good value for money will continue to be reviewed by Adult Social Care commissioners. Dialogue across the region

will also continue in relation to spend levels across a commissioned market where many providers deliver services across the region as well as in Walsall.

- 7.2. A budget of £1.9m had been identified through the Covid-19 allocation to support the residential and nursing sector following the outcome of the open-book accounting exercise. The exercise concluded that no emergency payment should be awarded and therefore this budget could be used for the continuation of additional expense payments.

## **8. Procurement Implications/Social Value**

- 8.1. Cabinet Office procurement note (PPN 02/20) issued on the 20<sup>th</sup> March and updated on the 17<sup>th</sup> April states Local Authorities should: seek to support supplier cash flow through a pragmatic approach; no provider should seek to profiteer from COVID-19; there should be a particular focus on supporting providers who are considered at risk during this time in relation to cash flow; providers need to operate transparent book keeping in relation to their financial accounts during this period; any payment by results approaches should be considered in relation to temporary deferment and payments approaches considered which are based on payment over the past 3 months and that interim payment arrangements should be in place until June 2020.
- 8.2. On the 9<sup>th</sup> June, the Cabinet Office published Procurement Policy Note 04/20: Recovery and Transition from COVID-19, which builds on Procurement Policy Note 02/20 and recommends the expiry of relief measures for suppliers not essential to the delivery of critical services. The guidance outlines the following actions for all contracting authorities:
1. A contract portfolio review with respect to continuing or commencing measures in like with Procurement Policy Note 02/20.
  2. Working in partnership with suppliers to develop transition plans to
    - Exit from any relief as soon as reasonably possible.
    - Agree contract variations if operational requirements have changed significantly.
    - Ensure contracts are still relevant and sustainable and deliver value for money over the medium to long term.
  3. Continuing to pay suppliers as quickly as possible to maintain cash flow and protect jobs.

## **9. Legal Implications**

Legal advice and support has been and will continue to be sought if any further variation of contracts are required.

## **10. Health and wellbeing implications**

It is in the health and well-being interests of those supported by ASC services that the ASC market is supported to be financially sustainable and to flex its capacity so that it can continue to meet the assessed care needs of those who require them.

## **11. Staffing implications**

There are no staffing implications arising out of this report.

## 12.0. Reducing Inequalities

An Equality Impact Assessment (EqIA) has been completed and is appended to this report.

## 13 Consultation

- 13.1. All Social Care providers across Walsall and the Council's Health and Care partners are engaged in regular tele-conferences, by email, through a dedicated 'provider hotline' and through an ASC provider information and advice internet page.
- 13.2. Leaflets have been produced for providers to issue to service users when having discussions about their care delivery which sets out the 'new way of working' and addresses frequently asked questions. The leaflet also advises who to contact should they be unhappy with their new arrangements.

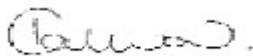
## Background papers

Cabinet Paper – Paying for Community Based Commissioned Care Services During the COVID-19 Period - 12 May 2020

### Author

**Kerrie Allward**

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Kerrie Allward  
Executive Director Adult Social Care

Date: 03 August 2020



Councillor Rose Martin  
Portfolio holder – Adult Social Care

Date: 03 August 2020

## Equality Impact Assessment (EqIA) for Policies, Procedures and Services

<b>Proposal name</b>	<b>Paying for Community Based Commissioned Care During COVID-19</b>		
<b>Directorate</b>	Adult Social Care Directorate		
<b>Service</b>	Commissioning		
<b>Responsible Officer</b>	Kerrie Allward		
<b>Proposal planning start</b>	Emergency plan commenced 23 March 2020 due to COVID-19	<b>Proposal start date (due or actual date)</b>	Retrospectively 1 <sup>st</sup> July 2020

<b>1</b>	<b>What is the purpose of the proposal?</b>	<b>Yes / No</b>	<b>New / revision</b>
	Interim change to the way community based commissioned care providers are paid during COVID-19 – to pay providers against the value of service users support plan		
	Policy	<b>N</b>	<b>N</b>
	Procedure	<b>Y</b>	<b>Y</b>
	Guidance	<b>Y</b>	<b>Y</b>
	Is this a service to customers/staff/public?	<b>Y</b>	<b>Y</b>
	If yes, is it contracted or commissioned?	<b>Commissioned</b>	
	Other - give details	Interim proposal replacing current contractual payment arrangements	
<b>2</b>	<b>What is the business case for this proposal? Please provide the main purpose of the service, intended outcomes and reasons for change?</b>		
	<p>In line with Government guidance and as part of the Adult Social Care's response to COVID-19, a number of measures have been adopted, to enable providers of commissioned care services to be paid in a way that supports their cash flow and sustainability.</p> <p>On 12 May 2020, cabinet approved £319k to cover the period of 23 March 2020 to 28 June 2020) outside of usual contracts arrangements during the period of COVID-19. This report asks for a further £500k to continue with considering additional expense applications during the COVID-19 pandemic.</p> <p>The priority is to ensure as per Government guidance – community based commissioned care providers are supported in terms of cash flow and sustainability during this period. Thus ensuring our vulnerable service users continue to receive care to sustain their independence.</p>		
<b>3</b>	<b>Who is the proposal likely to affect?</b>		



People in Walsall	Yes	Detail																																																																					
All	Y	<p>All citizens of the borough who have received a statutory community care assessment, where it has been determined they have assess needs requiring services in the community within which they live.</p> <p>All staff who process payments to care providers will be required to change the way and the frequency of payments. Meaning payments will be paid at much greater pace.</p> <p>Systems development staff will be required to temporarily reconfigure social care systems to enable payment processes to temporarily change</p>																																																																					
Specific group/s	Y																																																																						
Council employees	Y																																																																						
Other (identify)																																																																							
<b>4</b>	<b>Please provide service data relating to this proposal on your customer's protected characteristics.</b>																																																																						
	<ul style="list-style-type: none"> <li>The vulnerable Adult Social Care service user group who receive community based services either directly commissioned through Walsall Council or via a Direct Payment by age banding are as follows: <table border="0"> <tr> <td>15</td> <td>Day Care</td> <td>18 - 65</td> </tr> <tr> <td>407</td> <td>Direct Payment</td> <td>18 - 65</td> </tr> <tr> <td>84</td> <td>Direct Payment</td> <td>66 - 75</td> </tr> <tr> <td>228</td> <td>Direct Payment</td> <td>76 +</td> </tr> <tr> <td>164</td> <td>Dom Care – CM (CM electronic monitoring tool care recorded)</td> <td>18 - 65</td> </tr> <tr> <td>130</td> <td>Dom Care – CM</td> <td>66 - 75</td> </tr> <tr> <td>542</td> <td>Dom Care – CM</td> <td>76 +</td> </tr> <tr> <td>43</td> <td>Dom Care - Non CM</td> <td>18 - 65</td> </tr> <tr> <td>40</td> <td>Dom Care - Non CM</td> <td>66 - 75</td> </tr> <tr> <td>131</td> <td>Dom Care - Non CM</td> <td>76 +</td> </tr> <tr> <td>269</td> <td>Supported Living</td> <td>18 - 65</td> </tr> <tr> <td>24</td> <td>Supported Living</td> <td>66 - 75</td> </tr> <tr> <td>7</td> <td>Supported Living</td> <td>76 +</td> </tr> </table> </li> <li>The vulnerable Adult Social Care service user group who receive community based services either directly commissioned through Walsall Council or via a Direct Payment by gender are as follows: <table border="0"> <tr> <td>9</td> <td>Day Care</td> <td>Female</td> </tr> <tr> <td>6</td> <td>Day Care</td> <td>Male</td> </tr> <tr> <td>394</td> <td>Direct Payment - Client</td> <td>Female</td> </tr> <tr> <td>325</td> <td>Direct Payment - Client</td> <td>Male</td> </tr> <tr> <td>540</td> <td>Dom Care – CM (Care recording tool)</td> <td>Female</td> </tr> <tr> <td>296</td> <td>Dom Care - CM</td> <td>Male</td> </tr> <tr> <td>132</td> <td>Dom Care - Non CM</td> <td>Female</td> </tr> <tr> <td>82</td> <td>Dom Care - Non CM</td> <td>Male</td> </tr> <tr> <td>104</td> <td>Supported Living</td> <td>Female</td> </tr> <tr> <td>196</td> <td>Supported Living</td> <td>Male</td> </tr> </table> </li> <li>The vulnerable Adult Social Care service user group who receive community based services either directly commissioned through Walsall Council or via a Direct</li> </ul>		15	Day Care	18 - 65	407	Direct Payment	18 - 65	84	Direct Payment	66 - 75	228	Direct Payment	76 +	164	Dom Care – CM (CM electronic monitoring tool care recorded)	18 - 65	130	Dom Care – CM	66 - 75	542	Dom Care – CM	76 +	43	Dom Care - Non CM	18 - 65	40	Dom Care - Non CM	66 - 75	131	Dom Care - Non CM	76 +	269	Supported Living	18 - 65	24	Supported Living	66 - 75	7	Supported Living	76 +	9	Day Care	Female	6	Day Care	Male	394	Direct Payment - Client	Female	325	Direct Payment - Client	Male	540	Dom Care – CM (Care recording tool)	Female	296	Dom Care - CM	Male	132	Dom Care - Non CM	Female	82	Dom Care - Non CM	Male	104	Supported Living	Female	196	Supported Living	Male
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Payment by ethnicity are as follows:

6	Day Care	Asian/Asian British
1	Day Care	Black/Black British
8	Day Care	White
133	Direct Payment	Asian/Asian British
30	Direct Payment	Black/Black British
		Mixed/Multiple ethnic groups
6	Direct Payment	Other Ethnic Groups
5	Direct Payment	White
545	Direct Payment	Asian/Asian British
79	Dom Care – CM (CM electronic care recording tool)	Black/Black British
21	Dom Care – CM	Mixed/Multiple ethnic groups
8	Dom Care – CM	NULL
6	Dom Care – CM	Other Ethnic Groups
5	Dom Care – CM	White
717	Dom Care – CM	Asian/Asian British
12	Dom Care - Non CM	Black/Black British
3	Dom Care - Non CM	No ethnicity recorded
1	Dom Care - Non CM	Other Ethnic Groups
2	Dom Care - Non CM	White
196	Dom Care - Non CM	Asian/Asian British
33	Supported Living	Black/Black British
5	Supported Living	Mixed/Multiple ethnic groups
7	Supported Living	Other Ethnic Groups
2	Supported Living	White
253	Supported Living	

**5 Please provide details of all engagement and consultation undertaken for this proposal. (Please use a separate box for each engagement/consultation).**

Detailed engagement has taken place with all community based providers of commissioned care and with direct payment support agencies on the proposal to support their cash flow and sustainability during this COVID-19 period and to empower them to work with service users differently during this period to ensure care is delivered proportionality across our whole community based service user cohort.

There is ongoing engagement with our regional authorities to determine the approaches being undertaken by other local authorities in the payment of providers.

Engagement has taken place with Association of Directors of Adult Social Care to seek a steer and understand guidance being issued nationally.

Internal staff engagement has taken place for those staff who's work practices will be changed during this period, recognising this is now a dispersed staff cohort working remotely, which brings additional challenges.

Engagement and approval sought on approach being proposed and adopted via Gold Command.

<b>Consultation Activity</b>			
<b>Type of engagement/consultation</b>	Affected staff engagement - face to face; conference calls  weekly conference calls to commissioned care providers including day care and social club providers  Engagement and escalation of proposed approach through bronze to gold command	<b>Date</b>	All commenced 20 March, 2020 and continues
<b>Who attended/participated?</b>	Adult Social Care staff; Corporate Finance Payment Team; Community Based Care externally commissioned care providers (circa 200)		
<b>Protected characteristics of participants</b>	The officer participants are representative of the make-up of the council organisation The community based providers also represent the make-up of the local community and include both small scale independent provider and larger regional and more national providers		
<b>Feedback</b>			
<ul style="list-style-type: none"> <li>• Provider feedback was overwhelmingly positive in response to the proposed interim change</li> <li>• Staff feedback was one of concern that usual validation processes would be deferred; limited timeline to mobilise all changes including significant system reconfiguration; concern the pace staff would need to work in order to deliver the refreshed payment timetable</li> </ul>			
<b>6</b>	<b>Concise overview of all evidence, engagement and consultation</b>		
Continued routine engagement takes place each week; with briefings as appropriate and communication material issued to the market as required. The expectation was that providers would communicate directly with service users.			
Assessment and Care Management staff continue to engage with service users directly through safe and well checks – no concerns have been reported.			
Full Cabinet report and associated documentation that is linked directly to this EQIA.			
<b>7</b>	<b>How may the proposal affect each protected characteristic or group? The effect may be positive, negative, neutral or not known. Give reasons and if action is needed.</b>		
<b>Characteristic</b>	<b>Affect</b>	<b>Reason</b>	<b>Action needed Yes / No</b>
<b>Age</b>	The intention of this interim change during COVID-19 was aimed at ensuring that community based service users receive a level of care, even though was unlikely to be at the usual level as per their individual care and support plan.  In addition to this during this period to ensure our citizens in		
<b>Disability</b>			
<b>Gender reassignment</b>			
<b>Marriage and civil partnership</b>			

	<b>Pregnancy and maternity</b> <b>Race</b> <b>Religion or belief</b> <b>Sex</b> <b>Sexual orientation</b> <b>Other (give detail)</b> <b>Further information</b>	<p>receipt of community based care remained safe and well – a care call assurance exercise was initiated by our assessment and care management staff teams – so service user and/or family check in could take place.</p> <p>It was anticipated that a number of service users and their families may decide to cease care during this COVID-19 period, making it more important that safe and well calls are conducted.</p> <p>It was also intended that services users who contribute towards the cost of their care, would continue to make payments in line with the community based charging policy – meaning payment was against care received.</p>
<b>8</b>	<b>Does your proposal link with other proposals to have a cumulative effect on particular equality groups? If yes, give details.</b>	(Delete one) <b>Yes / No</b> <p>This proposal is aligned to community based market supplier relief and as such aligns to wider organisational work package focusing on executing government directive on supplier payment relief. It is clear that individual providers of commissioned care should not profiteer from the current COVID-19 situation; however emergency funding has been passed down from central government to local authorities recognising an anticipated increase in spend by care providers to the value of 10%.</p> <p>Adult Social Care does recognise that our community based commissioned care market is varies in make-up from independent local provision, to regional and national providers of care and this in turn will have an impact on ability to be flexible in delivering care and financially stable. Adult Social Care recognises that payment by support plan will not benefit all provider equally, in part because different levels of scrutiny are internally applied to different sectors of the market. Adult Social Care accept this position of a disproportionate effect across an unequal market and we seek to continue with this approach, endorsed by all providers of care.</p>
<b>9</b>	<b>Which justifiable action does the evidence, engagement and consultation feedback suggest you take?</b>	
	<b>A</b>	<b>A change required due to urgent needs</b>
	<b>B</b>	<b>Adjustments needed to remove barriers or to better promote equality</b>
	<b>C</b>	<b>Continue despite possible adverse impact</b>
	<b>D</b>	<b>Stop and rethink your proposal</b>

Action and monitoring plan				
Action Date	Action	Responsibility	Outcome Date	Outcome
7 <sup>th</sup> August 2020	Consider and accept the EQIA alongside the Cabinet report and associated documentation the	To refresh as required		

Update to EqIA	
Date	Detail
Use this section for updates following the commencement of your proposal.	

### Contact us

Community, Equality and Cohesion  
Resources and Transformation

Telephone 01922 655797

Textphone 01922 654000

Email [equality@walsall.gov.uk](mailto:equality@walsall.gov.uk)

Inside Walsall: [http://int.walsall.gov.uk/Service information/Equality and diversity](http://int.walsall.gov.uk/Service_information/Equality_and_diversity)