

DERBYSHIRE COUNTY COUNCIL

CABINET

9th SEPTEMBER 2014

REPORT OF THE ACTING STRATEGIC DIRECTOR - ADULT CARE

INDEPENDENT SECTOR HOME CARE FEES

ADULT CARE

1 Purpose of report

To seek Cabinet approval for;

- the proposed fee increases for independent sector home care fees from 29 September 2014.
- amendments to the Council's Contract Terms and Conditions for the Provision of Home care Services to promote improvements in the terms and conditions for provider employees.

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 home care market. Derbyshire Home care Association ("the Association") represent many of the home care providers has written on behalf of their members requesting that the Council consider an increase in fees for 2014/15. Adult Care has also received additional requests from other providers not represented by the Association for a fee increase to reflect inflationary pressures.

Provider representatives have identified that the minimum wage is due to increase by 3% for staff aged 21 and over from 1 October 2014, with increases of 2% for staff aged under 21. A number of providers have highlighted that they are now subject to Pension Enrolment implications (due to the Workplace Pension Reforms contained in Pensions Act 2008 and 2011) on work place pensions which they have stated will increase their employer's contribution to wages by 1% from April 2014. Providers have also expressed other inflationary pressures including concerns about rising energy costs and increased insurance premiums.

2.1 Impact of Minimum Wage Changes

The Minimum Wage is due to increase by 3% (from £6.31 to £6.50 a 19p increase from 1 October 2014) for staff aged 21 and over. This will impact on low paid staff, many of whom work in independent homecare sector. A recent survey of Derbyshire home care providers evidenced that most pay between £6.31 and £7.00 per hour with a few paying up to £7.50 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.

The Council makes an additional payment per home care visit to cover 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 home care and the Council's Direct Home Care Service 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 minimum wage hourly increase is up to 19p, an uplift of 4.75p (rounded up to 5p) on all travel payments will cover this quarter hour average and is proposed.

The recent survey of Derbyshire home care providers showed that a small number of providers make a travel payment, however this is not work time related. These providers will be advised that they are legally obliged to apply minimum wage rules having a regard for travel time, which Her Majesty's Revenue and Customs (HMRC) are understood to be actively seeking compliance with.

2.2 Other Cost Pressures Identified

The Department of Work and Pensions phased roll out of Pension Enrolment is continuing and smaller providers (of between 49 and 30 staff) will be expected over the next twelve months to consider and comply with the necessary requirements. Larger providers in Derbyshire would have already had to consider and apply as appropriate the necessary Workplace Pension Reforms.

Indirect costs have slightly increased in respect of fuel, water and insurance. These can be evidenced by the Consumer Price Index records for 2013/14.

2.3 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. It must however be noted that the homecare market in Derbyshire is stable and there have been no service failures due to financial concerns.

2.4 Proposals

It is proposed that Home Care Fees are increased in response primarily to the changes to the minimum wage. To achieve this will require an increase of 2% on care fees and 5p on all travel payments from 1st October 2014.

This would result in an increase of 24p on hourly fee rates, which would enable providers to increase their staff hourly rate to the minimum wage (as the minimum wage will be increasing by up to 19p per hour) and also enable providers to meet other inflationary pressures. (Note all hourly fee rates have to be divisible by 12, so increases in rates have to be in multiples of 12 pence).

In addition, it is proposed to increase the travel payment per visit by 5p (rounded up from 4.75p). As referred to earlier in this report this has been calculated having a regard for the increase in the minimum wage by up to 19p and the fact that approximately a quarter of every hour care workers hours delivered by in house and home care providers, is associated with time spent traveling..

The impact of these proposals are shown in the tables below. The proposed increase in fee rates will not impact on the level of quality premium payment. This 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.

Proposed Hourly Fee Rate

Current Rates	Day Time Rate	Night Time Rate (After 8pm)
Home Care Base Fee Rate	£10.56	£11.28
Base Fee Rate Plus Quality Premium	£11.28	£11.88
Proposed Rates from week commencing 29th September 2014	Day Time Rate	Night Time Rate (After 8pm)
Home Care Base Fee Rate	£10.80	£11.52
Base Fee Rate Plus Quality Premium	£11.52	£12.12

Proposed Travel Fee Rate

	Travel payment per visit		
Zones for Travel Payments	Chesterfield (Urban)	High Peak and Derbyshire Dales (rural)	Other Areas
Current Rate	£1.58	£2.83	£2.28
Proposed Rate from week commencing 29 th September 2014	£1.63	£2.88	£2.33

These travel payments will be subject to further analysis with the intention of developing a new model for making travel payments linked to post codes. This new model of travel payments would focus on the post code where a client lives and differentiate between whether they live in a built up urban area or whether they live in a rural community.

2.5 Benchmarking

The proposed fee rates for the provision of homecare in Derbyshire are comparable with payments currently made by other authorities in the region.

Derbyshire £11.52 (Proposed QP Day rate) plus travel rate

Nottinghamshire £12.69 – £17.89 Inclusive of travel
 Derby City £12.36 (Day) £13.68 (Night& Weekend) inclusive of travel
 Sheffield £12.25 – £12.98 Inclusive of travel
 Tameside £11.42 Inclusive of travel

3.1 Scrutiny of Homecare Workers Pay and Conditions

There is currently a great deal of national and local scrutiny of pay and conditions of independent home care workers. Concerns have been highlighted by Unison, and the Equality and Human Rights Commission amongst others about employment and working conditions of these workers.

The Council is, as part of its commissioning and contracting arrangements with the independent sector, committed to working towards meeting the Unison Ethical Care Charter (October 2012), the aim of which is to “establish a minimum baseline for the safety, quality and dignity of (home) care by ensuring employment conditions which;

- a) do not routinely shortchange clients, and
- b) ensure the recruitment and retention of a more stable workforce through more sustainable pay, conditions and training levels.”

The following proposals identifies how home care providers in Derbyshire will be tasked with making where applicable the necessary improvements to staff working conditions. Appendix 1 summarises the Council’s current commissioning and contracting activity that aligns with the Unison Charter.

3.2 Proposal to work towards meeting Unison Ethical Charter

As noted earlier in this paper all providers have been surveyed about their compliance with the minimum wage rules including payment of travel time. Providers were also asked about how many staff are on zero hours based contracts. All providers confirmed that they have staff on zero hours based contracts. The ratio of staff at each service varies, however it would seem that the majority of staff are employed on zero hours contracts.

It is proposed that there is dialogue with Providers about how they can increase the numbers of workers onto contracts with set hours. Adult Care contract officers would then monitor Providers for progress towards increasing the numbers of staff on contracts with set hours

It is proposed that Adult Care contract officers evidence with providers that they provide regular training for their staff and that the time on the relevant training course is paid for.

It is also proposed that checks will be made with providers to ensure that eligible workers receive when applicable statutory sick pay.

3.3 Proposed Changes to Provider Contract Terms and Conditions

To facilitate some of the actions required to promote improvements to staff terms and conditions it is proposed to amend the Terms and Conditions for Provision of Home Care (T and C’s) to reinforce the minimum wage requirements and Human Rights Act obligations. The Director of Legal Services has advised upon the proposed amended clauses to be adopted.

Providers will be contacted to advise them of the proposed contract variation giving 4 weeks’ notice as required by the T and C’s. Failure to agree to the new clauses and the associated expectations would be classed as a notice to terminate the contract.

The minimum wage clause to be adopted in the T and Cs will allow Adult Care contract officers to confirm with providers that they pay travel time.

4 Financial Considerations

It is proposed to increase the fee rates to enable providers to increase staff wages from the 1st October 2014. Since Adult Care is introducing a range of financial changes on the 29th September 2014 it is proposed to increase the home care fees on the 29th September 2014 to align all the financial changes in Adult Care and minimise the impact on the payments team.

The proposed increase of 2% on homecare fees paid per hour and 5p on all travel rates would cost £234,418 to meet the care fee increase and £75,383 to meet the proposed travel payment. The total increase in cost of £309,801 represents additional cost pressures on the Adult Care budget and will result in further cuts to other services.

5 Legal Considerations

As noted elsewhere in the report the Director of Legal Services has advised in respect of the proposed variations to the Terms and Conditions for the Provision of Home Care in the Independent Sector.

The Council's commitment towards meeting the Unison Ethical Charter is compatible with future duties to be imposed by the Care Act 2014 due to come into force in April 2015. This duty is to "promote diversity and quality in the provision of services". Draft guidance emphasises the need to "promote quality services, including through workforce development and remuneration and ensuring appropriately resourced care and support"

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

Is it required that call-in be waived in respect of the decisions proposed in the report? No

9 Background Papers

10 OFFICER'S RECOMMENDATION

That Cabinet approves

- the proposed fee increases for the independent sector home care fees from 29 September 2014, by 2% on home care paid per hour and 5p on all travel/visit rates.
- the proposal to amend the Council's Contract Terms and Conditions for the Provision of Homecare Services to promote improvements in the terms and conditions for provider employees.

Mary McElvaney
Acting Strategic Director – Adult Care
County Hall
MATLOCK

Appendix One

Time to Care – UNISON Report into Homecare.

Report based on survey of 431 home care workers. Response focused on these areas;

- Scheduling and Short Length of Visits
- Pay – low level
- Zero Hour Contracts
- Travel Time – not paid
- Terms and Conditions of employment – deterioration
- Change in Clients on rotas – no continuity of care
- Clients welfare – staff not empowered to act on behalf
- Training
- Isolation of staff – working on own

UNISON have requested that Councils Sign up to their Ethical Care Charter which has been developed from the feedback received from the contributing workers.

There are three stages as detailed below – Derbyshire County Council's response is in bold.

Stage 1

The starting point for commissioning of visits will be client need and not minutes or tasks. Workers will have the freedom to provide appropriate care and will be given time to talk to their clients.

Under the personalisation agenda clients' receive their own assessed Personal Budget. They are then able to identify what eligible needs they want met, when and for how long. Staff providing support should be encouraged to talk to their client, if the task is complete and there is still available time this should be used as directed by the client. The approach of the provider needs to follow Derbyshire's Dignity and Respect Agenda.

The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used as they undermine the dignity of the clients

Derbyshire does not allow for packages of below 15 minutes. Less than 1% of all Adult Care clients (31 people out of over 5,000 people have a purchase order requesting a minimum call time of 15 minutes).

Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones

Derbyshire pays all its own Home Care staff travel time (in accordance with Derbyshire Package conditions of service) and independent sector providers are given a separate travel payment for each call that should be used to pay their staff for the travel time. Providers will be monitored to ensure

compliance, any provider found not to be operating within minimum wage guidelines will be reported to HMRC.

Visits will be scheduled so that homecare workers are not forced to rush their time with clients or leave their clients early to get to the next one on time

Agree with this aspiration, contract officers check independent sector provider rotas to ensure that they are not “call cramming” i.e. have no time built in between calls for travel.

Those homecare workers who are eligible must be paid statutory sick pay

Agree with this requirement Providers will be monitored to ensure they meet this requirement.

Stage 2

Clients will be allocated the same homecare worker(s) wherever possible

Providers are requested to give this undertaking. When packages of care are commissioned through the Brokerage Service the Provider is required to advise how many team members will provide the support and to give a commitment to minimise too many staff changes.

Zero hour contracts will not be used in place of permanent contracts

Derbyshire does not have block contracts for home care, as a consequence independent sector providers offer minimum contracted hours with a ‘bank’ of zero contracted hourly staff to enable them to increase their capacity and response when and if needed. Providers will be required to identify ways of increasing numbers of staff on contracted hours.

Providers will have a clear and accountable procedure for following up staff concerns about their clients’ wellbeing

Derbyshire facilitates positive responses from provider staff. They can retrospectively gain permission to spend up to 2 hours extra with a client where there are concerns about their wellbeing, or longer when they gain permission from an Adult Care worker. Providers are monitored to ensure that staff are familiar with whistleblowing procedures.

Providers are also being encouraged to gain the Authority’s Dignity and Respect award.

All homecare workers will be regularly trained to the necessary standard to provide a good service (at no cost to themselves and in work time).

All providers have to evidence a training matrix for all staff and evidence that training has taken place; training should be in paid time. Validation visits are

also undertaken by Adult Care Contracting and Compliance Team to confirm staff have received upto date training.

Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation

Agreed – we encourage providers to offer support to staff. Contracting and Compliance visits ask for evidence of staff supervision and team meetings

Stage 3

All homecare workers will be paid at least the Living Wage

Council employed homecare staff are paid above the Living Wage. It is an aspiration of the Council to increase homecare fee rates to a level that would allow independent homecare providers to also be paid at the Living Wage rate. However, due to the Government cuts to local government funding this is currently not possible.