

Report to:	Cabinet	Date of Meeting:	26 May 2022
Subject:	Adult Social Care Fees 2022/23		
Report of:	Executive Director of Adult Social Care and Health	Wards Affected:	(All Wards);
Portfolio:	Cabinet Member - Adult Social Care		
Is this a Key Decision:	Yes	Included in Forward Plan:	Yes
Exempt / Confidential Report:	No		

Summary:

The purpose of this report is to enable Cabinet to determine the fees payable for Sefton Adult Social Care Service sectors during the financial year period 2022/23 and for Direct Payment Recipients who buy their services directly from a CQC registered agency and to outline the future strategic direction for services in Sefton, linked to wider national work, linked to national policy issued by the Department of Health and Social Care.

Recommendation(s):

Cabinet is recommended to note the contents of the report and having given full consideration to the options outlined in the body of the report and the associated Appendices, including the responses to the consultation and the Equality Impact Assessments, authorise the implementation of the following fee increases which are higher than those originally consulted upon, having taken into account a range of factors including the response from providers, national context, risks raised in relation to additional costs, regional averages, any other information available at the time of the consultation and the availability of financial resources;

(1) Residential & Nursing Care

	Residential Care	EMI Residential	Nursing	EMI Nursing
2022/23 Fee	£561.10	£634.85	£576.98	£641.26
<i>2021/22 Fee</i>	£523.51	£592.32	£538.33	£598.30
Weekly Increase	£37.59	£42.53	£38.65	£42.96
% Increase	7.18%	7.18%	7.18%	7.18%
<i>Originally Proposed 2022/23 Fee</i>	£558.11	£631.47	£573.91	£637.85
<i>Originally Proposed Weekly Increase</i>	£34.60	£39.15	£35.58	£39.55

<i>Originally Proposed % Increase</i>	6.61%	6.61%	6.61%	6.61%
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(2) Note that for Residential & Nursing care services any existing placements which are costed based on an individual Service User assessment are increased based on the same percentage uplifts detailed in the table above;

(3) Domiciliary Care

Duration / Service Element*	2022/23 Rate	<i>Originally Proposed 2022/23 Rate</i>	<i>2021/22 Rate</i>
1 Hour	£17.89	£17.82	£16.68
45 Minutes	£13.42	£13.37	£12.51
30 Minutes	£8.95	£8.91	£8.34
Sleep-in (8 Hour Night)	£87.40	£87.40	£81.97
Waking Night (8 Hour Night)	£143.12	£142.56	£133.44

*Any call duration outside of this framework will have been commissioned by request with Service Users and uplift will apply on a case-by-case basis.

It is worth noting that domiciliary care contracts will be reviewed in the Autumn in line with the tendering cycle.

(4) **Direct Payment recipients who access an Agency** - that the above Domiciliary Care hourly rate is also implemented and that rates for night services are increased to the following;

Duration / Service Element	2022/23 Rate	<i>Originally Proposed 2022/23 Rate</i>	<i>2021/22 Rates</i>
1 Hour (Domiciliary Care & Community Support)	£17.89	£17.82	£16.68
Sleep-in (10 Hour Night)	£109.25	£109.25	£102.47
Waking Night (10 Hour Night)	£178.90	£178.20	£166.80

(5) **Direct Payment recipients who utilise a Personal Assistant** - that the following rates are held apart from an increase to the Sleep-in rate;

Duration / Service Element	2022/23	<i>2021/22 Rates</i>
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1 Hour	£13.00	£13.00
Sleep-in (10 Hour Night)	£109.25	£102.47
Waking Night (10 Hour Night)	£130.00	£130.00

(6) Community Support Services

Duration / Service Element	2022/23 Rate	<i>Originally Proposed 2022/23 Rate</i>	<i>2021/22 Rates</i>
1 Hour	£17.89	£17.82	£16.68

(7) Supported Living

Duration / Service Element	2022/23 Rate	<i>Originally Proposed 2022/23 rate</i>	<i>2021/22 Rates</i>
Hourly Rate	£16.76	£16.72	£15.56
Sleep-in (9 Hours)	£98.33	£98.33	£92.22
Sleep-in (10 Hours)	£109.25	£109.25	£102.47
Waking Night (9 Hours)	£150.84	£150.48	£140.04
Waking Night (10 Hours)	£167.60	£167.20	£155.60

(8) Extra Care Housing Services - that the rate is increased in line with the proposed increase to the Supported Living hourly rate to;

Duration / Service Element	2022/23 Rate	<i>Originally Proposed 2022/23 Rate</i>	<i>2021/22 Rate</i>
Hourly Rate	£16.76	£16.72	£15.56

(9) Individual Service Funds are increased based on the proposed 7.71% increase awarded to Supported Living and Extra Care services;

Duration / Service Element	2022/23 Pilot Project Rates	<i>Originally Proposed 2022/23 rate</i>	<i>Current Pilot Project Rates</i>
1 Hour	£17.58	£17.54	£16.32

Sleep-in (9 Hour Night)	£98.33	£98.33	£92.22
Waking Night (9 Hour Night)	£158.22	£157.86	£146.88

- (10) That the method applied to the calculation and payment of sleep-in services are maintained under the current Domiciliary Care, Direct Payment and Individual Service Fund contractual and policy guidelines and are in line with pilot project arrangements which is based on the expectation that Providers / Direct Payment recipients pay staff the hourly rate calculated within these rates.
- (11) Cabinet is also asked to note that a specific workstream will be progressed in the 2022/23 financial year regarding the implementation of gross payment arrangements for Residential and Nursing care homes. Further reports will be submitted to Cabinet on the outcome of this report and any associated recommendations for decision, at a future date.

Reasons for the Recommendation(s):

To enable the Council to set the fees payable for services, during the financial year period 2022/23.

Alternative Options Considered and Rejected: (including any Risk Implications)

1. **Not awarding increases** – this option was rejected in relation to all service areas as there is a requirement to ensure that fee levels are increased to consider the outcome of consultation in relation to the increase to Provider's costs.
2. **Awarding fee increase originally proposed in the consultations** – this option was considered but rejected following the analysis of the consultation responses and wider impacts, principally current Consumer Price Index (CPI) estimates.
3. **Awarding higher increases to all the service areas which are recommended for decision** – this option was considered but was rejected as it was determined that the proposed increases were correct within the current context, but as referenced in this report, there is a requirement to continue to review fee rates (including through ongoing cost of care exercises) in line with national requirements within the ***People at the Heart of Care: adult social care reform*** policy paper and to inform the delivery of the future vision for Adult Social Care services in Sefton.
4. **Amending the proposals for increases to Sleep-in rates** – this option was considered and rejected as it was felt that the current rate calculations should be maintained under current contractual and Direct Payment arrangements. However, this is based on the continued expectation that Providers and Direct Payment Recipients are paying Staff / Personal Assistants the hourly rate calculated within these rates and if this is evidenced that this is not the case, Council Officers are authorised to review current contractual, Direct Payment and pilot project arrangements and adjust payments if appropriate.

5. **Awarding an increase (aside from an increase to the Sleep-in rate) to Direct Payment Recipients' who utilise a Personal Assistant** – this option was considered but rejected as the current rate is considered sufficient, following the Council conducting benchmarking work on rates in place in other regional Local Authorities.
6. **Not seeking to progress workstream on implementation of Gross payments for Residential and Nursing homes** – this option was considered and rejected as there is a need to ensure that this workstream is progressed, particularly to ensure that the Council continues to meet Care Act obligations, and as part of ongoing work to support the sector.

What will it cost and how will it be financed?

(A) Revenue Costs

There are additional estimated gross revenue costs of £7.012m associated with the recommendation relating to the proposed uplift for Adult Social Care fees for 2022/23.

The costs associated with the proposed 2022/23 uplift for all service areas will be met from £5.500m within identified and existing permanent provision allocated within the Council's approved revenue budget for 2022/23 and £1.512m from estimated additional income associated with the increase in Adult Social Care fees. This includes the annual uplift in contributions from clients as well as additional contributions from health bodies to offset a proportion of the costs of the uplift for jointly funded care packages. If additional income is insufficient, then the residual budget pressure will be met from the existing Adult Social Care budget.

(B) Capital Costs

None

Implications of the Proposals:

<p>Resource Implications (Financial, IT, Staffing and Assets): The impact of the uplift will be met from the Adult Social Care budget set for 2022/23.</p>
<p>Legal Implications: Care Act 2014 Care and Support Statutory Guidance The Care and Support and After-Care (Choice of Accommodation Regulations) 2014</p>
<p>Equality Implications: The Equality Implications have been identified and mitigated and are reflected in the</p>

final Equality Impact Assessments.

Climate Emergency Implications:

The recommendations within this report will

Have a positive impact	No
Have a neutral impact	Yes
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes

It is not anticipated that there will be any positive or negative impacts relating to the recommendations proposed in this report.

Contribution to the Council's Core Purpose:

Protect the most vulnerable:

By setting fees at the proposed level, Providers will receive additional funding to deliver services, thus ensuring that these services continue to operate and provide valuable care and support services.

Facilitate confident and resilient communities:

Commission, broker and provide core services:

By setting fees, the Council will maintain a contractual relationship with Providers and will ensure the services continue to be delivered to vulnerable people

Place – leadership and influencer:

Drivers of change and reform:

The drivers are:

- Integration- national context and local linked to the recent White Paper
- Market Position Statement for Sefton
- Adult Social Care Vision and Strategy

Facilitate sustainable economic prosperity:

In setting fees at the level proposed the Council has taken account of the need for the sustainability of the local care and support markets.

Greater income for social investment:

Cleaner Greener

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD6777/22) and the Chief Legal and Democratic Officer (LD4977/22) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

A robust consultation was conducted with Care Home Providers. The consultation process commenced on 28th February 2022, with a letter to all care home providers and calculations detailing how the proposals had been formulated.

The consultation had an end date of 10th April 2022.

In addition, the following meetings were held where the fee proposals were discussed with Providers and responses made both in relation to the specific questions asked and the mitigation regarding market risks re increasing costs which is reflected in the final proposed rates for decision;

1. 7th March 2022 - consultation meeting with community Providers
2. 8th March 2022 – consultation meeting with care home Providers
3. 6th April 2022 – consultation meeting with care home Providers

Dedicated sections of the Sefton Council website were also created to publish documents relating to the consultations such as an Interim Equality Impact Assessment (EIA), copies of presentations made at the above meetings and Question and Answer documents which outlined responses to specific questions raised by Providers regarding the proposed fees and the consultation process.

The consultation was overseen by an internal Project Group consisting of representatives from strategic commissioning, legal, finance, communications and adult social care which considered risks identified throughout the consultation and recommended mitigation of such risks as reflected in the proposed rates.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

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Appendices:

The following appendices are attached to this report which reflect the detail of the robust consultation approach and the potential risks for mitigation linked to the Equality Impact

Assessments which were monitored and updated throughout the life of the consultation period :

- Appendix A – 2022/23 Fee Increase consultation letters
- Appendix B – Provider Responses to the consultations
- Appendix C – Question and Answer documents
- Appendix D – Care Home Equality Impact Assessment
- Appendix E – Domiciliary Care & Direct Payment Rates Equality Impact Assessment
- Appendix F – Supported Living Equality Impact Assessment
- Appendix G – Extra Care Housing Equality Impact Assessment
- Appendix H – Community Support Equality Impact Assessment

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1. The Council is obliged each year to set and publish the fees it expects to pay when commissioning services and placing people in residential or nursing care settings (Care Homes). In setting these fees the process the Council follows and the matters it seeks to take into account reflect relevant legal requirements, statutory and other guidance and case law/legal precedents.
- 1.2. In setting such fee rates the Council to have due regard to factors such as the actual costs” of providing that care, other local factors; and the Best Value requirements set out in Local Government Act 1999.
- 1.3. In addition, the consultation process underpinning recommendations in this report has outlined Care Act 2014 statutory guidance published in March 2016.
- 1.4. As a result, the process the Council follows and the matters it seeks to take into account reflect the above relevant legal requirements, statutory and other guidance and case law/legal precedents.

2. The Sefton Regulated Provider Market

- 2.1. In summary the Sefton Provider market consists of the following;
 - 131 CQC registered Adults Residential & Nursing care homes – of which 95 of these typically support Older People
 - 20 contracted Domiciliary Care Providers currently delivering care packages (including some Community Support packages)
 - 24 Supported Living / Community Support Providers
 - 2 Extra Care housing schemes / Providers
 - 4 Individual Service Fund (ISF) Providers

2.2. In recent years, and at the present time, the main changes to the markets have encompassed;

- Increased number of bed vacancies within Residential & Nursing care homes
- Increased demand for Domiciliary Care services – linked to strategic aims on supporting people to remain in their own home for longer and reduced demand for some types of care home placements
- Increased demand for Community Support packages
- Increased demand for Supported Living placements – including those which encompass a lower level of support, and also a growing impetus for the implementation Technology Enabled Care Solutions within services to support independence.
- Recognition of need to expand the Extra Care sector

3. The Development of the Proposed 2022/23 Fee Rates and the Consultation Approach

3.1. In line with established processes the proposed fee rate outlined to Providers in the consultation letters of 28th February 2022 (Appendix A) was formulated by taking into account increases to the National Living Wage (NLW) and the Consumer Price Index (CPI) and adjusting these to take into account the percentages of staffing costs and other costs that equate to typical total costs for Providers.

3.2. With respect to the increase to National Insurance thresholds an additional percentage uplift was applied to the fee increase calculations to reflect the additional impact on pay bills.

3.3. With respect to the Residential and Nursing care proposals, in previous years the fee increase calculations were formulated based on a 65/35 percentage 'split' between Staff and other costs, however, following the initial feedback from the cost of care consultant who has analysed Provider cost data it was amended to a 70/30 split to reflect that staff costs are typically higher than 65% of total costs. Whilst this would result in a calculation being made of 70% of the 6.62% National Living Wage increase (resulting in a 4.63% staffing element increase), this has been further amended to take into account the increase to National Insurance thresholds. It was calculated that this will add an estimated 0.47% to pay bills and as a result a total increase of 7.09% was applied to the 70% staffing element.

3.4. The consultation approach reinforced to Providers that all feedback was welcomed; and that the Council was particularly interested in gaining feedback on;

1. Whether the proposed fees would cover the cost of meeting assessed care needs / delivering services for the period from 1st April 2022 to 31st March 2023; and
2. If they did not agree with the proposed rates, then they were requested to outline why and provide any supporting information that they felt may be pertinent

- 3.5. Consultation meetings were held remotely with Providers during the consultation period which enabled providers to raise questions to Senior Officers within the Council and also provided a further opportunity to state their general views about the market and the challenges faced.
- 3.6. As part of these meetings the Council re-iterated the fee proposals, highlighted that Providers could submit responses in any formats they wished, and also outlined to Providers the Council's future intentions in terms of commissioning activity, changes in demand, further integrated working with Health and wider nationally driven work relating to market sustainability including cost of care exercises.
- 3.7. Dedicated sections of the Sefton Council website were set up to publish information on the consultations. This included Questions and Answer documents to ensure that Providers are able to ask questions and receive a response which were anonymised and shared with all Providers. The website sections also included the notes and presentations from the consultation meetings held with Providers, together with the initial Equality Impact Assessments.
- 3.8. The consultation was overseen by an internal Project Group consisting of strategic commissioning, finance, legal, communications and adult social care.

4. Responses to the Consultation and Analysis of the Consultation Responses

- 4.1. Attendance on the remote meetings very positive with providers encouraged to attend. The level of written response to the consultations were as follows;

Sector	Number of Responses
Residential & Nursing	5
Domiciliary Care	0
Supported Living / Community Support	2
Extra Care	0
Individual Service Funds	0

- 4.2. All of the responses to the separate consultations have been analysed and are included in Appendix B of this report. Where appropriate, information identifying the individual Provider submitting the response has been removed, in order to anonymise responses.

5. Proposed Amended Fee Proposals Following the Consultation

- 5.1. The responses to the consultation exercise and the views of Providers conveyed during the consultation meetings have been helpful in understanding the Sefton marketplace, and have been taken into account in the preparation of this report.
- 5.2. Council Officers have reviewed the responses, conducted research into rates that may be awarded by comparator Local Authorities in the region and also reviewed national information such as with respect to Consumer Price Index (CPI) rates, in

order to review the initially proposed fee increases, as the proposed rates were formulated based on an element of costs being subject to CPI increases – as outlined in the consultation letters included as Appendix A of this report.

- 5.3. As a result of this work, it is proposed that rates are increased above those originally proposed in order to reflect that at the time that those rates were recently calculated the CPI rate was 5.5%, however subsequent to the commencement of the consultations the Office for Budget Responsibility (OBR) has stated that for the year the average CPI rate is estimated to be 7.4%.
- 5.4. Council Officers will also be progressing further work on Cost of Care linked to Market Sustainability Planning as directed by the Department of Health and Social Care.
- 5.5. A workstream has been established to consider the implications relating to the implementation of gross payments to care homes. This work will be progressed during 2022/23.
- 5.6. The following tables, summarise the changes that have been applied from the original fee proposal calculations;

Residential & Nursing Care

	<i>Previous Percentage Split Calculations</i>		Percentage Split Calculations Used for Initial 2022/23 Fee Proposals		Revised Percentage Split Calculations Used for Final 2022/23 Fee Proposals Following Consultation	
	Staffing	Other Costs	Staffing	Other Costs	Staffing	Other Costs
% of Total Costs	65	35	70	30	70	30
% Increase	7.09%	5.5%	7.09%	5.5%	7.09%	7.4%
Narrative	<i>To reflect both NLW and NI increases (70% of 6.62% NLW increase + 0.47% NI Increase)</i>	<i>CPI Rate – February 2022</i>	To reflect both NLW and NI increases (70% of 6.62% NLW increase + 0.47% NI Increase)	CPI Rate – February 2022	To reflect both NLW and NI increases (70% of 6.62% NLW increase + 0.47% NI Increase)	CPI Rate Projected Annual Average

Deflated % Increase	4.61%	1.93%	4.96%	1.65%	4.96%	2.22%
Overall Proposed Fee Increase	6.54%		6.61%		7.18%	

Domiciliary Care

Type of Cost	2021/22 Rate	Initially Proposed 2022/23 Rate	% Increase Applied	Revised Proposed Rate Following Consultation	% Increase Applied
Carer Basic Rate	£9.15	£9.75	6.62%	£9.75	6.62%
Travel Time	£0.92	£0.98	10% of £9.75	£0.98	10% of £9.75
Annual Leave	£1.07	£1.15	6.62%	£1.15	6.62%
Training	£0.17	£0.18	6.62%	£0.18	6.62%
Sickness	£0.19	£0.20	6.62%	£0.20	6.62%
National Insurance	£0.44	£0.55	25.00%	£0.55	25.00%
Pension	£0.17	£0.19	6.62%	£0.19	6.62%
Mileage	£0.39	£0.41	6.62%	£0.42	7.40%
Other costs	£3.69	£3.89	5.50% CPI	£3.96	7.40%
Profit	£0.49	£0.52	3% on £17.30	£0.52	3% on £17.37
Hourly cost	£16.68	£17.82	6.83%	£17.89	7.25%

Supported Living

Type of Cost	2021/22 Rate	Initially Proposed 2022/23 Rate	% Increase Applied	Revised Proposed Rate Following Consultation	% Increase Applied
Carer Basic Rate	£9.03	£9.63	6.62%	£9.63	6.62%
Management	£0.63	£0.67	6.62%	£0.67	6.62%
Administration	£0.46	£0.49	6.62%	£0.49	6.62%
Annual Leave	£1.25	£1.33	6.62%	£1.33	6.62%
Training	£0.29	£0.31	6.62%	£0.31	6.62%
Sickness	£0.23	£0.24	6.62%	£0.24	6.62%
NI	£0.52	£0.70	34.62%	£0.70	34.62%
Pension	£0.35	£0.37	6.62%	£0.37	6.62%
Other costs	£2.36	£2.49	5.50%	£2.53	7.40%

Profit	£0.45	£0.49	3.00%	£0.49	3.00%
Hourly Fee	£15.56	£16.72	7.46%	£16.76	7.71%

5.7. As the above tables show, the changes to the CPI rates result in fee increases above those originally proposed, however as outlined during the consultation it is recognised that the figures in some of the above tables are not a definitive guide on expenditure on each specific element as it is acknowledged that Providers will have their own specific business models and operating costs.

6. Financial Implications

6.1. The gross costs of implementing the proposed fee increases for 2022/23 are estimated to be £7.012m. Additional provision for the net costs of the fee increases of £5.500m was included in the Council's approved budget for 2022/23. It is estimated that the additional income associated with the increase in fees will be sufficient to cover the balance of £1.512m. This income includes the annual uplift in contributions from clients as well as additional contributions from health bodies to offset a proportion of the costs of the uplift for jointly funded care packages. If additional income is insufficient, then the residual budget pressure will be met from the existing Adult Social Care budget.

6.2. The proposed increases to Adult Social Care fees will be funded as follows;

Funding Description	£
2022/23 approved Budget Provision for net costs of fee increases	£5,500,000
Estimated additional income associated with the approved fee increases	£1,512,000
Total	£7,012,000

6.3. The additional budgetary impact broken down by the service sectors is as follows;

Sector	£
Residential & Nursing	£3,479,000
Domiciliary Care / Extra Care / Direct Payments	£1,442,000
Community Support	£81,000
Supported Living	£1,880,000
Individual Service Funds	£130,000
Total	£7,012,000

7. Equality Impact Assessments and Risk Management Overview

- 7.1. The initial proposals for Adult Social Care fees for 2022/23 have been subject to consultation and engagement with Providers as part of the process of assessing the potential equality impact of the proposals.
- 7.2. The initial Equality Impact Assessments produced at the commencement of the consultations have been reviewed as part of the consultation processes and considers and reflects feedback from Providers. As a result, the initial proposals to providers have been adjusted to reflect the views taken from consultation.
- 7.3. The revised fee proposal recommendations do not involve any change to the criteria for services, as assessed via the Council's eligibility criteria nor do they involve any changes to the capacity of services.
- 7.4. The impact of the COVID-19 pandemic and cost of living factors have placed additional responsibilities and costs on both Providers and Local Authorities. The recommendations of this report have been informed by this context and by the affordability of the recommendations to the Council. The report outlines the options considered and seeks the approval of the recommendations for the final proposals as outlined in the body of the report from the Cabinet Member - Adult Social Care.
- 7.5. There may be an impact relating to viability and that in implementing this fee proposal some Providers may face difficulties in adapting their services to the new fee levels if there is a gap in funding. This will be monitored closely through commissioning meetings and engagement with providers.
- 7.6. In addition, if the recommendations were to be implemented then this could result in fee structures for clients changing. For example, for the care home sector, Providers may seek to obtain the difference between the existing fee amount and the fee they wish to charge from clients via increasing their contribution. This may place some clients at an economic disadvantage. To mitigate risk of these issues impacting on Families and Residents, officers will review and monitor closely through commissioning meetings and engagement with providers and risks managed accordingly.
- 7.7. Full Equality Impact Assessments are included as Appendices D-H of this report, which outline that should the above issues materialise then which protected characteristics may be affected. The Equality Impact Assessments outline proposed actions to be implemented to monitor the impact of the proposed recommendations.

8. Future Workstreams – Fair Cost of Care, Charging Reform and Gross Payments.

- 8.1. In March 2022, the Department of Health, and Social Care (DHSC) published guidance relating to Council's completing a cost of care exercise. This requirement has commenced, and this will be monitored by the DHSC and linked to the proposed implementation of a national Care Cap. A further report will be developed in relation to this work for Cabinet in the Autumn.

- 8.2. In 2019 (pre-pandemic) the Council approved a piece of work which would remove the administrative burden to Care Home providers of collecting financial charges for residents living in their homes. This is a process usually carried out by Council's within their charging function and there has been Ombudsman's judgements supporting this approach. It is proposed to resume this work which will reduce the bureaucratic burden on care homes and further enable the Council to implement the DHSC Charging Reform guidance. This work will be progressed during 2022/23 and further reports will be submitted to Cabinet on the outcome of this work and any recommendations for subsequent consideration and decision.