

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**22 September 2015**

**Report of the Strategic Director for Adult Care**

**INDEPENDENT SECTOR HOMECARE FEES**

**ADULT SOCIAL CARE**

**1 Purpose of report**

To seek Cabinet approval for an increase in fees for independent sector home care from 27<sup>th</sup> September 2015, by 3.61% on all hourly rates for the provision of home care and 7p on all travel/visit rates.

**2 Information and Analysis**

There are approximately 3,700 people currently in receipt of home care support from up to 50 independent sector home care providers, which is equivalent to 70% of the homecare market.

Derbyshire Homecare Association who represent many of home care providers has written on behalf of their members requesting that the Council consider an increase in fees for 2015/16 of 16.9%. Adult Care has also received additional requests from other providers not represented by the Association for a fee increase to reflect inflationary pressures. The last fee increase paid to independent sector home care providers was in October 2014 following an increase in the national minimum wage.

Home Care representatives identified in recent letter dated 21<sup>st</sup> July 2015 (Appendix 1) that the Council when setting the fee rates for 2015-16 should in their opinion take account of;

**Staffing Costs Highlighted by Home Care Providers**

- Provider representatives have identified that the minimum wage is due to increase by 3% for staff aged 21 and over from 1 October 2015 (from £6.50 per hour to £6.70 per hour), with increases of 2% for staff aged under 21. The home care provider representatives argued that they increase all of their staff wages including those paid above the minimum

wage to reflect this increase and to maintain payment differentials. They also note that they have very few staff aged under 21.

- The current sleep-in rate paid by the Council is £60.30 per night time session which is meant to last nine hours. This is equivalent to £6.70 per hour, which after taking account of staffing on costs and the organisation's costs means they are unable to pay the minimum wage.

Providers note that they do not pay the minimum wage rate for this service. However their understanding is that where the staff member undertakes a sleep-in, the minimum wage rate should be paid. They have asked that this rate is reviewed, in order to bring it in line with the revised minimum wage rates.

- The required auto pension enrolment was another area the home care representatives felt the Council should build in to the fee rate increase. As part of these changes providers will need to make a pension payment of 1% for all eligible staff. The implementation date for this is different for each provider.
- The current sitting service rate paid by the Council is £9.00 per hour, after on-costs this rate fails to provide enough funding to pay the minimum wage. Providers expressed a desire to have an increased rate specifically for evenings and weekends to help attract more staff to undertake these duties.
- Her Majesty's Revenue and Customs (HMRC) are focused on ensuring that providers pay their homecare staff at least the minimum wage for their travel time between calls.

Provider representatives also expressed concern about the three travel rates currently paid by the Council. For each visit to a client's home the Council pays an additional amount to assist with covering the wages of the staff member and any additional costs. There are currently three values as shown in the table below:

<b>Zone</b>	<b>Payment per Visit</b>
<b>Chesterfield</b>	<b>£1.63</b>
<b>High Peak/Dales</b>	<b>£2.88</b>
<b>Other Areas</b>	<b>£2.33</b>

Providers argue that the current travel rates create anomalies, as the low rate paid for Chesterfield equates in their view to a max of 15 minutes whilst the higher "rural" rate paid in High Peak and Dales equates to 27 minutes in time. They note that this rate is also paid in areas such as Buxton and Glossop, where they argue that the travel is easier and quicker than in Chesterfield,

where depending on traffic situations, the travel time can easily exceed 15 minutes. They have requested that further discussions are required around travel time and travel payments, so that a fairer playing field is created.

- Providers also expressed concern about how low wages in the sector impact on their ability to recruit and retain sufficiently well trained staff.
- Training and recruitment of staff to ensure compliance with the new Care Certificate costs up to £750 per person in training and wages costs for a new starter.

## **Council Response**

In responding to the Home Care Provider's request for an inflationary fee increase the Council has identified the main budget headings that need to be considered when setting home care fee rates. Appendix 2 details these headings and proposed inflationary increases as set out below.

### **Minimum Wage**

Noting that most home care workers are over 21 it is proposed that the staffing costs used by the Council to identify the basic fee rates for home care placements should be increased by 3% to reflect the increase the minimum wage in October 2015. This is the general staffing increase used by the Council and reflects the fact that these staff will be paid above the minimum wage.

### **Sleep-in Rate**

The Council currently contracts in exceptional circumstances for a staff member to be present at night (between 10pm-7am) in a client's home to provide support if required. The staff member is provided with a place to sleep. A maximum of two waking periods each night totalling no more than one hour are covered within this rate. Additional disturbances can then be charged to the Council at the normal hourly rate.

The guidance from HMRC about payments to sleep in staff are:

#### **“What counts as working time?”**

For all types of work, include time spent:

- at work and required to be working, or on standby near the workplace (but don't include rest breaks that are taken)
- not working because of machine breakdown, but kept at the workplace
- waiting to collect goods, meet someone for work or start a job

- travelling in connection with work, including travelling from one work assignment to another
- training or travelling to training
- at work and under certain work-related responsibilities even when workers are allowed to sleep (whether or not a place to sleep is provided)

Don't include time spent:

- travelling between home and work
- away from work on rest breaks, holidays, sick leave or maternity leave
- on industrial action
- not working but at the workplace or available for work at or near the workplace during a time when workers are allowed to sleep (and you provide a place to sleep)"

**<https://www.gov.uk/minimum-wage-different-types-work/overview>**

On the basis of this guidance the Council is of the view that the worker is “not working but at the workplace or available for work at or near the workplace during a time when workers are allowed to sleep (and you provide a place to sleep” and is therefore not obliged to increase payments up to and beyond minimum wage levels. The Council’s view is that the sleep in fee level should be increased in line with the overall percentage fee rate change described in this report.

## Pension

The auto-enrolment pension scheme has been subject to a national introduction over the past few years. From 1st April 2015 all providers have to sign all staff into a pension scheme. It has been nationally accepted that the costs to a provider should be in the region of 1% on their staffing bill. It is proposed that overall staff costs should be increased by 1% to enable providers to meet this new requirement.

## Sitting Service

The Council contracts in exceptional circumstances for the provision of a sitting service to be available at any time, day or evening (until 8pm). Often this is service is to provide respite for a carer. The worker is not contracted for personal care, practical home care or independent support, but rather to ensure the person is safe and to respond appropriately to their client’s needs during the stay.

The hourly payment is £9.00 per hour. This service is rarely required and there is currently no evidence available from Derbyshire Adult Care brokerage to substantiate the claim that there is substantial unmet need for weekend and

evening sitting services to warrant an additional fee rate. It is therefore proposed that this fee rate is inflated in line with the standard homecare fee rate.

### Travel Time

The council makes an additional payment per home care visit to assist provider's in paying staff travel time and to meet the costs incurred by staff. The Minimum Wage rules require home care providers to count travel between visits towards the calculation of working time. Although travel expenses have remained steady the impact of the minimum wage means that providers should have to pay staff slightly more to compensate for the travel time element.

Analysis of data of staff time for both the independent sector homecare and Council Direct Care homecare services shows that travel time is overall up to one quarter of a home care worker hours. Therefore the increase required to the Adult Care travel payment made per visit needs to reflect the quarter of each hour that the worker may spend travelling. Since the proposed staff hourly wage increase is up to 29p, an uplift of 7p on all travel payments will cover this quarter hour average and is proposed. (See Appendix 2)

### Travel Payments

The three travel rates paid by the Council to assist providers to meet costs to assist with paying staff are currently being reviewed by Adult Care contracting team. These travel payments will be subject to further analysis with the intention of developing a new model for making travel payments linked to postal wards. It is the intention that this new model of travel payments would focus on the postal wards where a client lives and differentiate between whether they live in a built up urban area or whether they live in a rural community.

It is proposed that these new travel fee arrangements would be adopted from the 1<sup>st</sup> April 2016 alongside any fee changes that may come about following the proposed introduction of a living wage for staff aged over 25.

### Staff Recruitment and Retention

It is nationally recognised that there are particular problems with encouraging people to consider a career in providing care. This is no different in Derbyshire with Providers regularly alerting us to their problems with recruiting and retaining staff. The workforce has a high level of turnover and although some of this movement may be between jobs in the sector, providers are frequently losing staff in whom they have made a considerable investment in terms of training and development. This can create real instability in the market. For instance, a recently opened care home recruited a large number

of staff from a local home care provider resulting in a number of home care packages without care staff.

The recruitment and retention of staff is particularly problematic in the more rural parts of the County. The impact of the difficulties in recruiting staff is that Adult care is unable to arrange packages of care.

To counter this Adult Care has been working the Corporate Policy Team to develop a local strategy to encourage more people to consider a career in the caring profession. Providers will be encouraged to work with this group on developing proposals.

It is also proposed to undertake joint working with Commissioners from Derby City and Skills for Care to identify whether we could do more to assist Providers with identifying and securing funding for training staff. This could also include identification of training courses either run by the council or other providers that are under subscribed to ensure that no paid places go empty.

## **2.1 Other Costs Highlighted by the Care Home Providers**

Providers have also expressed other inflationary pressures including concerns about rising energy costs and increased insurance premiums and an increase of 9% on their Care Quality Commission registration fee.

The Council has decided to use of the Office of National Statistics' CPI report and increase other cost items by 2%.

## **2.2 Risk Analysis**

It is likely that if the Council does not make an increase in payment to reflect the increase in minimum wage arrangements that the Council could be challenged about commitment to promote fair and equitable working arrangements for independent sector workers.

There is also a concern that the recruitment and retention of care staff is very difficult because of the low pay in the sector. This means that Providers do not always have the staffing capacity to provide services to meet client's needs in a timely way which results in people having to wait for a care package to be set up. Delays in setting up new home care packages can result in people spending longer in hospital than they need to, or being admitted into a care home for a short period of time until a home care package can be set up.

## 2.3 Proposals

It is proposed that home care fees are increased in response to the changes to the minimum wage and introduction of pension auto enrolment of 1% on staff costs. To achieve this will require an increase of 3.61 % on home care fees and 7p on all travel payments from 28<sup>th</sup> September 2015. Appendix 2 details the cost implications of the minimum wage increase on all staff costs that are required to be taken into account when developing the fee rate. Analysis of the service costs and inflationary pressures suggests an increase of 40p on hourly fee rates. This proposed increase would enable providers to increase their staff hourly rate to the minimum wage (as the minimum wage will be increasing by up to 20p per hour) and also enable providers to meet other inflationary pressures.

In addition, it is proposed to increase the travel payment per visit by 7p. As referred to earlier in this report this 7p increase has been calculated having a regard for the increase in the staff costs following the minimum wage increase and the introduction of the auto pension enrolment. This results in an increase up to 29p per hour in pay, the fact that approximately a quarter of every hour of a care workers time is associated with time spent traveling means that a quarter of the hourly increase in pay should be added to the travel rate.

The impact of these proposals is shown in the tables below. The proposed increase in fee rates will not impact on the level of quality premium payment. This quality premium is a payment made to providers who have evidenced that they have met a set of additional standards particularly in respect of training their staff. The majority of providers now receive this payment.

**Proposed Hourly Fee Rate – increase of 40p per hour**

<b>Current Rates</b>	<b>Day Time Rate</b>	<b>Night Time (After 8pm)</b>
Home Care Base Fee Rate	£10.80	£11.52
Base Fee Rate Plus Quality Premium	£11.52	£12.12
<b>Proposed Rates from week commencing 28<sup>th</sup> September 2015</b>	<b>Day Time Rate</b>	<b>Night Time Rate (After 8pm)</b>
Home Care Base Fee Rate	£11.20	£11.92
Base Fee Rate Plus Quality Premium	£11.92	£12.52

**Proposed Travel Fee Rate - increase of 7p per travel visit**

<b>Travel payment per visit</b>			
<b>Zones for Travel Payments</b>	<b>Chesterfield (Urban)</b>	<b>High Peak and Derbyshire Dales (rural)</b>	<b>Other Areas</b>
Current Rate	£1.63	£2.88	£2.33
<b>Proposed Rate from week commencing 28<sup>th</sup> September 2015</b>	£1.70	£2.95	£2.40

**2.4 Benchmarking**

The proposed fee rates for the provision of homecare in Derbyshire although lower than authorities local to Derbyshire they are in fact comparable once travel rates are included.



Derbyshire	£11.52	(Proposed QP Day rate) plus travel rate
Nottinghamshire	£12.70 – £13.20	tendered values Inclusive of travel – (not enough capacity spot rate £13.50 - £17.58)
Derby City	£ 12.72	inclusive of travel
Tameside	£ 12.81	Inclusive of travel

## 2.5 Consideration of Minimum Wage Increase in April 2016

A further paper will be presented to Cabinet when the potential impact of the announcement made by the Government in the June 2015 Budget to increase the minimum wage to £7.20 for workers aged over 25 from April next year, rising to £9 by 2020.

This increase of 50 pence from the new minimum wage of £6.70 due on the 1<sup>st</sup> October 2015 to £7.20 for workers aged over 25 from April 2016 is equivalent to a 7.5% increase.

## 4 Financial Considerations

It is proposed to increase the fee rates to enable providers to increase staff wages from the 28th September 2015.

The proposed increase of 3.61% on homecare fees paid per hour and 7p on all travel rates would cost as follows:

	Additional Cost 2015/16	Additional Cost 2016/17	Ongoing
Increase	£m	£m	£m
Hourly Rate Increase	0.531	0.531	1.062
Travel Rate Increase	0.125	0.125	0.250
Total Increase	0.656	0.656	1.312

No allowance was made when setting the 2015-16 budget to cover this inflationary pressure, so the £1.312m yearly cost will be an additional budgetary pressure for Adult Care.

## 5 Legal Considerations

In considering this report Members will wish to give careful consideration to the representations from Derbyshire Homecare Association set out in Appendix 1. A copy of the report has been supplied in advance of this meeting to the Association.

## **6 Other Considerations**

In preparing this report the relevance of the following factors has been considered: environmental, prevention of crime and disorder, equality and diversity, human resources, health, property and transport considerations.

## **7 Key Decision**

Yes

## **8 Call-in**

No

## **9 OFFICER'S RECOMMENDATION**

That Cabinet approves the proposed fee increases for the independent sector home care fees from 28th September 2015, by 3.61% on all hourly rates for home care and 7p on all travel/visit rates.

**Joy Hollister**  
**Strategic Director – Adult Care**  
**County Hall**  
**MATLOCK**

## Appendix One



Chair: Stephen Sowden  
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Ltd  
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Mary McElvaney  
The Director of Social Services  
County Hall  
Matlock  
Derbyshire  
DE4 3AG

21 July 2015

Dear Mary,

As Chair of the Derbyshire Home Care Association, I formally request a meeting of our committee with yourself and the Chair of Adult Social Services, to discuss fee levels for the 2015-2016 year.

Our discussions would include the following issues which greatly affect our ability to meet the demand for domiciliary care in the community in Derbyshire.

### Increase in National Minimum Wage/ Living Wage.

The Government announced in the March Budget an increase in the minimum wage of 3.1% increasing it to £6.70 from October 1<sup>st</sup>.

The July Budget brings in the new Living Wage of £7.20 from 1<sup>st</sup> April 2016 for over 25s, a further increase of 7.46%

Added to the increase in wages this also increases hidden cost of holiday pay, employers national insurance, statutory sick pay and pension contribution.

### Sleep-in Rate

The current Sleep-in rate is £60.30. This only equates to £6.70 per hour over a 9 hour shift. Currently the minimum wage rate is not paid for this service, however where the staff member only undertakes a sleep-in, the rate paid is currently breaking the law. ACAS and HMRC (along with professional legal advisors) are

adamant that the minimum wage of £6.50 per hour (at present) should be paid for the whole of the nine hour sleep-in. We ask that this rate is reviewed, in order to bring it in line with the revised minimum/living wage rates.

#### Sitting Rate

The current rate of £9.00 per hour applies seven days per week. We are having more requests for sitting service at weekends which are proving difficult to cover when we are only able to offer slightly above the minimum wage. Respectfully we request a review of the sitting rate at weekends to enable us to pay a higher rate for Saturday & Sunday sit.

#### Travel Time and Travel Rates

HMRC are currently investigating that staff are being paid sufficiently for all travel time, at the minimum wage rate. The current travel rates create anomalies, as the low rate paid for Chesterfield only equate to a max of 15 minutes whilst the higher “rural” rate equates to 27 mins in time. However this rate is also paid in areas such as Buxton and Glossop, where the travel is easier and quicker than in Chesterfield, where depending on traffic situations, the travel time can easily exceed 15 minutes. However, travel also includes an element of “travel” or mileage. All agencies have individual rates/agreements relating to pay and travel.

I feel that further discussions are required around travel time and travel payments, so that a fairer playing field is created.

#### Pensions

From July 2015 all employers now subject to providing pensions for qualifying staff. This equates to 1% of all earnings above a threshold amount increasing to 2% in 2017 and to 3% in 2018

#### Training & Recruitment

The Recruitment of staff: is becoming more difficult due to:

1. Lack of suitable staff applying for posts,
2. Low rates of pay compared to other employment sectors
3. Length of time before they can start – due to obtaining DBS certificate, references and training.
4. Applicants only wanting to work maximum of 16 hours per week due to benefits.
5. Many applicants not having access to own transport
6. The Care Certificate – cost to employer plus length of training before new employee can start.
7. Cost in wages to new employee whilst training.

We estimate that the overall cost of a new starter is around £750.

Additionally all companies have incurred increases in business rates and other costs, ie maintenance agreements, all annual subscriptions have increased. Insurance by around 5%. An increase in CQC registration fee of 9% this year, plus additional costs added by CQC, in obtaining relevant paper work.

Overall in order for us to meet all our legal requirements with regard to pay regulations, and remain financially viable, we should require a figure of around

£15.33 per hour (33%), however in these times of austerity, a figure of £13.47 (16.9%) for October 2015 along with a further 0.58p per hour (8%) in April 2016 to cover the introduction of the living wage.

Yours Sincerely

Stephen Sowden  
Chair  
Derbyshire Home care Association

## Appendix 2

## Proposed Home Care Fee Rate 1st October 2015

	2014/15	% increase	2015/16
Hourly Wage	7.00	2.86%	7.20
Employers NI above £155 per week	0.23	9.84%	0.25
Pension Auto Enrolment			0.07
<b>Total Hourly staff cost</b> (29p increase)	7.23	4.07%	7.52
Holiday pay 4 weeks	0.56	4.07%	0.58
Sickness pay assume 2 weeks year	0.28	4.07%	0.29
3 training days per year	0.08	4.07%	0.09
Bank holidays 8 days per year	0.22	4.07%	0.23
<b>Net Hourly Rate</b>	8.37	4.07%	8.71
Head office costs	2.43	2.00%	2.48
<b>Total Hourly rate</b>	<b>10.80</b>	3.61%	<b>11.19</b>
<b>Divisible by 4</b>			<b>11.20</b>

## Assumptions

- 20 pence increase in minimum wage from 1st October 2015
- Employers pay 13.8% National Insurance above £155 per week
- Pension contribution 1% of gross pay
- Assume 4 weeks paid holiday per year plus 8 bank holidays paid at standard rate
- Assume 2 weeks paid sickness per year
- Assume 3 days paid training days

All providers in the county pay their staff different rates of pay. Following a recent survey of some providers of Derbyshire Homecare Providers evidenced that most pay between £6.50 (current minimum wage) and £7.50 per hour with a few paying up to £8.00 per hour. Higher wages seem to be paid by Providers who operate in more rural areas of the county where it is more difficult to recruit and retain staff. To assist with the fee modelling it has been decided to use £7.00 an hour as a base wage rate. The other assumptions detailed above assume that all staff have agreed to join the pension enrolment scheme, that all staff pay NI and that sick pay is paid.