

# Report to Cabinet

**9 February 2022**

<b>Subject:</b>	Action Taken on a Matter of Urgency – Uplift of Hourly Rate - Domiciliary Care Costing Model
<b>Cabinet Member:</b>	Leader of the Council Councillor Carmichael
<b>Director:</b>	Rashpal Bishop
<b>Key Decision:</b>	Yes, the financial threshold of £250,000 applies to the decision
<b>Contact Officer:</b>	Daljit Bhangal Operations Manager <a href="mailto:daljit_bhangal@sandwell.gov.uk">daljit_bhangal@sandwell.gov.uk</a>

## 1 Recommendation

- 1.1 That details of the urgent action taken by the Leader of the Council, in relation to giving approval to an addition to the costing model used to calculate the domiciliary care hourly rate to include the increase to National Insurance Contributions from April 2022 and to uplift the hourly rate of the updated costing model for existing domiciliary care framework contracts and for the new domiciliary care agreements that are to be procured for service delivery from 1 September 2022, be noted.

## 2 Reasons for Recommendation

- 2.1 The matter was urgent and could not be delayed until the next Cabinet meeting as procurement timescales were prohibitive to enable a report to Cabinet and legislative change requiring an increase to National Insurance Contributions was required from 6 April 2022



- 2.2 Under Part 4 of the Council's Constitution, the Scrutiny Procedure Rules provide that matters may not be called in for scrutiny when they are considered urgent. A matter is considered urgent where a delay would prejudice the Council's or the public interest.
- 2.3 The Rules also stipulate that decisions taken in this manner must be reported to the next available meeting of the Cabinet and Council, together with the reasons for the urgency.
- 2.4 This report indicates an action taken as a matter of urgency by the Leader of the Council since the last meeting.
- 2.5 The action taken was in accordance with the scope of authority of the Leader of the Council.

### 3 How does this deliver objectives of the Corporate Plan?

	<p>People live well and age well</p> <p>Domiciliary Care Service support people to live longer healthier lives and maintain independence to remain in their own home with the care and support they need.</p>
	<p>Strong resilient communities</p> <p>The overall aim of domiciliary care is to maintain independence and prevent or delay the need for long term care away from the home.</p>
	<p>A strong and inclusive economy</p> <p>Given the nature of the service and delivery of it to vulnerable people who reside in Sandwell, the successful organisations are very likely to employ people from the local area, supporting the local economy.</p>



## 4 Context and Key Issues

- 4.1 The Council is statutorily required under the Care Act 2014 to carry out an assessment of anyone who appears to require care and support. Local Authorities' role is seen as critical, and under section 5 of the Care Act 2014, the duty to shape and maintain an efficient and effective market of services for meeting care and support needs in the local area is firmly placed with them. The duty applies in relation to services that the Local Authority commissions directly, but also to other non-commissioned services in its area that together create the marketplace.
- 4.2 Domiciliary care is one of the services that the Council commissions to ensure that people with assessed needs under the Care Act 2014 have provision to support them to continue to live independently in the community, and thereby delaying or preventing the need to access residential care.
- 4.3 On 23 May 2021 Cabinet approved (minute reference 94/21) the procurement of a new model of domiciliary care to secure alternative contracting arrangements for when the existing framework contracts end on 28 February 2022. On 20 October Cabinet authorised (minute reference 184/21) the extension to framework contracts from 1 March 2022 to 31 August 2022 should the result of the tender exercise not yield a successful outcome for service delivery on 1 March 2022.
- 4.4 The tender outcome did not enable award of contracts for a service commencement from 1 March 2022 and therefore extension of the existing framework agreements has been necessitated and this is currently being progressed. A new tender will be advertised in January 2022; there are no provisions to extend after 31 August 2022, and a new model has to be delivered to enable a service start on 1 September 2022. Given no further extension provisions exist, the tender has to be advertised by 10 January 2022 to enable evaluation, award and mobilisation.



- 4.5 The domiciliary care hourly rate is not able to be set for the lifetime of a contract and is one that needs to be reviewed annually, with a view to it being uplifted should there be, for example, an increase to the National Minimum Wage per annum. Failure to uplift the hourly rate to reflect increasing costs risks undermining the social care market and is likely to mean that the Council increasingly is unlikely to fulfil its statutory duties to provide care and support for vulnerable people it has assessed as needing such provision.
- 4.6 The domiciliary care sector is facing significant challenge in its ability to recruit and retain staff, with the mandating of vaccines for Covid-19 likely to lead to exits from the market by some care workers who have so far refused to have the vaccine. There is currently a piece of work to scope how many staff in each agency have not had the vaccine and the potential issues the new requirement will create in the sector, and the impact to the Council's obligations in being able to provide care and support. These pressures on top of a sector that is seen as in crisis due to issues around recruitment, retention and funding only serve to exacerbate issues already being felt by the market.
- 4.7 The Council has the lowest hourly domiciliary care rate compared to the Black Country and Birmingham Councils and is cited in national comparator tables as one of the lowest payers. To not uplift the hourly rate and take into account the increase to National Insurance contributions may result in reduced interest in the new tender and may also lead to exits from the market by existing providers who are unable to withstand increasing costs that the Council does not sufficiently remunerate.
- 4.8 In addition to increases to the National Minimum Wage and National Insurance contributions, the sector is also faced with increased costs as a result of higher indemnity premiums, mileage costs paid to carers due to rising fuel prices, amongst other costs. The government has supported the sector with grants to ease pandemic costs, but this is time limited funding, with no guarantee of its continuation, and strict rules around its use. It is imperative that the calculation of the hourly rate reflects and takes account of the increase to National Insurance contributions from April 2022 to mitigate risk to its ability to discharge its statutory duties to provide care and support to people whom it has assessed as in need.



## 5 Alternative Options

5.1 There is an option to do nothing and leave the model as it is, however it is likely that if it is not agreed, there is a risk to the ability of the Council to discharge its statutory obligations as a result of:

- Services becoming unviable and a lack of sufficient depth in supply;
- Providers handing contracts back;
- Recruitment challenges already experienced in the sector, increasing;
- Inability to discharge individuals from hospital when they are medically optimised, creating pressure in the wider health and social care system;
- Increased discharges to bed-based provision due to the lack of depth in supply of domiciliary care;
- Failure to properly take account of Care Act responsibilities around market shaping and market sustainability;
- Inability of Brokerage Teams to source packages of care;
- Reduction in quality and increased safeguarding issues, with providers potentially cutting corners due to a challenging hourly rate.

## 6.0 Implications

<b>Resources:</b>	<p>As a statutorily required service, the funding to pay for any uplift will be from the Adult Social Care budget. The additional cost associated with the 1.25% National Insurance levy has been reflected within the inflationary pressure on placements and included in the corporate budget planning assumptions.</p> <p>Packages of care commissioned will be paid for on an agreed set rate on a 'spot' basis, therefore there will be no guaranteed volume of service commissioned from prospective providers and the Council will only pay for what has been delivered.</p>
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The rate paid will be set and is calculated using an agreed methodology, including the increase to National Insurance contributions for employers to the model to reflect an hourly rate from 1 April 2022 of £16 an hour from £15.16.

The projected impact of the proposal for the uplift to be applied in 22/23 is as follows:

Hourly Rate	£ per annum (based on current activity)
£15.88 (excluding NI increase)	£921,100
£16.00 (inclusive of N.I increase)	£1,081,600

**Legal and Governance**

The Council has responsibilities under the Care Act 2014 to assess people who appear to have care and support needs and provide or commission services to meet these needs.

The Council also has responsibilities under Section 5 of the Care Act 2014 to facilitate a healthy market of quality services through market shaping. Therefore, councils are responsible for sustaining the market and not paying below market levels in fees. As identified in 4.7, the hourly rate paid by the Council is lower than its neig

**Risk:**

The corporate risk management strategy has been complied with to identify and assess the risks associated with the recommendations being sought in this report. This has concluded that there are no red risks that require reporting.



	<p>The plan to add the increase to National Insurance Contributions to the costing model is to mitigate risk and enable the Council to be in a stronger position to discharge its statutory obligations effectively. The recommendations if approved will assist in the mitigation of the directorate risk in respect of resilience in the care market, which is currently assessed as red.</p> <p>The support that a domiciliary care service provides enables a reduction of risk to service users who are supported to live in their homes for longer.</p>
<p><b>Equality:</b></p>	<p>An Equality Impact Assessment was completed for the Cabinet reports in May and October 2021, as referenced earlier in the report and a further assessment has been done to be read in conjunction with this report. There are no significant equality issues arising from this report. The commissioning of this provision will ensure that vulnerable people in need of care, including protected groups, will benefit from timely support, and therefore there are benefits to some of the protected characteristics.</p>
<p><b>Health and Wellbeing:</b></p>	<p>The recipients of Domiciliary Care will be supported and cared for to remain in their own homes and remain as independent as possible for as long as possible.</p> <p>To support the easing of pressure on acute hospitals through admission avoidance this service is also required to assist vulnerable people for whom the Council has a statutory duty through the provision of timely care and support in their own homes.</p> <p>Given the nature of the service and delivery of it to vulnerable people who reside in Sandwell, the successful organisations are very likely to employ</p>



	people from the local area, supporting the local economy.
<b>Social Value:</b>	<p>Providers of Domiciliary Care do not need to be based in Sandwell. Providers are supported and encouraged to recruit locally and engage with Colleges/Universities, and to procure local goods and services to support local communities.</p> <p>Social value has a fixed minimum % amount in the tender scoring process to allow an assessment of how bidders propose to achieve outcomes that promote social value.</p>

## 7. Appendices

Nil

## 8. Background Papers

None.

