

Decision date:	16 May 2016
Title of report:	Home care rate increase for 2016/17
Report by:	Commissioning officer

Open

## Key decision

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates.

## Wards affected

Countywide

## Purpose

To approve the increase in commissioned home care rates for 2016/17, to commence 1 April 2016.

## Recommendation(s)

THAT:

- (a) the following home care rates be approved for 2016/17 with effect from 1 April 2016:

Urban or rural	Time	2016/17 rate £
Urban rate	Hour	14.76
	30 min	7.64
	45 min	11.46
Rural rate	Hour	15.76
	30 min	8.14
	45 min	12.21
	Sleep in rate	11.48

## Alternative options

1. The council does not increase the rates paid to providers for the commissioned care. This is not recommended as it is a condition of the home and community support framework, that the council conduct an annual review of the rates taking into consideration any national legislative changes. The proposed increase has regard to prevailing economic conditions and recent legislative changes for 24 hour sleep in care.
2. The council offers a lower increase, this is not recommended as this would not reflect the economic context within which providers must operate and it may destabilise the market.
3. The council pays a higher rate; this is not recommended as the council has to take into consideration affordability.

## Reasons for recommendations

4. To comply with the contractual and statutory requirement for an annual price review taking into consideration any relevant legislative changes.

## Key considerations

5. Currently the provision of home care in Herefordshire is delivered by 35 providers under a framework agreement to all residents from all need groups across the county. The providers deliver approximately 14,000 hours of home care a week across Herefordshire to adult social care funded clients at a cost of £10.7m (this does not include the direct payment element), this equates to, in the region of 700 – 1,000 calls a day with each client receiving an average of 10 hours per week. It is estimated that a further 33,000 hours are funded direct by individuals. Rates paid by self-funders are determined by market forces and this decision does not have a direct impact on these rates. There is a large differential rates between providers charging self-funders based on individual business models and location of offices, with some charging the councils current rate.
6. The contract for this service commenced in June 2014 following a competitive procurement process. This sought to secure a diverse and vibrant supplier base which offers service users the opportunity to choose a suitable carer from a qualitative framework in line with the council's personalisation agenda.
7. The home care market nationally increasingly struggles to develop and sustain a workforce to deliver care across all of the county as a result of the higher costs associated with travelling across a rural county with dispersed population. Rates need to remain at a level which supports the market to meet this challenge.
8. Providers' costs are largely associated with staff as they deliver support in the person's home. The introduction of a national living wage (NLW) will impact the pay rates paid to many workers, which has been set by the Government at a minimum of £7.20 per hour (for those aged 25 and over) from 1 April 2016, this is an increase of 7.4%. The National Living Wage – Impact on Herefordshire report by Skills for Care estimates that the number of people aged 25 and over employed in direct care

equates to 84% of the care workforce. In addition, the Government has introduced automatic pension enrolment, which requires all employers to set up a workplace pension. While the liability for meeting these additional costs rests wholly with the employer, as the commissioner of these services the council rates paid must be reviewed having regard to the impacts of changes in national legislation and policy.

9. Customers within the care market are split approximately 70% self-funders and 30% adult social care funded. It is therefore important that the prices the council set reflect increases in care costs. Whilst we cannot set the rate for self-funders, the rates paid by the council should give due regard to the cost of care so that self-funders are not paying an unfair large differential in rates, thereby in effect subsidising council-funded individuals.
10. The urban and rural rates need to reflect a reasonable price as defined within the Care Act (2014), this needs to cover the costs of delivering care and support across a rural county which is sparsely populated in many areas. A differentiation between rural and urban rates has been developed by the council and was implemented in October 2015 in an effort to reflect increased travel costs incurred by domiciliary care providers who operate in the rural areas of the county.
11. It is proposed that home care providers on the framework will have an increase in the hourly rate. It must be noted that in complex cases this will have to be looked on an individual basis.  
Proposed rates from 1 April 2016 will be as follows:

Urban or rural	Time	2015/16 (from 1 October 2015) rates  £	Proposed 2016/17 rates £	% Increase
<b>Urban rate</b>	Hour	14.20	14.76	3.9%
	30 min	7.36	7.64	3.8%
	45 min	11.04	11.46	3.8%
<b>Rural rate</b>	Hour	15.20	15.76	3.7%
	30 min	7.86	8.14	3.6%
	45 min	11.79	12.21	3.6%
	Sleep In Rate	10.72	11.48	7.1%

(Please note the sleep in care rate increase is to comply with case law which states that providers must now pay all staff at NLW rates even during sleep in shifts and further information can be found in appendix one).

12. The 2016/17 rates proposed to be paid in Herefordshire are 2.9% above the average hourly rates paid across the West Midlands for 2015/16, please see below:

Authority	Average Price 2015/16
Shropshire	£15.63

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Staffordshire	£14.39
Warwickshire	£14.20
Worcestershire	£15.80
<b>Average</b>	<b>£14.83</b>
Herefordshire average proposed rate 16/17	£15.26.

Most authorities will have to consider an increased rate for 2016/17 to reflect NLW changes.

13. The Care and Support Statutory Guidance (March 2016) states that: "When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed packages of care with agreed quality of care". This is assured through robust contract and review management and regular bench marking against regional local authorities.
14. The statutory guidance also stresses that local authorities must not undertake any actions which may threaten the sustainability of the market as a whole including setting fee levels below an amount that this not sustainable for providers in the long-term. It also emphasises the need for commissioning local authorities to have regard to the cost effectiveness and value for money in publically funded services.
15. The Local Government Act (1999) has established a best value duty and requires the council to pay due regard to continuous improvement in the exercise of its statutory functions through a combination of economy, efficiency and effectiveness. The statutory guidance requires that the council should consider overall value, including economic, environmental and social value, when reviewing service provision.
16. The council needs to ensure that it has a vibrant and diverse home care market which is able to respond to the demographics and emerging trends and needs of a population which needs to be enabled to remain living safely independently at home.
17. If the market cannot respond to the needs of the service to help keep people living independently for longer, this will put additional pressure on other internal services or commissioned including but not limited to the council's rapid response and residential and nursing care home sector. This could put the council's corporate aims and savings agenda at risk if this is not managed effectively.

## Community impact

18. The recommendations will support the health and wellbeing strategy aim to ensure "Herefordshire residents are resilient, lead fulfilling lives, are emotionally and physically healthy and feel safe and secure." Specifically it will support priority three: 'For older people-quality of life, social isolation, fuel poverty' and specifically services and care organisations need to work more proactively together to avoid over reliance on hospital care reducing admissions and supporting discharge. With an ageing population, people are living longer, developing complex health needs; therefore commissioned services need to manage this demand in supporting people to remain safe and independent at home.

19. The recommendations support 2 of the 4 priorities of the corporate plan to:

- Enable residents to live safe, healthy and independent lives.

The council will work with providers to ensure that it commissions services that enable this for all individuals where need has been identified.

- Secure better services, quality of life and value for money. The increase in the rates will help to support providers recruit high quality staff to deliver quality services that are value for money.

20. The council has a duty to understand the market and ensure quality and choice is available to the residents of county, whilst also fulfilling a corporate aim to support the growth of our local community. This is integral if services are to develop to meet the future demands of our ageing population.

## **Equality duty**

21. The council is committed to equality and diversity using the public sector equality duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

22. It is not envisaged that the recommendations in this report will negatively disadvantage the following nine groups with protected characteristics: age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation. However, it must be noted that individuals have to pay towards the cost of their care and will be subject to a financial assessment based on what they can afford to pay (Please see equality impact assessment in appendix two).

## **Financial implications**

23. The budget for home care for 2016/17 is £11.1m. The average increase of 3.7% proposed in the report results in an increase in cost of £400k and has been assumed in the budget for 2016/17.

24. As required under the terms of the contract with providers, the council has reviewed the rates paid to providers, having regard to relevant information.

25. This increase has been calculated to support providers to meet their responsibilities in relation to increases in the NLW from 1 April 2016 as staff costs in this market is the highest cost compared to other care market areas. (Further information can be found in appendix one).

## **Legal implications**

26. The council has a number of statutory duties that it must comply with regarding the commissioning of care. These are primarily contained within the Care Act (2014) and the supporting regulations. The Care and Support Statutory Guidance (March 2016) states that when local authorities commission services they should assure themselves and have evidence that service providers deliver services through remuneration to promote the retention of staff. Further, that remuneration must be at least sufficient to comply with the national minimum wage legislation. Failure to

comply with the legislation would leave the council open to potential legal challenge.

27. The Care Act (2014) places a number of new duties on the council. This includes market shaping and to promote the efficient and effective operation of the market for adult care and support as a whole. This in essence means that the council will need to be aware of its responsibility to meet the needs of people in Herefordshire, whether publically funded or self-funders who have their own means to fund their care.
28. The NLW minimum of £7.20 per hour was introduced in April 2016 for those aged 25 and over. Those under the age of 25 must also be paid in accordance with the national minimum wage NMW.
29. All providers of home care must comply with the national minimum wage, as well as other legislative requirements under the working time regulations. Recent case law and clarifications made to the regulations have made it clear that night workers must be paid the national minimum rate. Failure of employers to comply with such regulations would leave them open to legal challenge.

## **Risk management**

30. There is a risk for the council which relates to the capacity in the market to meet the needs of publically funded client, and that domiciliary care providers cannot meet service user needs even with the proposed increase in the hourly rates. The risk is being mitigated by monitoring placement activity. In particular, the number of packages that are not accepted by providers or are returned to the council, this remains fairly consistent approximately 14 cases a month. The reason provided by domiciliary care agencies is monitored to identify any trends. One of main reasons provided for handbacks is staffing issues; and therefore it is essential that providers are able to pay a wage which not only supports recruitment but also retains staff.
31. There is also a risk that if care packages are not picked up due to affordability, delays in establishing care packages may result in people spending longer in hospital care than they need, causing delayed discharges or being unnecessarily admitted to residential care. The current admission figures to care homes do not suggest that this is happening, and the internal rapid response team can support these individuals if appropriate, however the council needs to consider this as a potential risk, monitor and act appropriately.
32. In order to manage demand, packages are being reviewed with consideration to alternatives to traditional home care hours either via the use of telecare or through community based solutions. The use of these services when procuring services is being encouraged to ensure that prevention is a key element of the service specifications.

## **Consultees**

33. Providers on the framework were consulted with on the proposed rates for 2016/2017. They have been given the opportunity to feedback on the rates and to propose alternative options. The feedback provided identified that the increase did not reflect the financial increases Providers are experiencing, however the council responded by applying the increase to all packages and not just the new packages

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as originally proposed.

34. Further work and engagement was done with providers to set the agreed sleep in rate in line with national legislation, this has resulted in the proposed rate on this report.

## **Appendices**

Appendix one: Home care financial modelling.

Appendix two: Equality impact assessment.

## **Background papers**

None identified