

## **Cabinet – 24 June 2015**

### **Support for Living at Home Services (Community Based Services) – Fee Levels and Transitional Contract Arrangements 2015/16**

<b>Portfolio:</b>	<b>Councillor E Hughes, Care and Safeguarding</b>
<b>Related portfolios:</b>	<b>Public Health and Wellbeing</b>
<b>Service:</b>	<b>Social Care and Inclusion, Children's Services</b>
<b>Wards:</b>	<b>All</b>
<b>Key decision:</b>	<b>Yes</b>
<b>Forward plan:</b>	<b>No</b>

#### **1.0 Summary**

- 1.1 This report makes recommendations on the future contract arrangements and fee levels for personal care at home and short break services across both children's and adults services. Cabinet in April 2014 agreed an increase in fee levels to a minimum £11.50 per hour for personal care at home services in order to correct an historical legacy of low fee levels which were unsustainable, and seek to build capacity in the market to improve quality and meet demand.
- 1.2 Further examination of supplier costs in the local market and a comparative analysis of arrangements elsewhere have shown that an additional increase is necessary in order that fee levels are sufficient to meet national requirements for minimum wage and pensions, and ensure quality of service and outcomes for service users.
- 1.3 The previous report ("Fee Levels for Personal Care at Home Services" – April 2014) also advised Cabinet on progress with preparations to go out to tender to renew the current contract arrangements, which had been delayed in order to give extra time to take account of any additional requirements from the Care Act 2014 and the Children and Families Act 2014. Subject to completion of all necessary preparatory work the current aim is to commence the tender process in July 2015, complete the contract award in January 2016 and commence the contract in April 2016.
- 1.4 In order to ensure continuity of existing provision and meet future need in the short term there is a requirement to enter into further transitional contract arrangements to cover the period up to the commencement of the new contract in April 2016. This includes a requirement to enter into further transitional contracts for the Home from Hospital and Rapid Discharge from Hospital Contract as they also expire 31<sup>st</sup> July 2015.



## **2.0 Recommendations**

- 2.1 Approve a fee uplift to bring all existing personal care at home services that are below £12 per hour up to £12 per hour through the completion of a further transitional contract, as set out in recommendation 2.2.
- 2.2 That Cabinet approve the award of a further transitional contract (Transitional 3 contract), to supersede the existing Transitional 2 Contracts, from 1 August 2015 to 31 March 2016, pending completion of the previously agreed competitive tender and award of new contracts.
- 2.3 That Cabinet approves the award of further transitional contracts for the Home from Hospital and Rapid Discharge from Hospital Services from 1 August 2015 to 31 March 2016.

## **3.0 Report detail**

- 3.1 The April 2014 Cabinet report set out the reasons for an increase in the minimum hourly rate to £11.50. Walsall Council's ASC&I Directorate is commissioning circa 15,000 hours per week of home care services (primarily to older people, and adults with complex conditions), to over 2,000 service users at a total spend of circa £16 million per year. Children's Services contracts provide 400 hours per week for children with disabilities.
- 3.2 Some providers continued to provide service at fee levels that were originally established as part of contractual arrangements in 2008. Apart from some small percentage annual inflationary increases there had been no adjustment of fee levels to take account of cost pressures such as the rise in the minimum wage which had increased by twice the level of the Council's fee levels during the previous 7 years, and this had placed the Council at risk of challenge from providers with fee levels based on historically low levels. Care in the home providers for Children charge prices that were established in November 2013 following a tender for the Short Break Framework.
- 3.3 Further examination within the Directorate of supplier costs in the local market, including continuing rises in the minimum wage and additional costs of workforce pension's provision, has concluded that there is a need for a further uplift to £12.00 per hour. Financial modelling has concluded that the overall additional cost of this to the Council will be £346,000 per annum on a full year basis.
- 3.4 There is an urgency in terms of correcting historical imbalances in the current fee levels, and supporting the arrangements for managing pressures on the health and social care system that are for instance creating delayed hospital discharges.
- 3.5 Cabinet agreed to a re-procurement of support for living at home services in October 2013, and since then the Directorate has worked closely with

colleagues in children's services, procurement, legal and finance teams to make the necessary arrangements. The range of services includes services for adults with complex needs, older people, adults with mental health problems and children with disabilities respite care and short breaks services.

- 3.6 Some delay was built in to the process in order to take account of new requirements in the Care Act 2014 and the Children and Families Act 2014, and the current aim is to tender from July 2015 with contract award in January 2016. There is therefore a requirement to extend current transitional contract arrangements as set out in the recommendations. Children's Services are ready to tender for short break services from July. There will be a need for a new transitional contract for the period from 1 December 2015 to 31 March 2016, to ensure continuity of service pending completion of the overall framework for community based services.

#### **4. Council priorities**

- 4.1 Sustaining a range of high quality personal care at home social care services will contribute to the Council priority for supporting people to remain as independent as possible in their own homes.

#### **5. Risk management**

- 5.1 There is a need for the Council to strike a reasonable balance between fee levels that the Council set and the true cost of care for service providers, in an equitable manner. Therefore the Council need to give due regard to this in addition to its financial position in order to minimise risk of legal challenge, market failure and inadequate service delivery.
- 5.2 An increase to the minimum fee level will reduce the level of differentiation in fees across a range of existing personal care at home contracts and demonstrate that the Council does recognise the need to provide a realistic fee level compared to the costs of provision. It will also help to reduce the incidence of market failure and poor quality service provision.
- 5.3 There is also a risk that efforts to reduce demand for personal homecare services will not be as effective as planned so that expenditure on these services will exceed planned budgets.

#### **6. Financial implications**

- 6.1 The majority of the existing personal care at home providers with fee levels below £12.00 were established through an historical tender in 2008, and those contracts do not contain provision for providers to request a fee level of their choice for new cases. It is on this basis that the proposed increase to a minimum of £12.00 will only be applied to care packages placed under Transitional 2 Contracts.
- 6.2 An increase to a minimum fee level of £12.00 for existing care packages placed under Transitional 2 Contract's would lead to an annual full year

increased cost of £346,000.

- 6.3 The financial costs stated at 6.2 above does not take account of any risk attached to the outcome of the new contract, which may potentially lead to a further increase in costs if providers seek to tender at higher rates than they currently provide services for.
- 6.4 Contractual inflation was taken in to account in setting the 2015/16 budget. This fee increase can be contained within that figure.

## **7. Legal implications**

- 7.1 New EU Public Contract Regulations (the 'Regulations') became effective on 26 February 2015. These Regulations no longer differentiate between Part A and Part B services and now apply to the procurement of health and social care services. This means that where the Council wishes to enter into a contract for health or social care services, above the threshold of €750,000, over the anticipated lifecycle of the contract, there is a requirement to comply with the Regulations where specified.
- 7.2 In order to ensure that the procurement process, any framework agreements and/or contracts are compliant with the Regulations and the Council's Contract Rules, Social Care and Inclusion will need to seek the advice of Procurement and Legal Services, who will assist with using the most appropriate procedures and contractual measures.

## **8. Property implications**

- 8.1 There are no direct property implications for the Council.

## **9. Health and wellbeing implications**

- 9.1 Sustaining a range of high quality personal care at home social care services will contribute to maintaining the health and well-being of people who need social care services. The Care Act 2014 places a duty upon local authorities to promote health and well-being in the population and to provide a sufficient level and range of services to meet need.

## **10. Staffing implications**

- 10.1 There are no direct staffing implications for the Council for the Council, however TUPE may apply between outgoing and incoming independent sector provision in the event that the tender results in a change of service provider.

## **11. Equality implications**

- 11.1 Personal care at home services are provided regardless of individual or family circumstances in terms of equality and diversity. An equality impact assessment has been prepared to take account of changes in serviced resulting from the new contract arrangements.

## 12. Consultation

- 12.1 There is ongoing consultation with providers of personal care at home services and they will also receive a written explanation of the basis for the Council's decisions on setting fee levels during 2015/16. There is a bi-monthly commissioning forum for personal care at home agencies which provides the agencies in the market an opportunity to query the background to the fee increase and challenge the Council to demonstrate that the fee levels will be realistic in recognising the costs of care.
- 12.2 If the decision to increase to £12.00 per hour is agreed, then there will also be publication of the decision for the wider public, some of whom are purchasing these services as self-funders.

### Background papers

Cabinet – 30 April 2014: Fee Levels for Personal Care at Home Services

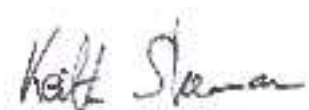
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11 June 2015



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