

NORTH YORKSHIRE COUNCIL

Health and Adult Services Executive Member Meeting

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

Fee uplifts for Residential, Nursing, Home Based Support, Supported Living and Community-Based Services 2025/26

12 March 2025

1.0 PURPOSE OF THE REPORT

- 1.1 This report informs the Executive member of proposed fees for Residential, Nursing, Home Based Support, Supported Living and Community Based Services in 2025/26 as part of the consultation process to enable the Corporate Director – Health and Adult Services to agree those fees.

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 seek views from 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 following objectives have been set:
- Meet the duty to pay due regard to the costs of providing care
 - Consult with the market (through the Independent Care Group) and consider any alternative proposals
 - Ensure no contract is paid below the Actual Cost of Care (ACOC) rate (where applicable)
 - Work within the requirements of the Approved Provider List (APL)
 - Prioritise the funding to lower-paid contracts to ensure market sustainability
 - Work within the budget agreed by Council.
- 2.3 In April 2022, the Council implemented its Actual Cost of Care (ACOC) exercise for over 65 residential and nursing packages of care. It was agreed that all new packages 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 In calculating expected costs covered by these proposals for 2025/26, we have listened to representations made by the ICG and also asked providers to complete a financial return. Although the number of returns was disappointingly low, we have still been able to use this as part of our evidence base, and have also looked at information we have received from other local authorities. We have also considered

representations made directly to us by some providers and from national organisations (such as the Home Care Association). Finally we have also looked at numbers and data we have and fed in work completed on the Actual Cost of Care and the Fair Cost of Care exercises undertaken in recent years, as well as the provisions in our Approved Provider (APL) contract.

- 2.5 In the past and after discussions with the ICG, the allocation of funding has been tailored to ensure that those receiving the lowest fee amounts has once again been prioritised.
- 2.6 The proposal outlined below works within the figure available in the budget where extra funding has been allocated to cover ASC costs which far exceed government funding. This has been achieved by prioritising this service area within the Council, raising Council Tax to the maximum level allowed and using Council reserves – although this last source is of course unsustainable in the long term.
- 2.7 The principles of this offer are set out below:
 - With full implementation of the Residential and Nursing Actual Cost of Care exercise from April 2024, no packages will be paid below this rate – including those at APL rates.
 - In general two rates of inflation apply for each type of care. The first (generally around 8% - 8.6%) takes account of all expected cost increases, including National Living Wage (6.73%) and National Insurance Contributions (NIC) increases and will apply to contracts which have not yet transferred to the (generally higher) APL rates. The second (up to 2.4%) will support the NIC increases and will apply to APL rates. This is a change since last year where there was no inflation for APL rates, but we will treat this increase as an exceptional issue within the contract and one which could not have been predicted when providers submitted their APL rates covering the length of the contract.
 - While we have read in detail the proposal by the Home Care Association for a minimum rate for home care of £32.14, we have taken the view that the implementation of this – and increase of 34% on the current national average – would be unaffordable. In the past North Yorkshire has been one of the few councils that has paid above the Association's average, but this can no longer be the case.
 - Any increase for legacy rates will be capped at the current APL (2022-27) rate
 - All future payments will continue to be made four weeks in advance with retrospective reconciliation to support cash flow
 - Fees will be rounded to the nearest number divisible by 7 for care homes and divisible by 4 for home care and services charged on an hourly basis.
 - When the inflationary uplift brings a legacy rate in line with the current APL rate, the placement or package of care will be transferred to the 2022-2027 APL contract.
 - Thresholds and caps have been set by reference to average costs and other exercises such as Actual Cost of Care

- 2.8 The rates below, if agreed, are within the funding agreed in the Council's 2025/26 budget, although inflation is of course allocated on budget and not on any overspend.
- 2.9 North Yorkshire Council and its predecessor, North Yorkshire County Council, has invested heavily in local provision. This has included:
- A new Approved Provider List (APL) which allowed providers to submit sustainable rates for the period 2022-27.
 - Actual Cost of Care (ACOC) for over 65 residential and nursing packages of care – implemented in April 2022 with the agreement that 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.
 - An exceptional inflation award for 2023/24 which acknowledged the very high rates of inflation in the UK economy.
 - Various one-off grants.
 - Reviewing our sustainability processes to enable the Council to offer a range of financial and non-financial interventions to mitigate risk to provider organisations.
 - Expanding the Quality Team to provide hands-on, practical support to care providers who are experiencing quality or other sustainability challenges
 - Wrap-around COVID-19 support, including passporting through national monies
 - Support with recruitment and training
- 2.10 The Council has a duty to promote the efficient and effective operation of the adult care market, while also ensuring value for money in all areas of social care expenditure. We have reviewed our sustainability processes to enable the Council to offer a range of financial and non-financial interventions to mitigate risk to provider organisations.

3.0 PROPOSED FEE LEVELS

Care Homes 65+ (ACOC)

- 3.1 In April 2022, the Council implemented its Actual Cost of Care (ACOC) exercise for over-65 residential and nursing care. It was agreed that all new contracts 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. Legacy rates refers to rates that were agreed on contracts that pre-date the current 2022-2027 APL.
- 3.2 For care home services with 1:1, work will take place to establish a new base/1:1 split on the principals of the original contract and subsequent inflationary awards. Each base rate will be uplifted for 2025/26 under the principal of the type of service it is (e.g. Res/Res Dementia/LD etc), and 1:1 will receive 0% uplift. However, there may be small increases made to the base and/or 1:1 to ensure they correctly divide by 7 and 4 respectively. No contract values will reduce as a result of this exercise.

- 3.3 The proposal for 2025/26 is that all rates will be uplifted to the 2025/26 ACOC rate from 7 April – both legacy and APL packages. Taking account of expected rates of inflation over the next financial year, the new ACOC rates are as set out below:

	Legacy & ACOC contracts	APL contracts (above 25/26 ACOC, which includes an increase for NIC as well as other inflation)
Residential	£945 (8.0%)	0%
Residential/dementia	£994 (8.4%)	0%
Nursing	£1,050 (7.9%)	0%
Nursing/dementia	£1,057 (7.9%)	0%
<p>Cap 1: Legacy contracts between 25/26 ACOC and Threshold – 2.1% increase. The Threshold levels are £1,204 (Residential), £1,260 (Residential Dementia and Nursing), £1,400 (Nursing Dementia)</p> <p>Cap 2: Legacy contracts above Threshold - 0%</p>		

- 3.4 Contracts on the 2022-2027 APL that are at ACOC will be uplifted to the 25/26 ACOC rate. This represents an increase of up to 8.4%.
- 3.5 All uplifts will be capped at the provider's equivalent APL rate.
- 3.6 For those contracts on the current APL with rates above the new ACOC, no inflation will be applied.

Care Homes under 65 and non-ACOC services over 65

- 3.7 ACOC rates only apply to contracts for people aged 65+. Therefore for legacy contracts (those that pre-date the 2022-2027 APL) supporting adults under the age of 65 and non-ACOC over 65 residential services, the inflation rate will be 8.4% for those below £1,800 per week and 2.1% for those above (this threshold has increased from £1,500 in last year's award).
- 3.8 Contracts supporting adults under the age of 65 and non-ACOC over 65 residential services which are on the current APL will receive 2.1% below £1,800 and 0% above that.

Supported Living

- 3.9 For supported living legacy contracts that pre-date the 2022-2027 APL, the inflation rate will be 8.6% up to a cap which is the lesser of £25.65 or the provider's current APL rate. Anything above £25.65 will not receive inflation.

- 3.10 For supported living legacy contracts on the APL, the inflation rate will be 2.4% up to a cap which is the lesser of £25.65 or the provider's current APL rate. Anything above £25.65 will not receive inflation.

Home-based support

- 3.11 For legacy home-based support contracts (not on 2022-27 APL), the inflation rate will be as follows:

Home based support legacy contracts – hourly rates		
Urban incl.all practical support, sitting services and live in care	Rates up to £27.80 – 8.6%	Rates above £27.80 – 0%
Rural and Super-Rural	Rates up to £27.80 – 8.6%	Rates £27.80 - £33.00 – 1.8% Rates above £33.00 – 0%

- 3.12 For APL home-based support contracts, the inflation rate will be as follows:

Home based support APL contracts – hourly rates		
Urban incl.all practical support, sitting services and live in care	Rates up to £27.80 – 2.4%	Rates above £27.80 – 0%
Rural and Super-Rural	Rates up to £27.80 – 2.4%	Rates £27.80 - £33.00 – 1.2% Rates above £33.00 – 0%

- 3.13 Any increase will be capped at the providers equivalent 2022-2027 APL rates.

Community-Based Support

- 3.14 For Community-Based Support legacy contracts that pre-date the current 2022-2027 APL), the inflation rate will be 8%.
- 3.15 Community Based Support Contracts on the current 2022-27 APL will receive inflation of 2.1%.

Direct Payments

- 3.16 To recognise the impact of the cost of staffing increases and to continue to incentivise the use of Direct Payments, the increase will be 9.5%.

Other Information

- 3.17 All future payments will continue to be made four weeks in advance with retrospective reconciliation to support cash flow within the market.

- 3.18 For packages of care for people in care homes outside of North Yorkshire 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.
- 3.19 The rate for home-based support 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 The current APL states that any inflationary uplift will be discretionary. However the proposal in this paper recognises the exceptional circumstances of the increase in Employers National Insurance costs effective from April 2025 and which providers will not have foreseen when submitting their fee rates for the period 2022-2027. Therefore this award includes support for National Insurance costs for both legacy and APL contracts.
- 4.2 The offer also sets thresholds for reduced rates, both for legacy and APL contracts. This is done to ensure that lower-paid providers receive more support while also seeking to ameliorate the financial impact to the social care budget of very high cost packages. One of the Council's stated MTFs targets is to bring the average cost paid by the Council closer to rates paid elsewhere in the country. This past year has seen some success in this for home care, but more needs to be done for residential costs. This is done by seeking to reduce the increase at the higher cost end of the market while continuing to invest in other providers. Ultimately this will be to the advantage of those receiving care in North Yorkshire by freeing up some budget, while also protecting residents who pay for their care.
- 4.3 There has continued to be much national focus in the last year about the fragility of the care market in England, including the adequacy of funding and reliance on an international workforce. However the Council undertakes quality monitoring of such provision.
- 4.4 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 since 1 April 2024 the standard rate has been £235.88 per week an increase of 7.4%. At the time of writing. No rate for 2025-26 has yet been published.

Residential and Nursing care Homes

- 4.5 In North Yorkshire since April 2024, 3 care homes (and one NYC owned Elderly Persons Home) have closed. This compares with

2023/24: 1

2022/23: 4

2021/22: 6

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

- 4.6 As of February 2025, the care home market in North Yorkshire is slightly above the national average in terms of quality of care provided by registered care providers, with 80.81% rated Good or better in North Yorkshire against an England average of 80.13%. The Quality Team continues to provide proactive support to providers where quality concerns have been identified or where improvements would be beneficial.

Home-Based Support

- 4.7 Fees to home care providers are based on hourly rates.
- 4.8 The average rate paid by the Council has reduced from £26.96 in 2024 to £24.73 as at January 2025, although we remain higher than the national average of £24 (as quoted by central government in October 2024).
- 4.9 As of February 2025 91.5% of Domiciliary Care Providers in North Yorkshire were rated good or better. CQC data shows that 90.5% of registered community-based adult social care services (i.e. including home-based, Supported Living and Shared Lives) were rated “good” or better, which remains better than the national (84.52%) and Yorkshire and Humber Region (83.32%) averages.”

Community-based services

- 4.10 For Community Based Services, the majority of legacy services are not priced on an hourly rate structure and so are unable to apply the same approach as home care. The proposed increase is 2.1% uplift for APL rates, and 8% for legacy packages, acknowledging that as with other types of care, legacy services prices have not had the opportunity to be revisited in the same way that APL rates have. However the Council will undertake a case-by-case review of each CBS service to ensure these are still appropriate.

Direct Payments

- 4.11 As stated above, the uplift recognises the impact of staffing cost increases and also aims to continue to incentivise the use of Direct Payments, the increase will be 9.5%.
- 4.12 Between Q3 in 2023/24 and Q3 in 2024/25, the number of people in receipt of a Direct Payment increased by 58 from 816 to 874.

5.0 CONSULTATION AND ALTERNATIVE OPTIONS

- 5.1 Negotiations have been taking place with the ICG since November 2024. The Group has stated that it “broadly supports the principles within the proposal” although requested different thresholds for Supported Living and Home Care. Recognising the additional rural costs for home care, these thresholds have been adopted, although we have not agreed with their proposal to pay higher rates for APL contracts. The proposal regarding Supported Living has not been put forward here as no evidence was presented to support this. As stated above, a data gathering exercise had a disappointing level of returns (13 of which 5 were only partially complete), but officers have considered all information presented to them.
- 5.2 As part of the work a number of alternative options were considered including paying a flat rate to all providers. However the proposal presented here meets the objectives set out 2.2 above, including prioritising the lowest paid contracts and working within the current contract, while being able to allocate funding to support the additional cost of National Insurance

6.0 IMPLICATIONS

Financial

- 6.1 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.

Human Resources

- 6.2 Human Resources: We require our contracted providers to meet minimum wage levels and have reflected wage costs in our fees.

Legal

- 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 (s.5) 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. In performing that duty, the local authority must have regard to the following matters (i) the need to ensure that it is aware of current and likely future demand for such services and to consider how providers might meet that demand (ii) the importance of ensuring the sustainability of the market (iii) the importance of fostering continuous improvement in the quality of such services and the efficiency and effectiveness with which such services are provided.

- 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. Although the CASSG recognises that individual providers may exit the market from time to time, the local authority is required to “ensure that the overall provision of services remains healthy in terms of the sufficiency of adequate provision of high quality care and support needed to meet expected needs”.
- 6.6 The CASSG further states 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 The Judge in the case of *R(Care North East) v Northumberland CC* [\[2024\]](#) summarised the above statutory provisions:

"(i) First, there is the importance of local authorities assuring themselves and having 'evidence' that contractual fee levels are appropriate to provide the delivery of agreed care packages with agreed quality of care (para 4.31).

(ii) Secondly, there is the importance of local authorities understanding that a reasonable fee level allows for a reasonable rate of return by independent providers that is sufficient to allow the overall pool of efficient providers to remain sustainable in the long term (para 4.31).

[Lavender J in *R(Care England)* at [6] called this and s.5(2)(d) CA 'the sustainability factor']

(iii) Thirdly, there is the point that local authorities must not undertake any actions which may threaten the sustainability of the market as a whole - the pool of providers able to deliver services of an appropriate quality - by setting fee levels below an amount which is not sustainable for providers in the long term (para 4.35)."

Equalities

- 6.8 Equality Act 2010: The 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 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. An updated EIA has been undertaken to look at the specific contents of the 2025/26 offer.

Climate Change

- 6.9 There are no specific climate change implications identified with these proposals.

7.0 REASONS FOR RECOMMENDATIONS

- 7.1 The detailed reasons for the recommendations are set out in details in the report above. The proposal ensures that, where appropriate, rates paid to providers will take account of cost of living increases

8.0 RECOMMENDATIONS

- 8.1 The Executive Member is asked to consider the contents of this report, including the analysis of the proposals in section 3 and the implications in section 6 and to agree

Residential and Nursing

- (i) The four ACOC rates for 2025/26 will be:

Residential	945
Residential/Dementia	994
Nursing	1,050
Nursing/Dementia	1,057

- (ii) All relevant rates will be uplifted to the 2025/26 ACOC rate from 7 April – both legacy and APL packages.
- (iii) Legacy Residential contracts between the £845 and £1,204 will receive 2.1%.
- (iv) Legacy Residential Dementia contracts between £994 and £1,260 will receive 2.1%.
- (v) Legacy Nursing contracts between the £1,050 and £1,260 will receive 2.1%.
- (vi) Legacy Nursing Dementia contracts between the 1,057 and £1,400 will receive 2.1%.
- (vii) There will be no inflationary uplift above these rates for Legacy contracts.
- (viii) There will be no inflationary uplift for APL contracts above the relevant ACOC levels
- (ix) For legacy contracts (those that pre-date the 2022-2027 APL) supporting adults under the age of 65 and non-ACOC over 65 residential services, the inflation rate will be 8.4% for those below £1,800 per week and 2.1% for those above (this threshold has increased from £1,500 in last year's award).
- (x) Contracts supporting adults under the age of 65 and non-ACOC over 65 residential services which are on the current APL will receive 2.1% below £1,800 and 0% above that.

Supported Living

- (xi) For supported living legacy contracts that pre-date the 2022-2027 APL, the inflation rate will be 8.6% up to a cap which is the lesser of £25.65 or the provider's current APL rate. Anything above £25.65 will not receive inflation.
- (xii) For supported living legacy contracts on the APL, the inflation rate will be 2.4% up to a cap which is the lesser of £25.65 or the provider's current APL rate. Anything above £25.65 will not receive inflation.

Home-Based

- (xiii) For legacy home-based support contracts (not on 2022-27 APL), the inflation rate will be as follows:

Home based support legacy contracts – hourly rates

Urban incl.all practical support, sitting services and live in care	Rates up to £27.80 – 8.6%	Rates above £27.80 – 0%
Rural and Super-Rural	Rates up to £27.80 – 8.6%	Rates £27.80 - £33.00 – 1.8% Rates above £33.00 – 0%

(xiv) For APL home-based support contracts, the inflation rate will be as follows:

Home based support APL contracts – hourly rates		
Urban incl.all practical support, sitting services and live in care	Rates up to £27.80 – 2.4%	Rates above £27.80 – 0%
Rural and Super-Rural	Rates up to £27.80 – 2.4%	Rates £27.80 - £33.00 – 1.2% Rates above £33.00 – 0%

(xv) Any increase will be capped at the providers equivalent 2022-2027 APL rates.

Community-Based (including Day Services)

(xvi) For Community-Based Support legacy contracts that pre-date the current 2022-2027 APL), the inflation rate will be 8%., while APL rates will receive 2.1%.

(xvii) All Community-Based Support legacy package uplifts will be capped at that provider's APL rate.

Other

(xviii) The uplift for **Direct Payments** will be 9.5%

(xix) For placements of people in care homes outside of North Yorkshire 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.

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