

Public Document Pack

North Yorkshire County Council
Health and Adult Services - Executive Member & Corporate Director Meeting
Wednesday, 22 March 2023 / 4.00 pm
A G E N D A

1 Declarations of Interest

Items for Corporate Director decision

- 2 To agree Fee Levels for 2023-24 (Pages 3 - 10)

- 3 To agree Internal Charges for 2023-24 (Pages 11 - 14)

- 4 To agree and approve the Market Sustainability Plan (Pages 15 - 16)

5 Items for Director of Public Health decision

- 6 To agree and approve Living Well Smoke Free contract award (Pages 17 - 20)

Circulation:

Executive Members

Michael Harrison

Officer attendees

Richard Webb

Presenting Officers

Anton Hodge
Abigail Barron
Scott Chapman
Dan Atkinson

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NORTH YORKSHIRE COUNTY COUNCIL

Health and Adult Services Executive

Fee uplifts for Residential, Nursing, Domiciliary Care and Community Based Services 2023/24

22 March 2023

1.0 PURPOSE OF THE REPORT

- 1.1 This report informs the Executive member of proposed fees for Residential, Nursing, Domiciliary Care, Supported Living and Community Based Services in 2023/24.

2.0 BACKGROUND

- 2.1 Contractually the Council has a commitment to review fee levels on an annual basis. The Council has always had an obligation to take account of the market pressures and to consult with providers on fee levels but from April 2015 new statutory responsibilities under the Care Act 2014 require the Council to shape and sustain its markets.
- 2.2 In setting fees the Council has a duty to pay due regard to the costs of providing care.
- 2.3 In April 2022, the Council implemented its Actual Cost of Care (ACOC) exercise for residential and nursing placements. It was agreed that all new placements would receive at least the relevant ACOC rate and that existing/legacy rates would be increased to ensure that they met that rate within three years
- 2.4 As a condition of receiving market sustainability funding from central government – through the Department of Health and Social Care (DHSC), all Local Authorities were expected to complete two Fair Cost of Care (FCoC) exercises in 2022 covering:
- (i) 65+ Residential and Nursing Care
 - (ii) Domiciliary Care
- 2.5 As NYCC had only begun to implement (from April 2022) its latest Actual Cost of Care Exercise for Residential and Nursing care, DHSC agreed that this could be used in place of any new work.
- 2.6 However as no previous Cost of Care exercise for Domiciliary Care had been undertaken by the Council prior to this date. North Yorkshire County Council used the DHSC-recommended FCoC model to undertake this in line with the grant conditions in May-June 2022.
- 2.7 Alongside – but separate to – this, NYCC undertook a comprehensive procurement of its Approved Provider Lists (APL) which commenced in June 2022. This included the

provision of Home-Based Support, and it was a requirement of all domiciliary care providers wanting to work with NYCC in the delivery of domiciliary care in the future.

2.8 The government has been quite clear that:

“the outcome of the cost of care exercise is not intended to be a replacement for the fee-setting element of local authority commissioning processes or individual contract negotiation. We expect local authorities to use the insight gained from their cost of care exercises to support their commissioning and contract negotiation for the relevant services in practice.” (DHSC)

2.9 The FCoC exercise therefore is only intended to support each LA in setting rates – it does not provide a definitive rate in itself. It is also clear that the national FCoC exercise was limited and simplistic, it provided a very short window for the exercise to be completed due to national timescales being set and only provided one median rate. The national Domiciliary FCoC was much less representative than our own separate APL exercise. (28 FCoC returns compared with 98 APL returns for home-based support). Feedback from other councils has highlighted similar concerns in that the national exercise did not enable a good understanding of local care provider markets.

2.10 The new Approved Provider lists for residential and nursing care, domiciliary care, community based support and supported living took effect from 1 November. In the calculations required to ensure the offer here is affordable, we have assumed that residential and nursing rates will refresh every three years – i.e. that one-third of legacy packages will be replaced by others in the new APL rate. For Domiciliary Care and Supported Living, the turnover is less frequent, and will normally not be higher than every five years.

2.11 Consultation has taken place with providers through the Independent Care Group (ICG) and an agreed way forward is set out in section 3 below. This continues the process agreed for the current financial year whereby we have moved away from universal inflation rates while implementing Cost of Care and APLs.

2.12 The rates below, if agreed, are within the funding agreed in the Council’s 2023/24 budget, although inflation is of course allocated on budget and not on any overspend.

2.13 The inflationary award is separate from additional support given to providers this year to assist with the costs of the pandemic, including additional payments made to providers in autumn 2022.

3.0 PROPOSED FEE LEVELS

Residential and Nursing

3.1 As set out above, in April 2022, the Council implemented its Actual Cost of Care (ACOC) exercise for residential and nursing packages. All new packages would receive at least the relevant ACOC rate and existing/legacy rates would be increased to ensure that they met that rate within three years

3.2 Taking account of expected rates of inflation over the next financial year, the new rates are as set out below. This table also shows the increase over 2022/23 rates:

	2022/23	2023/24	change	
Residential	742	812	70	9.4%
Residential/Dementia	784	854	70	8.9%
Nursing	819	896	77	9.4%
Nursing/Dementia	826	903	77	9.3%

3.3 For those above the ACOC rate, inflation will be paid at 3% up to £1,200 per week, with no inflation above that.

3.4 All new placements will be paid the ACOC rate, except in exceptional circumstances and where agreed otherwise.

3.5 ACOC rates only apply to placements for over-65s. Therefore for placements supporting adults under the age of 65, the inflation rate will be 9.2% for those below £1,000 per week and 3% for those above.

3.6 Specialist residential placements for people over-65 costing less than £1,000 per week will receive 9.2%, while those above will receive 3%.

Non-residential

3.7 9.2% for Community Based Support/non-regulated services, including Day Services. The rate will be rounded up to ensure it can be sub-divisible by 4.

3.8 For Home Based Support, due to the limited response rate of the Fair Cost of Care exercise for Domiciliary Care, it is not appropriate to rely on the outcome of that to set an indicative rate for consideration of the uplift for that sector. Again, the council is keen to ensure that increases to domiciliary care packages will be targeted to support those currently receiving lower fee rates. Last year we linked the UKHCA rate of £23.20 to our offer and have noted that this year's rate is £25.95. We also note that the average rates submitted by providers as part of the Approved Provider Lists (APL) exercise were as below:

<u>Personal Care Hourly Rate</u>	(Generic)	(Enhanced)
Urban:	£23.55	£24.52
Rural:	£24.91	£25.73
Super Rural:	£27.30	£27.55

3.9 We have therefore used an indicative rate of £26 for 2023/24 for Home Based Support as set out in the proposal:

- All rates below £26 per hour will be paid 9.2% inflation. This includes APL and legacy rates

- All rates between £26 and £33 per hour will be paid 3% inflation. This includes APL and legacy rates
 - No inflation will be paid above this rate
- 3.10 Increases to supported living care packages will be 9.2%. Our calculation suggests that (assuming a turnover of 1/5th annually) only 3% will be paid at a rate lower than £20 per hour – and this is normally where providers have submitted an APL rate lower than this.
- 3.10 All future payments will continue to be made four weeks in advance with retrospective reconciliation to support cash flow within the market.
- 3.11 For placements of people in care homes outside of North Yorkshire County Council we will honour an uplift agreed by the host authority where they have undertaken an Actual Cost of Care exercise and will consider individual business cases where there is no Actual Cost of Care exercise in place.
- 3.12 The rate for Domiciliary Care providers allows for 15 minute payments. Whilst we do not usually commission care for 15 minutes only there are times when support plans require 45 minutes of care and very occasionally for 15 minutes.

4.0 ANALYSIS OF THE PROPOSALS

- 4.1 There has continued to be much national focus in the last year about the frailty of the care market in England.
- 4.2 In addition to the fees paid by the Local Authority, Nursing care homes will receive Funded Nursing Care payments for eligible residents from health commissioners. This is set nationally by the NHS and as of 1 April 2022 the rate was £209.19 per week but the rate from April 2023 has not been set as yet.
- 4.3 Residential and nursing occupancy rates have reduced overall during the pandemic, however some areas of the county are seeing high occupancy rates particularly for nursing care.
- 4.4 A range of national and local support mechanisms have been in place since early in the pandemic to reduce the financial impact of the pandemic on the care market and, where possible, prevent provider failure. This includes support from central government, including:
- Infection Prevention Control funding;
 - A national Personal Protective Equipment portal; and,
 - The block purchasing of discharge beds.
- 4.5 At a more local level, the county council has implemented:

- Compensatory payments;
- Supplier relief and hardship processes;
- Payment on planned activity; and,
- Payments in advance for the annual inflation settlement

4.6 The Strategic Market Development Board is in place to address the wide range of challenges in the social care market, and to provide a strategic focus on the implementation of solutions.

Residential and Nursing care Homes

4.7 In North Yorkshire between April 2022 – January 2023 4 care homes closed. This compares with

2021/22: 6
 2020/21: 8
 2019/20: 2
 2018/19: 2
 2017/18: 6

4.8 As of February 2023, the care home market in North Yorkshire is slightly above the national average in terms of quality of care provided by registered care providers. The Quality Improvement Team continues to provide proactive support to providers where quality concerns have been identified or where improvements would be beneficial.

4.9 We monitor on a monthly basis our ability to secure placements at NYCC standard rates. In all areas there have been times over the last year when we have had to purchase placements at a market premium. This has been when there has not been capacity at our standard rates at the time a placement is needed. Harrogate is the area where this is most notable.

4.10 We continue to monitor and will keep under review whether there is a need for any local market supplement. We are not recommending this at this time but will closely evaluate the impact of the new Approved Provider Lists.

Domiciliary Care

4.11 Fees to domiciliary care providers are based on hourly rates. The fee levels for new care packages are agreed with individual providers at the point of the individual care package being commissioned from an Approved Provider list.

4.12 The ICG has advocated that the Council should use the HCA cost model for domiciliary care. The model sets out a national minimum fee level which they recommend. It is based on national averages for costs in defined operating areas. From April 2023 the recommended minimum rate for an hour of homecare increases to £25.95 per hour.

- 4.13 The proposal is for an 9.2 uplift to all domiciliary care packages below £26 per hour and 3% for those between £26 and £33. No inflation will be paid on hourly rates above £33.
- 4.14 Across North Yorkshire the average fee levels are currently £20.37 (Urban), £21.46 (Rural) and £23.82 (Super Rural) an hour for generic domiciliary care, with a range between £15.24 and £36.00 an hour (Urban), £15.24 - £37.00 (Rural) and £15.36 - £41.20 (Super Rural). Our rural and super rural rates allow for longer travel times in these areas.
- 4.15 79.2% (-2.5%) of residential care providers were rated “good” or better, which remains better than national (82.0%, -0.2%) and Yorkshire and Humber Region (77.9%, -0.7%) averages. 89.2% (-0.3%) of domiciliary care providers were rated “good” or better, which remains better than national (87.4%, -0.2%) and Yorkshire and Humber Region (84.5%, +0.3%) averages.

Community based services

- 4.16 For community-based care services we tend not to pay an hourly rate for a number of these services and so are unable to apply the same approach as domiciliary care. The proposed increase of 9.2% is therefore in line with the other proposals in this paper.

5.0 CONSULTATION

- 5.1 Consultation and negotiations have been taking place with the ICG since November 2022 and at the time of publication we are awaiting a view on the final proposals discussed with the group on 14 March.

6.0 IMPLICATIONS

- 6.1 Resource and Finance Implications/Benefits: Budget plans have already included the cost of the increased fees proposed included in this report. In future years the Council will need to provide for the inflationary increases.
- 6.2 Human Resources: We require our contracted providers to meet minimum wage levels and have reflected wage costs in our fees
- 6.3 Legal: When setting fee levels, local authorities are not obliged to follow any particular methodology; in particular, there is no obligation to carry out an arithmetical calculation identifying the figures attributed to the constituent elements, R (Members of the Committee of Care North East Northumberland) v. Northumberland CC [2013] EWCA Civ 1740.
- 6.4 The Care Act 2014 places duties on local authorities to facilitate and shape the care and support market. The Act also requires local authorities to provide choice that delivers intended outcomes and improves wellbeing. Unlike previous case law, the Care Act strengthens the general duties of councils when setting fees. Relevant

features of the Act include: (i) An obligation on councils to: ...promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishes to access services in the market. ... (and) has a variety of providers to choose from who (taken together) provide a variety of services. ... (and) has a variety of high-quality services to choose from ... (and) has sufficient information to make informed decision about how to meet the needs in question.

- 6.5 The Care and Support Statutory Guidance (CASSG) states that a local authority should have evidence that the fee levels they pay for care and support services enable the delivery of agreed care packages and support a sustainable market. 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 care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support and allow for the service provider to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow retention of staff commensurate with delivering services to the agreed quality and encourage innovation and improvement. Local authorities should understand the business environment of providers offering services in their area and seek to work with providers facing challenges and understand their risks.
- 6.6 The CASSG states however that in fulfilling this duty “Local authorities should commission services having regard to the cost effectiveness and value for money that the services offer for public funds”.
- 6.7 Equality Act 2010: The county council is required by law to pay due regard to the Equality Act 2010 and in particular the general and specific duties of the Public Sector Equality Duty. The evidence that the county council has met its duties is contained in the previously published equality impact assessments (EIAs). Due regard has been paid to the actual cost of care in formulating the proposals, and it is anticipated that there will be a positive impact on both the provider market and people who receive services, by offering fee levels which support good care provision.

7.0 RECOMMENDATIONS

- 7.1 The Executive Member is asked to consider the contents of this report, including the analysis of the proposals in section 4 and the implications in section 6 and to agree
- (i) That fee increases to care homes for both residential and nursing will be as below:
- a) The four ACOC rates for 2023/24 will be:

	2023/24
Residential	812
Residential/Dementia	854

Nursing	896
Nursing/Dementia	903

- b) The Cost of Care rate will be implemented for all existing placements by April 2024 where they are currently paid below that rate
 - c) For those above the ACOC rate, inflation will be paid at 3% up to £1,200 per week, with no inflation above that.
 - d) All new placements will be paid the ACOC rate, except in exceptional circumstances and where agreed otherwise.
 - e) As ACOC rates only apply to placements for over-65s, placements supporting adults under the age of 65 will be paid an inflation rate of 9.2% for those below £1,000 per week and 3% for those above.
 - f) Specialist residential placements for people over-65 costing less than £1,000 per week will receive 9.2%, while those above will receive 3%.
- (ii) An 9.2% increase for Community-Based Support/non-regulated services, including Day Services. This will be rounded up to ensure it is divisible by 4.
 - (iii) For domiciliary care:
 - An 9.2% uplift to all domiciliary care packages below £26 per hour
 - 3% for those between £26 and £33
 - No inflation will be paid on hourly rates above £33.
 - (iv) Increases to supported living care packages will be 9.2%.
 - (v) For placements of people in care homes outside of North Yorkshire County Council we will honour an uplift agreed by the host authority where they have undertaken an Actual Cost of Care exercise, and will consider individual business cases where there is no Actual Cost of Care exercise in place

Authors of report:

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**NORTH YORKSHIRE COUNTY COUNCIL
HEALTH AND ADULT SERVICES EXECUTIVE**

22 MARCH 2023

FEES AND CHARGES FOR IN-HOUSE & COMMUNITY CARE SERVICES 2022/23

1. PURPOSE OF THE REPORT

1.1 This report sets out the proposed changes in fees and charges that individuals pay towards the costs of NYCC care services, plus meals, transport and laundry services for 2023/24.

2. BACKGROUND

2.1 Each year the revised maximum charges to users of our in-house services are agreed based on the uprating of existing charges.

3. CHANGES IN CHARGES FOR 2023/24

3.1 Traditional uplift of charges is an exercise carried out annually and the new charges are implemented in April to coincide with the benefit uplift awarded by DWP (from Monday 10th April 2023 for 2023/24).

3.2 The Council's Fees and Charges Strategy was approved by Executive Members in November 2022, after income budgets were reviewed. Given the historically high levels of inflation that the UK is currently experiencing, a minimum inflationary increase of 6% was approved for 2023/24 budget setting and although the charges in this paper are dealt with separately, a similar uplift has been used throughout.

3.3 The proposed new rates for services which are not subject to the means tested financial assessment are outlined in Table 1.

TABLE 1: CHARGES FOR SERVICES NOT SUBJECT TO A FINANCIAL ASSESSMENT

Description of Service	Rates 2022/23	Proposed Rate 2023/24	% Increase
Meals;			
Main	£2.95	£3.10	5.1%
Sweet	£1.10	£1.20	9.1%
Full Meal	£4.05	£4.30	6.2%
Laundry	£5.45	£5.75	5.5%

- 3.4 Transport charges are currently £7.75 per journey (with a cap of £41 per week). It is proposed that these figures are increased to £8.20 per journey (5.8% increase) with a cap of £43 per week (4.9% increase).
- 3.5 Table 2 below details the proposed charges for those services being directly provided by NYCC and which are subject to a financial assessment.

TABLE 2: FEE SCHEDULES FOR NYCC MANAGED SERVICES 2023/24

		2022-23	2023-24	% change
<u>Elderly Persons Home</u>		Max. charge	Proposed Max. charge	
Day Care	Per place per day	£36.60	£38.75	5.9%
Respite - EPH	Per 24 hour period	£86.00	£91.00	5.8%
Existing Placements - EPH	Weekly rate	£602.00	£637.00	5.8%
<u>Learning Disability Services</u>				
Day Centre	Per place per day	£71.50	£75.50	5.6%
Respite	Per 24 hour period	£258.00	£273.00	5.8%
	Weekly rate	£1,806.00	£1,911.00	5.8%
<u>Personal Care at Home</u>				
Per contact visit		2022-23	2023-24	% change
Days	15 min	£9.50	£10.10	6.3%
	30 min	£13.95	£14.80	6.1%
	45 min	£18.40	£19.50	6.0%
	60 min	£23.10	£24.50	6.1%
Nights	15 min	£11.75	£12.50	6.4%
	30 min	£17.60	£18.70	6.2%
	45 min	£23.40	£24.80	6.0%
	60 min	£29.25	£31.00	6.0%

- 3.6 The table above shows the proposed rate for existing placements in NYCC's Elderly Person Homes. An exercise will be completed during 2023/24 to ensure that these establishments continue to provide value for money to the council and the people we support.
- 3.7 Table 3 below details the proposed charges related to the deferred payments process. These reflect that there has been no increase in valuations and legal fees.

TABLE 3: FEE SCHEDULES FOR DEFERRED PAYMENT COSTS 2023/24

fee	2022-23 rate	2023-24 rate	% increase
Legal costs	171.00	188.00	9.9%
Land registry search	49.75	51.00	2.5%
Valuations	350.00	350.00	0.0%
	500.00	500.00	0.0%
Admin fee (set up)	139.50	148.00	6.1%
Annual fee	400.00	424.00	6.0%

4 RESOURCE IMPLICATIONS

The budget for income from in-house service provision is approximately £4.5m in 2023/24 and the planning assumption currently incorporated into the medium term financial strategy assumes ‘inflation’ will be charged. The actual levels of income generated arise from a combination of the level of charges, the number of users and, critically, the assessed levels of contribution from clients.

5 CONSULTATION

Consultation originally took place as part of the introduction of the Fairer Contribution policy via the Area Committees through a questionnaire to user representative groups as well as being considered by Care and Independence Overview and Scrutiny Committee. No further consultation has been undertaken for this annual uplift process.

6 EQUALITIES IMPACT ASSESSMENT

This was undertaken as part of the introduction of the Fairer Contribution policy and it is therefore not considered necessary to undertake another assessment for routine uplift. However we do continue to monitor the impact of the change of policy regularly and this is reported to the Care and Independence Overview and Scrutiny Committee on a periodic basis.

7. RECOMMENDATIONS

The Corporate Director Health and Adult Services in consultation with the Executive Member for Health and Adult Services is asked to:-

- (a) Approve the new charging rates as outlined in section 3, Tables 1 and 2 of this report, to be effective from 10 April 2023

Report prepared by Anton Hodge, Assistant Director – Strategic Resources

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North Yorkshire County Council

Health and Adult Services

Executive Members Meeting

22nd March 2023

REPORT TO Corporate Director of Health and Adult Services (HAS) in consultation with the Executive Member for Health and Adult Services

Market Sustainability Plan

1.0 Purpose Of Report

To seek approval to publish the Final Market Sustainability Plan (MSP). Completion of the MSP is a condition of the Market Sustainability and Improvement Funding Grant. The deadline for publication is 27 March 2023.

2.0 Executive Summary

The purpose of the market sustainability plan is for local authorities to assess and demonstrate how they will ensure local care markets are sustainable, as they move towards implementing reform.

The plan will assess the impact current fee rates are having on the market and the potential future risks (particularly in the context of adult social care reform). This assessment will enable local authorities to inform the development of mitigating actions, including how much they will need to increase fee rates over the three-year Spending Review period.

Completion of the market sustainability plan is a condition of receiving future funding from Central Government.

The market sustainability plan needs to take into account the results from the cost of care exercises, considers the impact of future market changes over the next three years, particularly in the context of adult social care reform and sets out an outline action plan for addressing the issues identified and the priorities for market sustainability investment.

If the Council agrees an annual inflationary uplift prior to publishing the MSP, the document will be updated to reflect this.

3.0 Background

The completion and publication of a Market Sustainability Plan was a condition of the Fair Cost of Care and Market Sustainability Fund, and remains a condition of any future funding, including the new Market Sustainability and Improvement Funding Grant. The deadline for publication is 27 March 2023.

4.0 Issues

By not having a sustainable care market, risks undermining the local care market in North Yorkshire, creating unfairness, affecting sustainability and, at times, leading to poorer quality outcomes for those who draw on care and support services.

A condition of receiving future funding, local authorities will need to evidence the work they are doing to prepare their markets. The government requires local authorities to start building strong foundations and prepare markets for wider charging reform and thereby increase market sustainability.

5.0 Financial Implications

The completion and publication of the Market Sustainability Plan was a condition of receiving the Market Sustainability and Fair Cost of Care Fund and any future funding. The primary purpose of the fund is to support local authorities to prepare their markets for reform, and to support local authorities to move towards paying providers a fair cost of care. Failure to publish the MSP may risk any future funding allocations.

6.0 Legal Implications

Local Authorities have a statutory duty under section 5 of the Care Act 2014 to facilitate the efficient and effective operation of local care markets. Which includes taking due regard on minimum fee levels necessary to ensure that the Care Market is sustainable, whilst taking account of the local economic environment.

The completion and publication of the Market Sustainability Plan was a condition of receiving the Market Sustainability and Fair Cost of Care Fund, and other future funding.

7.0 Consultation undertaken and responses

The Market Sustainability Plan is based upon the outcomes of the Actual Cost of Care, fair cost of care and APL procurement exercises, all of which involved collaboration with the Independent Care Group and ICBs. The plan also directly reflects the objectives and priorities set out in the Market Position Statement and the Commissioning and Service Development Strategic Plan, both of which were produced in consultation with a broad range of stakeholders.

8.0 Impact on other services/organisations (insert or delete)

The Market Sustainability Plan will provide the care market with support and guidance alongside work already in place, including the Market Position Statement, to show how the local authority will plan and then demonstrate how we will ensure the local care market in North Yorkshire is sustainable as we move towards implementing social care reform.

9.0 Recommendation/s

To agree the Market Sustainability Plan in readiness for publication on 27th March 2023.

Name and title of report author

Jo Waldmeyer, Head of Service Development
Steven Crutchley, Strategic Service Development Manager

North Yorkshire County Council

Health and Adult Services

Executive Members Meeting

Friday 22nd March 2023

REPORT TO Director of Public Health, Corporate Director Health and Adult Services (HAS) in consultation with the Executive Member for Health and Adult Services

Contract award for the procurement of e-cigarettes as a harm reduction tool within Living Well Smokefree

1.0 Purpose Of Report

The purpose of this report is for the Director of Public Health, in conjunction with the Executive Member of Health and Adult Services, to agree to award a contract, to an appropriate company, to provide access to e-cigarettes for smokers who choose to adopt this method of quitting, as part of the Living Well Smokefree (LWSF) offer.

Planned dates for the procurement award are:
Procurement portal to close on Thursday 16th March 2023
Panel to meet Thursday 6th April 2023
Contract award mid -end April 23.

The contract is for 2 years with the option of a 1-year extension pending a review

2.0 Executive Summary

Smoking is one of the biggest causes of death and illness in the United Kingdom. Every year around 78,000 people die from smoking, with many more living with debilitating smoking related illnesses. Smoking can increase your risk of developing more than 50 serious health conditions, some of which are fatal, the remainder causing irreversible long-term damage to your health.

Although the prevalence of adult smokers in North Yorkshire has declined over the last decade (18% of adults in 2011 compared to 11% in 2021), in order to meet the national ambition of a smokefree population by 2030 access to all stop smoking aids is essential. This is where access to e-cigarettes plays an important role.

North Yorkshire County Council provides the Living Well Smokefree Service (LWSF) to people who want to quit smoking. The current service offer includes using proven methods of stopping smoking like nicotine replacement therapy (NRT) or Zyban to help to break individuals' reliance on nicotine alongside behavioural interventions.

The proposal is to introduce e-cigarettes into the LWSF as an alternative offer that will support individuals to quit smoking. The service undertook an e-cigarette pilot in July 2021 to February 2022. Within this time period, 144 people set a quit date with the intent of using an e-cigarette as a harm reduction intervention. Of those 144 people that set a quit date with the intent of using an

e-cigarette, 134 achieved a positive 4 week quit status. In terms of a conversion quit rate, that worked out at 93%.

An e-cigarette is a plastic electric cigarette with a heating element. It holds a nicotine cartridge containing liquid nicotine which, when heated, changes the nicotine into a vapour. The nicotine and other ingredients are inhaled into the body.

E-cigarettes are a comparatively new and rapidly evolving product. Many people are using e-cigarettes (also known as vaping) as an alternative to smoking tobacco.

3.0 Background

In recent years, e-cigarettes have become a very popular stop smoking aid in the United Kingdom. They are far less harmful than cigarettes (95% safer than smoking normal cigarettes) and they can help adults quit smoking for good. They are not recommended or should not be sold to people who are younger than 18 years old. They should also not be used by non-smokers.

As a service LWSF are encouraged to provide access to e-cigarettes by the National Centre for Smoking Cessation and Training (NCSCT), Office of Health Improvement and Disparities, (OHID) National Institute for clinical Excellence (NICE) and Action on Smoking and Health (ASH), all of which are bodies seeking to reduce the harm caused by smoking.

An e-cigarette is a device that allows you to inhale nicotine in a vapour rather than a smoke. E-cigarettes do not burn tobacco and do not produce tar or carbon monoxide, two of the most dangerous elements of tobacco smoke.

Many thousands of people in the UK have already stopped smoking with the help of an e-cigarette. There is evidence that they can be effective. A 2021 review found people who used e-cigarettes to quit smoking, as well as having expert face-to-face support, can be up to twice as likely to succeed as people who used other nicotine replacement products, such as patches or gum. Using an e-cigarette may help people manage nicotine cravingsⁱ.

In the UK, e-cigarettes are tightly regulated for safety and quality. Vaping is not completely risk-free, but it is important to recognise that the evidence suggests e-cigarettes, as a harm reduction tool, are 95% safer than smoking standard cigarettes in the short and medium term. ⁱⁱ. It is important to note that research still needs to be conducted regarding to their long-term impacts e-cigarettes have on our health. However, LWSF would be using e-cigarettes in the short term only, as part of a structured quitting regime where levels of nicotine are reduced to very low levels towards the end of the 12-week treatment programme, as with all other stop smoking medications that LWSF use.

4.0 Issues

Although the most recent evidence suggests that e-cigarettes are significantly less harmful than smoking tobacco, they are not risk free. Most e-cigarettes contain nicotine, which is highly addictive, as well as other ingredients such as propylene glycol, glycerine and flavourings.

E-cigarettes have been regulated by the government since May 2016. From April 2017 it's illegal to sell e-cigarettes to, or buy them for, under 18s. It will be some time until studies will show the long-term impact and any unforeseen risks of using e-cigarettes. More is known about the safety and effectiveness of other stop smoking medications.

5.0 Performance Implications

The performance of the e-cigarettes will contribute to the overall reduction in smoking prevalence across North Yorkshire:

- Increase in quit dates set
- Increase in 4 week quit rates
- Increase in 12 week quit rates
- Overall decrease in smoking prevalence

6.0 Policy Implications

None

7.0 Financial Implications

Contract value.

8.0 Legal Implications

Procurement and legal advice have been sought regarding the use of e-cigarettes as part of the LWSF service. This has led to the inclusion of liability statements and a disclaimer that will be filled in by the end user.

9.0 Consultation undertaken and responses

Feedback has been sought as part of the pilot and whilst responses were limited feedback was predominantly positive. There has been no specific consultation with the public on this issue.

10.0 Impact on other services/organisations

None

11.0 Risk Management Implications

Contractually risks have been mitigated by:

- End users will be issued with a disclaimer which confirms that it is within the sole discretion of the end-user to determine whether they are suitable for them and further confirms that in absence of any negligence or other breach of duty by the Council, the Council assumes no responsibility or liability for any end users use of any e-cigarette or vaping product including any adverse effects they may suffer, and that the Council assumes no responsibility or liability for injury or damage to a person or property as a result of the ownership, possession or use of the e-cigarettes or vaping products. End users will be required to sign the disclaimer form prior to being admitted on to the Scheme.
- The winning supplier must be licensed and comply with regulations and ensure that the product meets certain criteria. The Council will ensure that this is the case.
- The Council is not promoting them as a 'medical device'
- The suppliers T&Cs that apply between them and the end user will be reviewed by legal services to ensure that they are fit for purpose

12.0 Environmental impact

The plan is to consult with waste management services within the council to find a way of offering a disposal bin at our community-based face to face sessions to provide an offer to dispose correctly. The service will also educate users to dispose of them correctly at household recycling centres.

13.0 Recommendation/s

The Director of Public Health, in conjunction with the Executive Member of Health and Adult Services, decides to award a contract to an appropriate company, for the supply of e-cigarettes, to be used as a harm reduction tool as part of the Living Well Smokefree Service Offer.

Natalie Smith: Head of Service HAS population planning Scott Chapman: Service Manager Living Well Smoke Free

ⁱ References: [Association of e-Cigarette Use With Discontinuation of Cigarette Smoking Among Adult Smokers Who Were Initially Never Planning to Quit](#). Kasza KA, Edwards KC, Kimmel HL, Anesetti-Rothermel A, Cummings KM, Niaura RS, Sharma A, Ellis EM, Jackson R, Blanco C, Silveira ML, Hatsukami DK, Hyland A. *JAMA Netw Open*. 2021 Dec 1;4(12):e2140880. doi: 10.1001/jamanetworkopen.2021.40880. PMID: 34962556

ⁱⁱ Public Health England: Vaping in England: an evidence updates including vaping for smoking cessation, February 2021
A report commissioned by Public Health England
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/962221/Vaping_in_England_evidence_update_February_2021.pdf

The Khan review: making smoking obsolete: Independent review by Dr Javed Khan OBE into the government's ambition to make England smokefree by 2030. [The Khan review: making smoking obsolete - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/962221/The_Khan_review_making_smoking_obsolete_-_GOV.UK.pdf)

National Centre for Smoking Cessation and Training (NCSCCT), https://www.ncsct.co.uk/publication_electronic_cigarette_briefing.php

Action on smoking and health (ASH) <https://ash.org.uk/resources/view/electronic-cigarettes>

National Health Service [What are the health risks of smoking? - NHS \(www.nhs.uk\)](https://www.nhs.uk/health-risks-of-smoking/)