

Adult Social Care & Public Health Sub-Committee

Date: **10 January 2023**

Time: **4.00pm**

Venue **Hove Town Hall - Council Chamber**

Members: **Councillors:** Nield (Chair), Robins (Opposition Spokesperson), Barnett (Group Spokesperson), Appich and Shanks

Contact: **Penny Jennings**
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AGENDA

16 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

17 MINUTES

7 - 16

To consider and agree the minutes of the meetings held on

(a) 14 June 2022 (copy attached); and

(b) 8 November 2022 -Special Meeting (copy attached)

Contact Officer: Penny Jennings

Tel: 01273 291065

18 CHAIR'S COMMUNICATIONS

19 CALL-OVER

- (a) Items (20 –30) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

20 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented by members of the public to the full Council or as notified for presentation at the meeting
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 3 January 2023;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 3 January 2023.

21 MEMBER INVOLVEMENT

To consider the following matters raised by Members:

- (a) **Petitions:**
- (b) **Written Questions:** To consider any written questions.
- (c) **Letters:** To consider any letters.
- (d) **Notices of Motion:** To consider any Notices of Motion.

22 ITEMS REFERRED FROM OR FOR COUNCIL

To consider items to be submitted to Council for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

23 CARE HOMES CONTRACT EXTENSION

17 - 20

Report of the Executive Director, Adult Health and Social Care (copy attached)

Contact Officer: Alex Saunders
Ward Affected: All Wards

24 CARE QUALITY COMMISSION ASSESSMENT OF ADULT SOCIAL CARE

Presentation on council preparations for the Care Quality Commission (CQC) assessment of BHCC Adult Social Care services (verbal)

- 25** **LOCALLY COMMISSIONED GP AND PHARMACY SERVICES PIN** **21 - 28**
- Report of Executive Director, Health and Adult Social Care (copy attached)
- Contact Officer: *Becky Woodiwiss* Tel: 01273 296575
Ward Affected: *All Wards*
- 26** **WEIGHT MANAGEMENT** **29 - 40**
- Report of Executive Director, Health and Adult Social Care (copy attached)
- Contact Officer: *Ben Chivers-Gibbs*
Ward Affected: *All Wards*
- 27** **BRIGHTON & HOVE CITY COUNCIL STRATEGIC RISK REGISTER: HEALTH & ADULT SOCIAL CARE RISKS** **41 - 60**
- Report of Executive Director, Health and Adult Social Care (copy attached)
- Contact Officer: *Kat Brett*
Ward Affected: *All Wards*
- 28** **ANNUAL REVIEW OF ADULT SOCIAL CARE CHARGING POLICY 2023-24** **61 - 88**
- Report of the Executive Director, Health and Adult Social Care (copy attached)
- Contact Officer: *Angie Emerson* Tel: 01273 295666
Ward Affected: *All Wards*
- 29** **ANNUAL ADULT SOCIAL CARE FEES REPORT 2023-24** **89 - 98**
- Report of the Executive Director, Health & Adult Social Care (copy attached)
- Contact Officer: *Judith Cooper* Tel: 01273 296313
Ward Affected: *All Wards*
- 30** **RECOMMISSIONING HOMECARE AND EXTRA CARE** **99 - 110**
- Report of the Executive Director, Health and Adult Social Care (copy attached)
- Contact Officer: *Mandy Offield* Tel: 01273 295253
Ward Affected: *All Wards*

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact Giles Rossington, (01273 291065, email penny.jenning@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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- Do not re-enter the building until told that it is safe to do so.

ADULT HEALTH & SOCIAL CARE SUB COMMITTEE

Agenda item 17(a)

Brighton & Hove City Council

Adult Social Care & Public Health Sub-Committee

4.00pm 14 June 2022

Hove Town Hall - Council Chamber

Minutes

Present: Councillor Nield (Chair) Shanks, Robins (Opposition Spokesperson), Barnett (Group Spokesperson) and Appich

Part One

1 PROCEDURAL BUSINESS

- 1.1 There were no apologies or substitutes for the meeting.
- 1.2 There were no declarations of interest.
- 1.3 **RESOLVED** – that the press & public be not excluded from the meeting.

2 MINUTES

- 2.1 **RESOLVED** – that the minutes of the 11 January 2022 committee meeting be agreed as an accurate record.

3 CHAIR'S COMMUNICATIONS

- 3.1 The Chair gave the following communications:

“The opening times of the vaccination centre at Churchill Square have changed. It’s now open:

- Monday and Wednesday, 10am – 6pm
- Saturday and Sunday, 9am – 5pm

1st, 2nd and booster doses are available for all ages 5+.

Appointments can be booked online or by calling 119. Or you can walk-in, no appointment needed.

Vaccinations are also still available every day across the city at mobile sessions.

For the latest info please check www.sussexhealthandcare.uk/get-my-jab

Have your say on physical activity, sport and exercise opportunities in the city

We've launched a citywide consultation to find out how we can better support people in the city to move more and enjoy being active for life. We want to find out people's attitudes, the types of opportunities you would like to see and what support you need to become more active. Your views will create a Sport & Physical Activity Strategy.

- Complete the survey by Sunday 31 July at www.brighton-hove.gov.uk/active-for-life

There's also opportunities to talk to the Healthy Lifestyles team at events across the city.

New members. Finally, I'd like to welcome two new members to the sub-committee: Cllrs Alan Robins and Dawn Barnett. Alan and Dawn replace Theresa Fowler and Mary Mears on the sub-committee, and I'd like to thank Theresa and Mary for their contributions.

RESOLVED – That the Chair's Communications be noted and received.

4 CALL-OVER

- 4.1 Items 7 (Fast Food & Energy Drink Advertising: Response to Notice of Motion) and 8 (Adult Social Care Budget Position) were called for debate.

5 PUBLIC INVOLVEMENT

- 5.1 There were no public involvement items.

6 MEMBER INVOLVEMENT

- 6.1 There were no member involvement items.

7 ITEMS REFERRED FROM COUNCIL

- 7.1 This item was introduced by Giles Rossington, Senior Policy, Partnerships & Scrutiny Officer. Alistair Hill, Director of Public Health; and Katie Cuming, Consultant in Public Health, also answered member questions.
- 7.2 Mr Rossington told sub-committee members that the report before them included information on the public health impact of obesity and the links between obesity and the advertising of fast food. The report also included limited information about the extent and nature of advertising on city council-owned properties. However, more information would be needed in order to review the Council's policy on fast food advertising; and it was consequently proposed that an officer project group be established, to undertake this work and to report back to the January 2023 sub-committee meeting with policy proposals.
- 7.3 In response to a question from Cllr Shanks on ways to combat child obesity, Ms Cuming told members that direct support to families is important, as is ensuring that healthy eating options are available at school etc. and encouraging physical activity. However,

there is abundant evidence to show that the advertising of fast food has a significant impact on behaviour.

- 7.4 In answer to a query from Cllr Nield on actions being taken in other cities, Ms Cuming told the sub-committee that Transport for London (TfL) has banned the advertising of high fat, salt and sugar foods on the London transport network. Evaluation of this shows that this has resulted in lower energy consumption. TfL has seen no loss in advertising revenue as a result of this move. Councils in Bristol and in Barnsley have also moved to restrict the advertising of certain foods. There are no findings available from these areas yet, but council officers will contact them to talk through their experiences.
- 7.5 Cllr Robins asked why the report referenced the potential for advertising revenue to be lost, when reducing obesity is a health imperative. Mr Hill responded that it is important for all impacts to be thoroughly explored when considering making changes to policy.
- 7.6 Cllr Appich stated that obesity can be as dangerous as smoking, and fast food advertising as damaging as tobacco advertising. It was disappointing that the Government's recently published Food Strategy rows back on previous commitments to restrict this type of advertising, but positive that steps to intervene locally will be explored.
- 7.7 Cllr Barnett noted that advertising was only one cause of childhood obesity, with other important factors including the decline of competitive sports; children spending less time playing outside and less time exercising; and the increasing availability of unhealthy takeaways.
- 7.8 Cllr Robins added that deprivation was also a key factor: it is much easier for people living comfortable lives to make healthy eating choices than for people in stressful situations with little time or money to spare.
- 7.9 Cllr Robins queried why the proposal was to bring a report to January 2023 ASCPH. Mr Hill responded that the next scheduled ASCPH meeting will be in September 2022, which would be too soon to report back, and that January 2023 is the next meeting following this. However, the project group will have finished its work well before January 2023.
- 7.10 Cllr Shanks noted that there is a Health & Wellbeing Board meeting scheduled for November 2022, and proposed an amendment to report recommendation (3): "Agrees that the project group will report back to the January 2023 ASCPH meeting" to be changed to: "Agrees that the project group will report back to the **November 2022 HWB** meeting". The amendment was unanimously agreed.
- 7.11 **RESOLVED** – that the Adult Social Care & Public Health Sub-Committee:
- (1) notes the information provided in the report.
- (2) Agrees that an officer project group be established, with representation from BHCC Public Health, Property & Design and Transport, and potentially other relevant services, to further explore the issue of fast food & energy drink advertising.

(3) Agrees that the project group will report back to the November 2022 Health & Wellbeing Board meeting with a paper which will include:

- Detailed information on the extent of fast food & energy drink advertising on BHCC estates
- An evaluation of the success of initiatives in other cities to restrict fast food advertising (e.g. Bristol/Transport for London)
- A proposal to refresh the Council's policy on advertising, including updating or extending restrictions, specifically including energy drinks in restrictions etc.

8 PRESENTATION - HEALTH AND ADULT SOCIAL CARE BUDGET POSITION

8.1 This item was presented by Rob Persey, Executive Director, Health & Adult Social Care; Michelle Jenkins, Assistant Director, Resources, Safeguarding & Performance (HASC); and Andy Witham, Assistant Direct, Commissioning (HASC).

8.2 Mr Persey told members that this presentation was in response to a request from Cllr Mears for ASCPH to be better sighted on the use of the HASC budget.

8.3 Mr Persey outlined HASC's priorities and explained that the Joint Health & Wellbeing Strategy was the main strategic document for the directorate. Ms Jenkins added that the HASC net budget 22-23 is £71.7M. This does not include adult Learning Disability funding, which is included in the Families, Children & Learning (FCL) directorate budget rather than HASC's. The HASC budget pays for a range of services across adult social care, mental health (via a Section 75 arrangement with Sussex Partnership NHS Foundation Trust), and integrated commissioning.

8.4 The majority of the HASC budget (69%) is used to fund externally provided services, such as residential care beds and domiciliary care packages. Around 21% is used for staffing (e.g. social workers); and around 10% for in-house services.

8.5 Residential care accounts for around 32% of the HASC budget, nursing care 31%, homecare 16%, and direct payments 12%.

8.6 Mr Persey outlined challenges and pressures, including:

- Increased life expectancy coupled with lower healthy life expectancy, meaning people are living longer with multiple health conditions, and potentially with a need for social care.
- Health system capacity (in particular the reduced number of beds available at the Royal Sussex County Hospital whilst the 3Ts revamp is ongoing).
- The continuing impacts of Covid.
- Workforce shortages.
- Increased acuity of need in people receiving services.
- Forthcoming statutory changes, including the cost of care cap, which will fundamentally change the relationship between the council and self-funders.
- The development of the ICS.

- The need to fund more prevention, while at the same time continuing to meet statutory duties to support people with acute care needs.
- 8.7 In response to a question from Cllr Appich about the Section 75 agreement with Sussex Partnership NHS Foundation Trust (SPFT), Mr Persey responded that this was currently being rewritten and would come for decision soon. The new model will be less medicalised than the current one, and will recognise that there are a range of providers other than SPFT in the city. Ms Jenkins added that the S75 budget has grown in recent years in response to increasing demand. It is important to view this increase in the broad context of health and care funding: e.g. CCG contributions to Section 117 funding.
- 8.8 In answer to a query from Cllr Appich about young people's mental health, Mr Persey told members that there was a good deal of work in this area, with the HWB and the Brighton & Hove Health & Care Partnership set to assume oversight of city services under new ICS arrangements. A focus will be on more preventative work and on targeting particular cohorts for support, such as young people struggling post-Covid.
- 8.9 Cllr Shanks asked when the council would receive Government funding to support the coming changes in care. Mr Persey responded that the Government has announced a series of funds which local areas can bid for, although guidance in a number of areas has yet to be released. The council has been allocated £800K over three years to support transition to the new care arrangements, although 75% of this must be passported to providers (details of this are included in the Fair Cost of Care report also on the June 2022 ASCPH agenda). There is potentially a large funding gap in terms of paying for increased assessment activity, although there may be some potential here to charge self-funders for their care assessments. In the near future, the rates paid by self-funders for their care will need to match rates charged to local authorities. This is likely to lead to providers increasing their rates for local authorities.
- 8.10 In response to a question from Cllr Robins on plans to reduce the carbon impact of homecare services, Mr Persey told members that this was something being explored as part of the homecare procurement process. The council is looking at innovative ways to reduce carbon emissions from car use, e.g. by more use of electric vehicles, or by requiring providers to focus on serving specific geographies in order to reduce the distance carers are required to travel between calls. Mr Witham added that the current inflationary pressures being felt by homecare workers (e.g. rising petrol prices) were being addressed through additional Fair Cost of Care funding.

9 FAIR COST OF CARE AND FEE UPLIFT IMPLICATIONS REPORT 2022/23

9.1 This item was agreed without discussion.

9.2 **RESOLVED** - That the Adult Social Care & Public Health Sub Committee agrees to the recommended fee increase of an additional 5% to Home Care providers hourly Set Rates and an additional 2% to Care Home providers charging Set Rates by making use of the Council's allocation of the 'Market Sustainability and Fair Cost of Care Fund' for 2022-23. The underpinning background to this proposed fee change is contained in the main body of the report. These increases will apply from 4 July 2022.

10 ITEMS REFERRED FOR COUNCIL

The meeting concluded at Time Not Specified

Signed

Chair

Dated this

day of

ADULT SOCIAL CARE & PUBLIC HEALTH SUB COMMITTEE Agenda Item 17(b)

Brighton & Hove City Council

Adult Social Care & Public Health Sub-Committee

1.00pm 8 November 2022

Hove Town Hall - Council Chamber

Minutes

Present: Councillor Nield (Chair) Shanks (Deputy Chair), Robins (Opposition Spokesperson), Appich and Brown

Part One

11 PROCEDURAL BUSINESS

11(a) Declaration of Substitutes

11.1 Councillor Brown was present in substitution for Councillor Barnett.

11(b) Declarations of Interests

11.2 There were none.

11(c) Exclusion of Press and Public

11.4 In accord with Section 100A of the Local Government Act 1972 ("The Act"), the Adult Social Care & Public Health Sub Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure of them of confidential information as defined in Section 100A (3) of the Act.

11.4 **RESOLVED** – That the public be not excluded during consideration of any item of business on the agenda.

12 CHAIR'S COMMUNICATIONS

- 12.1 The Chair, Councillor Nield, explained that as this was a special meeting there were no communications on this occasion.
- 12.2 The Chair also reminded those present that the meeting was being webcast live and would be capable of repeated subsequent viewing.

13 PUBLIC INVOLVEMENT

- 13.1 There were no public involvement items.

14 MEMBER INVOLVEMENT

- 14.1 There were no Member involvement items.

15 SUPPORTED LIVING PRIOR INFORMATION NOTICE AND AWARD

- 15.1 The Sub-Committee considered a report of the Executive Director, Health and A, Health and Adult Social Care relating to Supported Living Prior Information Notice and Award.
- 15.2 In response to questions it was explained that the council was facing increased demand for supported living services in the city to meet the needs of adults with learning disabilities, including those with complex needs.
- 15.3 In answer to questions it was explained that permission was being sought to seek expressions of interest from providers. Commissioners were also seeking permission to conduct any subsequent procurement processes and to award contracts following the publication of each PIN. The Council was seeking to award up to a maximum of seven contracts for the provision of supported living for up to 51 individuals, wherever possible within the boundaries of the city. By carrying out this process it was intended that the Commissioners would be able to shape and grow the market to enable people to remain living close to family and friends. The Council would have better oversight of the quality of care provided and of over costs.
- 15.4 The Chair, Councillor Nield invited Councillor Robins to introduce the Labour Group amendment set out below, Councillor Appich who had seconded the proposed amendment was then invited to speak in support.

the relevant changes are made to the recommendations as shown in
strikethrough and ***bold italics***:

Recommendations

2.1 That the Adult Social Care & Public Health (ASCPH) Sub-Committee grant delegated authority to the Executive Director of Health & Adult Social Care to issue Prior Information Notices to seek expression of interest from providers interested in

developing Supported Living services in the city for adults with learning disabilities, ***subject to recommendation 2.2 below.***

2.2 That the ASCPH Sub-Committee requests a report to come to Procurement Advisory Board before the Prior Information Notice is issued to consider and oversee the proposed award criteria;

2.3 That the ASCPH Sub-Committee requests a report to come before the committee identifying the preferred provider and seeking committee approval.

Proposed by: Cllr Appich Seconded by: Cllr Robins

- 15.4 Councillor Appich referred to concerns which had arisen in relation to service delivery arrangements in respect of the Old Brewery site in Portslade. Issues in respect of this matter were still under investigation by the Chief Executive and there were concerns that contracts, including this one should not be let without sufficient oversight and sign off by the appropriate overarching committees beforehand. In Councillor Appich's view it was very important that Members and Ward Councillors had oversight and scrutiny prior to the award of contracts. Councillor Appich stated that he had no objections to the awarding of the Prior Information Notice (PIN) but wanted to ensure that all of the necessary re- assurances were in place.
- 15.5 Councillor Robins concurred with all the points raised by Councillor Appich.
- 15.6 Councillor Shanks queried whether this matter had already been considered by considered and agreed in principle by the Procurement Advisory Board and the implications of any potential delay.
- 15.7 It was explained that logistical issues could arise if following conversations with providers there was delay and or the need to convene another special meeting of the Sub Committee. The approach suggested aimed to provide an agile means of providing services. In order to make this "work" timings were crucial, a further update report could be brought forward to a future meeting of the Sub Committee.
- 15.8 Councillor Shanks stated that she did not consider that it was appropriate for the Committee to become involved in who the individual contracts were let to, Members did not have expertise in procurement. Delays could compromise the whole process.
- 15.9 Legal advice was sought and, it explained that a strict process was adhered to, the matter came to Committee for approval or not. There could, potentially be a number of different providers and a rolling programme of provision. Providers needed to go through a strict process in order to meet the criteria set out.
- 15.10 Councillor Robins stated that he disagreed that there would be an unacceptable delay considering that it was very important for Members to be confident that adequate mechanisms were in place. Greater delays would result if something went wrong and contracts that had been let broke down further down the line.

- 15.11 Councillor Shanks stated that for clarity it would be beneficial for each of the recommendations set out in the report were voted on separately. Therefore recommendations 2.1 and 2.2 were voted on and agreed unanimously. The recommendation set out in Paragraph 2.3 was agreed on a vote of 3 to 2.
- 15.12 The Labour Group Amendment was therefore agreed, the original recommendations were lost, the Labour Group amendments became the substantive recommendations and were agreed as follows:
- 15.13 **RESOLVED** – (1) That the Adult Social Care & Public Health (ASCPH) Sub Committee grant delegated authority to the Executive Director of Health & adult Social Care to issue Prior Information Notices to seek expression of interest from providers interested in developing Supported Living services in the city for adults with learning disabilities, subject to recommendation 2.2;
- (2) That the ASCPH Sub Committee requests a report to come to procurement Advisory Board before the Prior Information Notice is issued to consider and oversee the proposed award criteria; and
- (3) That the ASCPH Sub Committee requests a report to come before the Sub Committee identifying the preferred provider and seeking committee approval.

The meeting concluded at 1.45pm

Signed

Chair

Dated this

day of

Brighton & Hove City Council

Adult Social Care and Public Health Sub- Committee

Agenda Item 23

Subject: Care Homes Contract Extension

Date of meeting: 10th January 2022

Report of: Executive Director, Health and Adult Social Care

Contact Officer: Name: Alex Saunders
Email: Alex.Saunders@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The purpose of this report is to describe the current provision of Care Homes in Brighton & Hove and to seek approval from the Adult Social Care and Public Health Sub-Committee to extend the existing Care Homes Contracts for a further nine months to enable the recommissioning process to take place.

2. Recommendations

2.1 That Committee delegates authority to the Executive Director, Health and Adult Social Care to extend the current Care Homes Contract for a period of nine months.

3. Context and background information

3.1 Brighton & Hove City Council currently commissions Care Home (including Residential and Nursing Home) beds via a spot purchase arrangement. A recommissioning process is currently underway to facilitate a long term, strategic approach to the Services.

3.2 The Current Care Homes Contract expires on the 30th June 2023. The original contract ran from 5th September 2016 until 4th September 2020, but we have extended it twice more, by letter to providers.

3.3 The Contract was advertised and awarded via a Contract Notice, enabling extension of the Contract up until September 2024.

3.4 Unfortunately, through error or omission, the delegation required to use the extension of the Contract was not explicitly provided for in the committee report for the Services.

3.5 The purpose of this report is therefore to request agreement to delegate the power to extend the contract already advertised, to remedy this omission.

4. Analysis and consideration of alternative options

4.1 Option 1 – Delegate Authority to Extend

4.2 Further time is required to run a complete recommissioning process, which is currently anticipated to be complete in late 2023. Therefore, we need to extend the existing contract by a further nine months, until 31st March 2024. We will include a variation to the termination clause which will give three months' notice to terminate, should the new contracts be in place earlier.

4.3 The extension option has already been advertised via a PCR-compliant process.

4.4 Option 2 – Do Not Delegate Authority to Extend

4.5 Not extending the Contract will place the Council in an untenable position of having to recommission the Care Homes Contract before June 2023, risking the continued provision of Care Homes, an essential Service to Brighton & Hove.

5. Community engagement and consultation

5.1 Specific consultation for this extension is not planned as part of this extension process as an extensive community engagement and consultation process is currently away as part of the larger Care Homes Recommissioning.

6. Conclusion

6.1 The Care Homes Contract enables the provision of essential Services to the City of Brighton & Hove.

6.2 Delegation of the power to extend the already advertised Contract is required to facilitate continued provision whilst the larger Care Homes Recommission takes place.

6.3 It is therefore recommended that the Adult Social Care & Public Health Sub-Committee delegates authority to the Executive Director, Health and Adult Social Care to extend the current Contract until the 31st March 2024.

7. Financial implications

7.1 There are no direct financial implications from the proposal to extend the current care home contracts by 9 months as it will not affect fees paid to providers. The overall projected annual spend for external care home provision in 2022/23 is £64m, and therefore extending the contract by 9 months would cost approximately £48m. This level of spend is accounted for in the Council's Medium Term Financial Budget Strategy.

Name of finance officer consulted: Sophie Warburton Date consulted:
15/12/2022

8. Legal implications

- 8.1 Regulation 72(1)(e) of the Public Contracts Regulations 2015 permits contracts to be modified without a new procurement procedure where the modification is not substantial within the meaning given to the term substantial set out in Regulation 72(8) of the Public Contracts Regulations 2015. Committee is asked to delegate authority to the Executive Director to further extend the current Care Homes Contract for a further period of 9 months to enable the recommissioning of the care homes block bed contract, which has been delayed due to awaiting the outcome of the Fair Cost of Care process to inform the new recommissioning pricing mechanism.
- 8.2 The contracts have previously been extended until June 2023 in accordance with the Council's Contract Standing Orders as the Council is required to comply with its statutory duties under s.2 Care Act 2014 to provide services, facilities or take steps to prevent or delay the development of care and support needs of adults in its area and must have regard to, and make use of services, facilities and resources already available to it.
- 8.3 The Council's Constitution provides that where under the Scheme of Delegations an Officer is authorised to discharge a particular function, they shall not be precluded from placing the matter before the relevant Committee for consideration if they consider it appropriate.

Name of lawyer consulted: Farida Amin Date consulted (16/12/22):

9. Equalities implications

- 9.1 A specific EIA for this extension is not planned as part of this extension process as an updated EIA has been agreed and signed off in July 2022 as part of the larger Care Homes Recommissioning.

10. Sustainability implications

- 10.1 Sustainability is covered in the existing Contracts under Section E.6 and broader sustainability goals are being considered as part of the larger Care Homes Recommissioning Project.

11. Other Implications

Social Value and procurement implications

- 11.1 Social Value is also being considered as part of the larger Care Homes Recommissioning Project. For example, the tender process will include Quality submissions based on questions relating to Social Value and Sustainability. These are likely to be included as part of future KPI monitoring.

Public health implications:

- 11.2 Care homes play a vital role in ensuring people are discharged from hospital in a timely manner, either as a stepping-stone towards their return home or as part of a long-term care plan. The system is already overstretched and under enormous pressure; anything that risks adding to these challenges should be avoided if possible.

Supporting Documentation

None.

Brighton & Hove City Council

Adult Social Care and Public Health Sub- Committee

Agenda Item 25

Subject: Public Health Locally Commissioned Services

Date of meeting: 10th January 2023

Report of: Rob Persey, Executive Director, Health and Adult Social Care

Contact Officer: Name: Becky Woodiwiss
Email: Becky.Woodiwiss@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The purpose of this report is to describe the commissioning and provision of Public Health Locally Commissioned Services (LCSs) from General Practices and Community Pharmacies and to seek approval from the Adult Social Care and Public Health Sub-Committee to undertake a procurement process for the ongoing delivery of these Services at the end of their current Contracts.

2. Recommendations

2.1 That the Sub-Committee delegates authority to the Executive Director, Health and Adult Social Care to procure and award a contract for Locally Commissioned Services via a Prior Information Notice (PIN) as a call for competition for an initial period of three (3) years with two (2) optional extension periods of a further three (3) years each (Three (3) Years + Three (3) Years + Three (3) Years in Total) and delegates authority to the Executive Director, Health and Adult Social Care to grant those extensions, subject to satisfactory performance.

3. Context and background information

3.1 Locally Commissioned Services (LCSs) a set of public health services that are commissioned and funded by Public Health using the Public Health grant and other Public Health funding streams. They are purchased via local General Practices and local Community Pharmacies and are specifically focused on patients registered within GP practice lists.

These services help meet the Public Health Outcomes of Health Improvement, reducing numbers of people living with preventable ill health, and people dying prematurely, whilst reducing the gap, between communities and increasing

health life expectancy. They also address the Brighton and Hove Health & Wellbeing Strategy - Starting Well (e.g. young peoples' sexual health), Living Well (eg Stop Smoking, LARCs) and Ageing Well (eg NHS Health Checks). The Services provided under each Contract are as follows;-

General Practitioner LCSs include the following:

- Alcohol Identification and Brief Advice (AIBA)
- Long-acting reversible contraception (LARC)
 - Contraceptive Implant Fittings and Removal
 - Intra Uterine Contraception Device (IUCD) Fittings and Removals
- NHS Health Checks
- Stop smoking service
- Substance Misuse shared care
- Young people's sexual health (advice, STIs, contraception, pregnancy tests, and onward referrals)

Community Pharmacy LCSs include the following:

- Community pharmacy stop smoking service which covers the generic adult smoking cessation service plus the following
 - Young Persons Stop Smoking Service
 - Nicotine Replacement Therapy Voucher Scheme
 - Provision of Varenicline on Patient Group Direction
- Sexual Health and Contraceptive Service; emergency hormonal contraception plus advice, C-Card condoms plus, chlamydia tests, and as an additional optional service chlamydia treatment.
- Healthy Living Pharmacy service to improve uptake and access of health improvement services and advice, health campaigns.

3.2 There are a range of reasons why services are commissioned in General Practices including:

- cost effectiveness as the services benefit from the cost of premises and salaries covered by existing NHS contracts
- understanding of a person's health and wellbeing via patient records
- professional clinical skills, clinical governance and prescribing competencies
- the patient list and access to the population - most people are registered with a GP Practice, know where their GP practice, are used to visiting it
- some of the LCSs can be delivered or initiated opportunistically whilst people are there for other issues (eg Alcohol Identification & Brief Advice)
- several of the LCSs align with other functions of primary care such as routine checks for patients with long term health conditions eg asthma and stop smoking support, diabetes and alcohol IBA.

Community Pharmacies are;

- spread across most wards in the city so are readily accessible
- often people do not need an appointment
- Pharmacists are clinically trained

- Pharmacy staff are trained and skilled at supporting behavior change in an environment some may find more convenient than their GP surgery.

National evidence has demonstrated that advice from a health care professional particularly a clinician such as a GP or pharmacist does have a bigger impact on behavior change (eg Stop Smoking) than by other staff. There are different service solutions in place for those who are unregistered or seldom attend a GP practice.

3.4 The Contracts for the Locally Commissioned GP Services expires on the 30th of June 2023.

The Contracts for the Locally Commissioned Pharmacy Services expires on the 31st of March 2023.

3.5 The budget for the Locally Commissioned GP Services is agreed annually and is estimated at £2,151m for the three years of the new Contract (approximately £717,000 per year). This is an estimate based on 5-year averages. Payment is mostly against activity, plus a small proportion to support access to training, and only the Substance Misuse Shared Care includes a service engagement sum.

3.6 The budget for the Locally Commissioned Community Pharmacy Services is agreed annually is estimated at £0.537m for the three years of the new Contract (approximately £179,000 per year). This is an estimate based on 5-year averages. Payment is mostly against activity, a small amount to support access to training.

3.7 The Council contracts with all GPs and Community Pharmacies that can meet the requisite quality standards. The Council currently holds contracts with 49 of the 51 Community Pharmacies and all the 34 GP Practices in the city. Each practice or pharmacy has an individual contract with their specific selected set of services identified.

3.8 All services under the LCS are purchased in accordance with set fees for each element of specified activity and are for paid based on delivery. For the 19/20 and 20/21 delivery periods, the budget for the Services was not exhausted, however the impact of Covid19 pandemic needs to be taken into consideration relating to this.

3.9 Practice and Pharmacy incomes vary depending on their levels of activity and the number of LCSs they have signed up to deliver. As such, budgets are monitored quarterly and if necessary, thresholds are set per provider to prevent activity exceeding overall budget.

4. Analysis and consideration of alternative options

4.1 Local authorities have a statutory duty to reduce health inequalities and improve the health of their local population by ensuring that there are public health services aimed at achieving the outcomes delivered by these LCSs.

4.2 The total value of the Locally Commissioned GP Services over the lifetime of a Three Year + Three Year + Three Year (9 years) Contract is estimated as £6,453m.

4.3 The total value of the Locally Commissioned Pharmacy Services over the lifetime of a Three Year + Three Year + Three Year (9 years) Contract is estimated as £1.61m.

4.4 The Services fall within the ambit of the 'Light Touch Regime' of the Public Contracts Regulations 2015. The total contract value is more than the relevant threshold of £663,540. Given this, the Services must be advertised to the market. Direct award to the existing providers is not recommended as it carries a high risk of challenge.

4.5 The Health and Care Act 2022 supports joined up provision within a system however as the Local Authority is the commissioner, BHCC are required to act in line with the Public Contracts Regulations 2015.

As the Services are paid for on a set rate of fees, as set out in the services specification and are based on national guidance, evidence-base, good practice and to meet specific local needs. The Council effectively contracts with most of the market provided they meet quality standards, the recommended options have been made to (1) ensure the organisations meet these quality standards and (2) to reduce the administrative burden of running an open selection process that meets the requirements of the Public Contracts Regulations. It is important to reiterate that because the rates are set, there is no commercial benefit to a competitive tender.

4.6 In the pursuit of 'quality', 'continuity' and 'comprehensiveness' of care as expressly permitted under the Light Touch Regime of the Public Contracts Regulations 2015, the award of the Contracts shall be limited to those Providers already providing support or assessment to a Service User. (E.g. a GP can only provide the support by referring their existing patients).

Option 1 – Prior Information Notice as a Call for Competition with a Three Year + Three Year + Three Year Contract

4.7 Under this option, a Prior Information Notice as a Call for Competition will be advertised on the central government website 'Find a Tender'. All the GPs and Community Pharmacies wishing to provide the Services will be required to submit an expression of interest to the Council. It is planned this process will be as straight forward as possible.

4.8 All the organisations that can meet the required quality standards and agree to sign up to the Council terms and conditions will then be awarded a Contract. This is a compliant route to market.

4.9 At the end of each three (3) year period, the Council will set the new revised rates for the Services and vary the Contracts accordingly.

4.10 Utilising a longer Contract Period, will minimise the administrative burden of ensuring compliance with Public Procurement Law and will ensure an open and transparent process.

Option 2 - Direct Award of the Services for shorter periods of One (1) Year (GPs) and Three (3) Years (Pharmacies)

4.11 If the GP Service Providers are awarded a single year Contract, the total contract value is estimated as £717,000. If the Pharmacy Services are awarded for a three-year Contract, the total contract value is estimated as £537,000 (3 x £179,000). On this basis, the total contract value of each Service is less than the relevant 'Light Touch Regime' procurement threshold of £633,540. A direct award will also be compliant with the Council Light Touch Regime CSOs as value for money is demonstrable in the set rates.

4.12 All the organisations that can meet the required quality standards and agree to sign up to the Council terms and conditions will be direct awarded a Contract.

4.13 Reducing the Contract Period and ability to extend will require Council officers to seek approval to procure the Services on a shorter commissioning cycle. This would include attending committee and re-administering the required governance and award for the Services on a shorter commissioning cycle. It is also less desirable as it lacks the openness and transparency objectives advocated for in the Public Contracts Regulations 2015 and it may be viewed as a disaggregation of spend with the intention of avoiding the competition requirements of those Regulations. In addition, given the limited commercial or quality benefits of taking this option, it is not recommended.

5. Community engagement and consultation

5.1 All services are based on needs assessments that include community engagement and consultation and include the details of population data including protected characteristics. Service user feedback is gathered as part of the service specifications.

6. Conclusion

6.1 It is recommended that the Health and Adult Social Care Sub-committee delegates authority to the Executive Director, Health and Adult Social Care to re-procure the Locally Commissioned Services Contracts via a Prior Information Notice (PIN) as a call for competition for an initial period of three (3) years with two (2) optional extension periods of a further three (3) years each. [Three (3) Years + Three (3) Years + Three (3) Years in Total]

7. Financial implications

7.1 The provision of Locally Commissioned Services from General Practices and Community Pharmacies is funded within the ring-fenced Public Health grant (Health & Adult Social Care directorate).

7.2 The planned budget for financial year 2023/24 is in line with this report and overall contract sum of £0.896m per annum (£0.717m for General Practices and £0.179m for Community Pharmacies). However, the Public Health grant allocation has not been confirmed for financial year 2023/24 which may impact on the availability of funding, though it is anticipated that financial resources will be available to enable the commissioning of the services detailed above up to financial year 2025/26.

Name of finance officer consulted: Sophie Warburton Date consulted (dd/mm/yy): 16/12/2022

8. Legal implications

8.1 The Council is required to comply with the Public Contracts Regulations 2015 in relation to the procurement and award of contracts above the relevant financial thresholds for services, supplies and works. The Council's Contract Standing Orders (CSOs) will also apply.

Name of lawyer consulted: Pamela Milford Date consulted (dd/mm/yy): 14/12/22

9. Equalities implications

9.1 The service contracts will include specific requirement that the service provider must act in line with Equality Act legislation, ensuring equity of access and reasonable adjustments taking into consideration protected characteristics. It is unlawful to discriminate between or against Service Users on the grounds of age, disability, gender reassignment, marriage or civil partnership status, pregnancy or maternity, race, religion or belief, sex, sexual orientation, or any other non-medical characteristic.

9.2 The services are required to adhere to The Equality Act (2010), the Public sector Equality Duty (2011) and the Public Sector Bodies (Websites and Mobile Applications) (No.2) Accessibility Regulations 2018 in ensuring services are appropriate and accessible to all. The provider will participate in equality impact assessments annually and as required and respond to needs assessments such as the Pharmaceutical Needs Assessments regarding how to improve access for populations.

9.3 The provider will collect, monitor and analyse data for all protected characteristics to inform and ensure equitable access to the service. Remedial action will be taken in a timely fashion if data is not collected, or equity access challenges are identified.

9.4 Certain of the service specifications include additional focused work to address health inequalities experienced by certain populations – Stop Smoking services and NHS Health Checks. The service commissioners will specifically review activity data for equity of access and uptake for these services as well as for protected characteristics.

10. Sustainability implications

- 10.1 Full consideration will be given to BHCC Sustainable Procurement Policy. Where possible and proportionate, sustainability requirements will be incorporated into the Service Specification to maximise the Social, Ethical and Environmental value delivered by the Providers in the delivery of the Services.

11. Other Implications

Social Value and procurement implications

- 11.1 Social value will be a requirement of the specification for the contracts where possible and proportionate and will be measured by key performance indicators. The commissioning of Community Pharmacies and General Practices within the city supports this approach as well as is a core function of the local health and care provision alongside other local services and businesses.

Crime & disorder implications:

- 11.2 All councils are subject to a statutory duty (s17 Crime and Disorder Act 1998) to do all they can to reasonably prevent crime and disorder in their area across the range of services delivered within their communities. Please consider whether the decisions contemplated, or activities reported have potential to impact on community safety and, if relevant, include here a summary of the impact. Focus on measures that will help to prevent crime and disorder, including the misuse of substances and re-offending.

Public health implications:

- 11.3 As explained in this paper this service is a public health service to improve health and wellbeing outcomes and reduce health inequalities. The Council is committed to improving public health and wellbeing and to reducing inequalities across the city.

Supporting Documentation

None

Brighton & Hove City Council

Adult Social Care & Public Health Sub- Committee

Agenda Item 26

Subject: Weight Management Services Contract

Date of meeting: 10th January 2023

Report of: Executive Director, Health and Adult Social Care

Contact Officer: Name: Roisin Thurstan
Tel: 01273 290384
Email: Roisin.Thurstan@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The purpose of this report is to describe the provision of Tier 2 Weight Management Services and to seek approval from the Adult Social Care and Public Health Sub-Committee to undertake a procurement process for the ongoing delivery of the Service at the end of the current Contract.
- 1.2 Tier 2 services are delivered by local community weight management services that provide community-based diet, nutrition, lifestyle and behaviour change advice, normally in a group setting environment. Normally people can only access these services for a limited time period, often only 12 weeks.

2. Recommendations

- 2.1 That the Adult Social Care and Public Health Sub-Committee delegates authority to the Executive Director, Health and Adult Social Care to procure and award a contract for Tier 2 Weight Management Services for a term of three (3) years with the optional extension of a further two (2) years and delegates authority to the Executive Director Health and Adult Social Care to grant that extension subject to satisfactory performance.

3. Context and background information

3.1 Background

- 3.1.1 Individuals living with obesity presents a major challenge to the current and future health of the local population. Higher Body Mass Index ('BMI') is associated with an increased risk of morbidity and mortality from a range of conditions including hypertension, heart disease, stroke, type 2 diabetes, and several cancers.

3.1.2 Lifestyle risk factors (including poor diet and lack of physical activity) operating together compound the risk of becoming an unhealthy weight. In Brighton and Hove, 58% of our population, aged 18 and over, are classified as overweight or obese. In 2019/20, this figure was 49.5%. Our National Childhood Measurement Programme (NCMP) data shows a decline of healthy weight children from 72% in 2018/2019 to 66% in 2020/21. Certain groups in our city have a significantly higher risk of an unhealthy weight, including those living with disabilities, living in more deprived areas of the city and those from Black and other ethnic groups. See appendix 1 for detail.

3.1.3 Evidence shows that weight management services can help people to adopt healthier behaviours, lose weight and improve their general wellbeing. Individuals that are overweight or obese, are at higher risk of developing serious health problems, including heart disease, high blood pressure, type 2 diabetes, gallstones, breathing problems, and certain cancers. [See Nice Guidelines](#). The recent COVID pandemic highlighted this risk as obesity increased the likelihood of serious illness and death. Weight loss of 5kg has been shown to reduce blood pressure, cholesterol and the risk of developing 2 diabetes as well as other health conditions ([reference: modest weight loss benefits](#)). For that reason, offering our city's residents access to a free and evidenced based weight management service will support more people to make these important health improvement changes.

3.2 The Service

3.2.1 The purpose of the Service is to:

- Assist children and young people aged between 2 and 18 years who are on or above the 91st percentile to reach and maintain a healthier BMI,
- Support overweight and obese adults aged 16 years and over to lose weight and learn how to maintain healthier weight (The age overlap between children and adults provided the flexibility to decide which services to refer children to. Providers will wish to consider a range of issues, including the views of the family), and
- Support the referral of families, children, and adults to services through the Healthy Lifestyle Referral Service.

3.3 Strategies and Priorities

3.3.1 The Health and Wellbeing Board (HWB) Strategy states that “information, advice and support will be provided to help people to eat well and move more (drink less and stop smoking) to reduce their risk of developing long-term health conditions”. The (HWB) Strategy also states, “that local people and communities will be encouraged to make the most of these opportunities to improve their health and wellbeing”.

3.3.2 Council priorities, as detailed in the corporate plan, advocate for a healthy and caring city, which is to be achieved by:

- increasing healthy life expectancy and reduce health inequalities,
- supporting people to live independently,
- supporting people in ageing well,
- supporting carers, and
- ensuring that health and care services meet the needs of all.

3.4 The Current Contract

3.4.1 The Services are currently provided via a Contract with a private third-party provider, BeeZee Bodies Ltd. The current contract will expire on the 30th of September 2023.

3.5 Budget

3.5.1 The budget for the Services is agreed annually and is estimated as £0.4m for the first year of the Contract or £2m for the lifetime of the Contract including the optional extension period.

3.6 Procurement Considerations

3.6.1 The Services fall within the ambit of the 'Light Touch Regime' of the Public Contracts Regulations 2015. The total contract value exceeds the relevant threshold of £663,540. Given this, the Services must be advertised to the market.

4. **Analysis and consideration of alternative options**

4.1 In-Sourcing

4.1.1 The Commissioner explored the option of the Council in-sourcing the Service using a SWOT (strengths, weaknesses, opportunities, and threats) model and following challenges were identified; -

- The success of an in-house Service would be heavily dependent on the success of a recruitment of in-house weight management expertise which would pose challenges given the current recruitment climate,
- Moving from Commissioner to the Provider would increase the risk of requiring a lengthy mobilisation phase given that the service would need to be organized and developed from the beginning. This would involve significant internal infrastructure (such as technical systems, reporting structures and service operations) along with interdependencies with other council departments and local partners.
- Moving from Commissioner to the Provider would mean the establishment of a brand-new service, one that takes time to gather experience of best practice delivery, ultimately impacting on its ability to deliver a high-quality service.

- Market warming/engagement carried out in summer 2022 indicated that there is sufficient interest from suitable providers (with best practice experience) to meet the needs of the population.

4.1.2 In consideration of the above reasons, it was agreed that the service which would deliver the best value for money for the Council would be that provided by an external provider.

4.2 Procurement

4.2.1 Several providers have expressed an interest in tendering for the Services. It is therefore recommended that the Services are advertised via an Open Tender Process.

5. **Community engagement and consultation**

The Community Engagement Framework was used to inform and guide the rationale and processes of how to best inform, consult and collaborate with each of the groups below.

5.1 Procurement Advisory Board

The Procurement Advisory Board was attended on November 21st 2022 by the public consultant and lead for the health weight management service. The Procurement Advisory Board was asked to support the re-tender, led by BHCC, for the procuring and award of a tier 2 weight management service for adults and families. The contract will be for an initial 3-year term with the optional extension of a further 2-year term. The recommendation of the above to the Adult Social Care & Public Health Sub-Committee was supported.

5.2 Market Engagement & Consultation

5.2.1 Commissioning and Procurement undertook a market engagement in Summer 2022 which indicated interest in the contract from both the incumbent and other market participants.

5.2.2 An engagement exercise is currently running with the City's healthcare professionals to invite their feedback on experiences with interacting with the service. The findings of this feedback will inform the development of the new Service Specification.

5.2.3 Feedback from Service Users has been gathered by the current provider via the post programme evaluation and will be used to inform the development of the new Service Specification.

5.3 Interested Parties

5.3.1 Market Engagement

With the support of the procurement team, public health ran a soft market engagement exercise from mid-August to mid-September 2022. There were 13 responses (comprising local, regional and national organisations) which indicates that there is sufficient interest to run a tender.

5.3.2 Stakeholder Engagement

Stakeholder engagement is ongoing, and collection is via an online survey shared with local health care professions that are likely to have engaged with the service in the last 4 years. The survey has been circulated twice and yielded no results.

5.3.3 Partner organisations have been invited to give feedback on the draft service specification once underway.

5.3.4 Partner Engagement

Informal conversations with partners have allow for feedback to be shared on the operations of the current service. Partner organisations will also be invited to give feedback on the draft service specification once underway.

5.3.5 Local Resident Engagement

Service user satisfaction forms have been gathered from 98 adults and 22 families. As per the Community Engagement Framework, this maximises opportunities for individuals and communities to take control over the issues that affect their lives.

5.3.6 In January of 2022, Brighton and Hove residents were invited to participate in a survey regarding their experience of weight management services, the findings of which will be used to inform the service specification amendments.

6. Conclusion

6.1 It is recommended that the Adult Social Care and Public Health Sub-Committee delegates authority to the Executive Director, Health and Adult Social Care to advertise and award the Weight Management Service for a period of three (3) years with one optional extension period of a further two (2) years.

7. Financial implications

7.1 The Community Weight Management contract for Children and Adults is funded within the ring-fenced Public Health grant (Health & Adult Social Care directorate).

7.2 The planned budget for financial year 2023/24 is in line with the proposed waiver and overall contract sum of £0.400m per annum. However, the Public Health grant allocation has not been confirmed for financial year 2023/24 which may impact on the availability of funding, though it is anticipated that financial resources will be available to enable the commissioning of the services detailed above up to financial year 2026/27.

Name of finance officer consulted: Sophie Warburton Date consulted:
14/12/2022

8. Legal implications

- 8.1 The procurement recommended in this report must be conducted in accordance with the Public Contracts Regulations 2015 and the Council's Contract Standing Orders.

Name of lawyer consulted: Alice Rowland Date consulted: 14/12/22

9. Equalities implications

An Equalities Impact Assessment (EIA) is currently in draft but the key findings to date are described below:

- 9.1 Relationship with deprivation
Obesity levels are increased for adults living in the most deprived areas of the city (71.9 %) versus the least deprived (58.2%)
Nationally, year 6 children living in the most deprived areas in England are more than twice as likely to be living with obesity compared to those living in the least deprived areas.
- 9.2 People with disabilities
People with learning disabilities are underserved by the current provision. Learning from a pilot project have illustrated the changes that need to be made to the service specification to provide a more inclusive service.
- 9.3 Obesity prevalence by ethnic group
Adults from Black backgrounds were the most likely out of all ethnic groups to be overweight or obese at 72%.
- 9.4 Obesity in children
Nationally, obesity prevalence in Reception aged children is highest among children from black African and black other ethnic groups. Children in Year 6 from most minority ethnic groups (with the exception of white Irish, mixed white and Asian, and Chinese) are more likely to be obese than white British children. See appendix 2 for detail.

10. Sustainability implications

- 10.1 To ensure that the provider shares our commitment to reducing the impact of the products and services, the service specification will include BHCC's Sustainable Procurement Policy highlighting key sustainability requirements.
- 10.2 Key considerations for this contract are sustainable travel and transport (the accessibility of programme venues and encouragement of participants to engage in active travel) and circular waste (provider to consider sourcing ethical materials, support local economy and consider leasing equipment).

10.3 The provider will be asked to consider sustainable water (hydration has a strong focus in the programme) and biodiversity and nature conservation (provider to consider when planning physical activity components).

10.4 Sustainability and The Reduction of Carbon Footprint

The service specification will be amended to include a Key Performance Indicator (KPI) pertaining to sustainability and the reduction of carbon footprint.

10.5 Sustainable considerations such as:

Online focus over paper

Paper only as necessary – recycled paper/ethical supplier

Office – full recycling and green shredding scheme

Refillable ink

All computers are wiped end of life and repurposed for community volunteers

Cycle purchase scheme and provide safe cycle parking

Delivery within communities close to target communities (rather than city centre focus) reduces need for travel.

10.6 To reduce carbon footprint:

Support parks groups and deliver youthwork, learning events, community festivals from community green spaces.

Parks used as outreach to engage local people including Brighton Streets.

Delivery will be where people live - reducing travel to access support.

Particularly important for fringe estate communities targeted in this work

In addition, we will ensure the use of a sustainability question as part of the Quality Questions which will carry a weighting of 10% of the quality based total percentage.

11. Social Value and procurement implications

11.1 Social Value

The service specification will be amended to include a Key Performance Indicator (KPI) pertaining to how the provider will work in collaboration with and complement partners/other services to ensure that the programme is consistent and integrated with the local system.

Considerations to include:

- Partnering with local organisations and statutory services across the city and the provider will build on existing partnerships
- Working closely with PCNs, prioritising those operating in areas of highest deprivation and lowest support services uptake.
- Co-production at neighbourhood level provides the framework for creating integrated systems between partners and services – coordinating with established community networks and with libraries, community centres,

forums etc, and with neighbourhood newsletters, social media, electronic information screens etc.

In addition, we will ensure the use of a social value question as part of the Quality Questions which will carry a weighting of 10% of the quality based total percentage.

We will consult the social value framework when creating our question and if required liaise with the sustainability and social value procurement manager.

Public health implications:

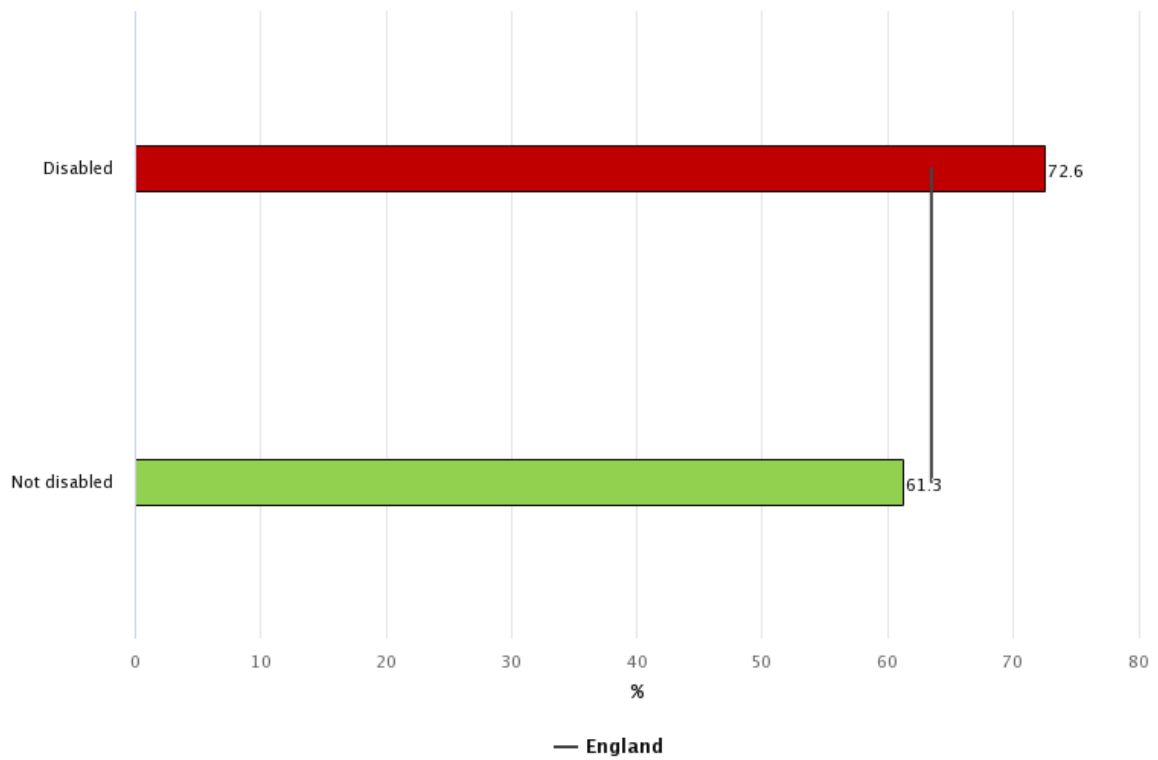
11.2 As this is a public health service, all public health implications are detailed in the sections above.

Supporting Documentation

1. Appendix 1: Certain adult groups with higher risk of unhealthy weight

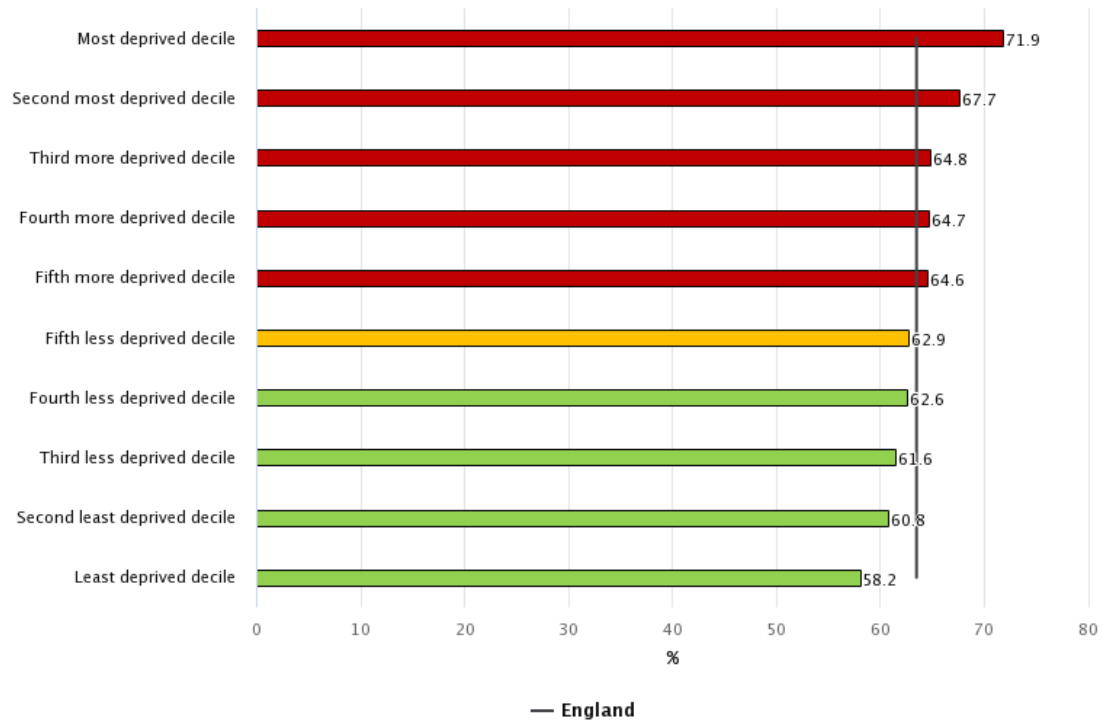
Brighton and Hove residents living with a disability

Percentage of adults (aged 18+) classified as overweight or obese (2020/21) – England, Disability



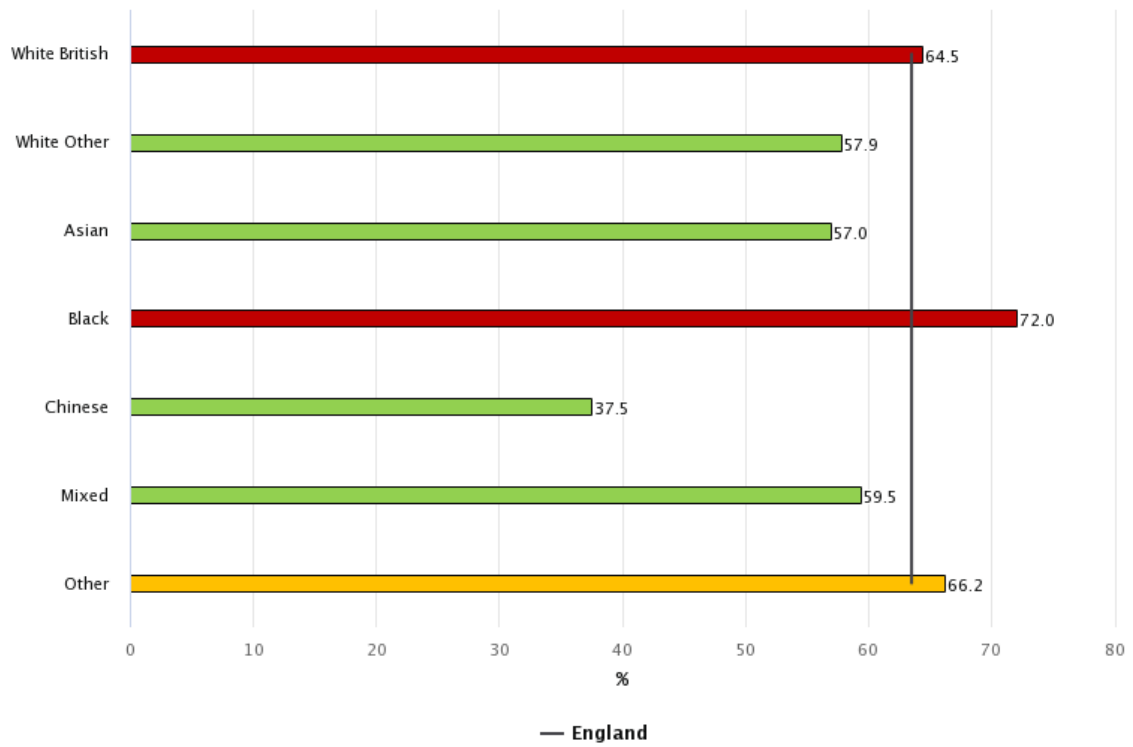
Brighton and Hove residents living by area of deprivation

Percentage of adults (aged 18+) classified as overweight or obese (2020/21) – England, LSOA11 deprivation deciles in England (IMD2015)



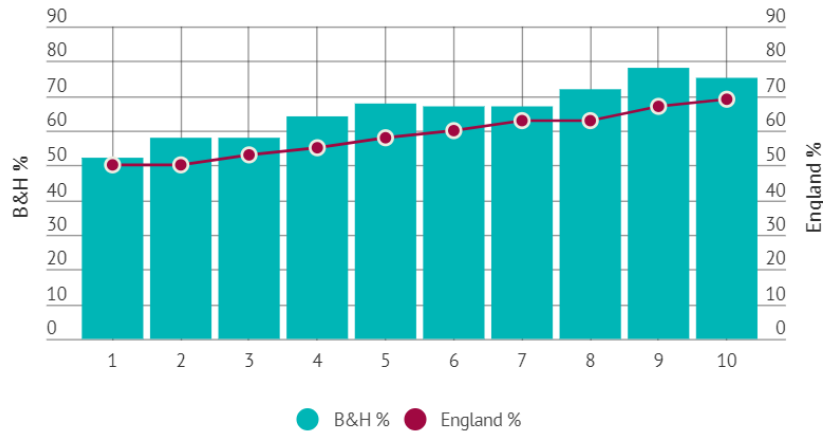
Brighton and Hove residents by ethnicity

Percentage of adults (aged 18+) classified as overweight or obese (2020/21) – England, Ethnic groups



2. Appendix 2: Healthy Weight in children by deprivation and ethnicity

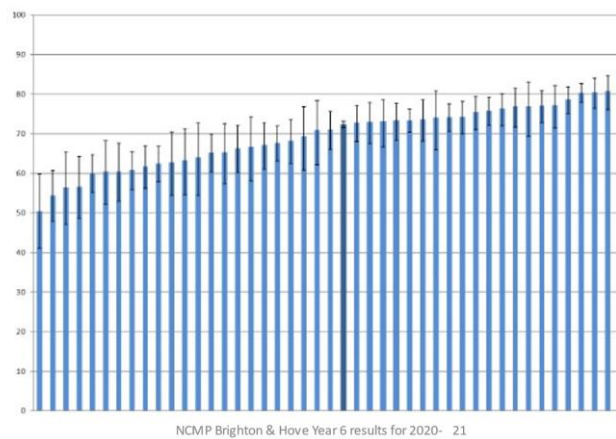
Healthy weight by deprivation decile



The graph above shows a higher risk of obesity amongst children living in more deprived areas.

The prevalence of healthy weight in Year 6 ranges from 51% to 85% by school

Prevalence of healthy weight by school (year 6) for the last 5 years, 2016/17 to 2020/21 (dark bar is Brighton & Hove)



Brighton & Hove City Council

Adult Social Care and Public Health Sub- Committee

Agenda Item 27

Subject: Strategic Risk Focus Report: SR13 and SR37

Date of meeting: 10th January 2023

Report of: Executive Director, Health and Adult Social Care

Contact Officer: Name: Kat Brett
Tel: 01273 293846
Email: Kat.Brett@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 To report to the Adult Social Care and Public Health sub-committee on the latest quarterly update to the Strategic Risks (SRs) that are owned by the Executive Director for Health and Adult Social Care.
- 1.2 For this meeting there are two SRs to receive focus and to enable Members' questions to be asked there will be attendance by relevant officers.

SR13 Not keeping adults safe from harm and abuse.

SR37 Adverse impact on health outcomes and business continuity from high levels of Covid transmission and outbreaks in the city.

2. Recommendations

That the Adult Social Care and Public Health sub-committee:

- 2.1 Note Appendix 1 with details of the two SRs and mitigating controls and actions.
- 2.2 Note Appendix 2 which provides:
 - i. a guide on the risk management process;
 - ii. guidance on how Members might want to ask questions of Risk Owners, or officers connected to the strategic risks; and
 - iii. details of opportunities for Members, or officers, to input on Strategic Risks at various points and levels.
- 2.3 Make recommendations for further action(s) to the Risk Owner.

3. Context and background information

- 3.1 The city council's SRs are reviewed quarterly by the Executive Leadership Team (ELT) taking on board comments from quarterly risk reviews carried out at Directorate Management Teams. This process ensures the currency of the city council's SRR.
- 3.2 The Audit and Standards Committee will annually review the Risk Management Framework with a view to ensuring it is fit for purpose.
- 3.3 The Adult Social Care and Public Health sub-committee has a role to monitor and form an opinion on the effectiveness of risk management and internal control in relation to the strategic risks within this report and make any recommendations for actions in relation to risk management.
- 3.4 The current risk score takes account of the existing controls in place to mitigate the risk. The target risk score assumes that all risk actions are successfully delivered. The 'likelihood' (L) score ranges from Almost Impossible (1) to Almost Certain (5) and the 'impact' (I) score ranges from Insignificant (1) to Catastrophic (5). These scores are multiplied to give the risk score.

4. Analysis and consideration of alternative options

- 4.1 Through consultation with ELT and the Audit & standards Committee, the Risk Management process currently in operation was deemed to be the most suitable model.

5. Community engagement and consultation

- 5.1 This is an internal risk reporting process and as such no engagement or consultation has been undertaken in this regard.

6. Conclusion

- 6.1 The council must ensure that it manages its risks and meets its responsibilities and deliver its Corporate Plan, risk management is evidence for good governance.

7. Financial implications

- 7.1 There are no direct financial implications arising from this report. Sound corporate governance, risk management and control are essential to the financial health and reputation of the council.

Name of finance officer consulted: Sophie Warburton
Date consulted: 08/12/2022

8. Legal implications

- 8.1 Appendix 1 to this Report provides a detailed description of the Strategic Risks being focused on in this Committee cycle as they relate to the functions of this Committee. The description for each risk makes reference to any legal implications of a direct nature.
- 8.2 The purpose of the Brighton & Hove Council Adult Social Care and Public Health Sub-Committee is to discharge the functions of Brighton & Hove City Council in relation to adult social care, learning disabilities and public health. The Strategic Risks associated with any of these functions form an integral part of the purpose of the Committee.

Name of lawyer consulted: Sandra O'Brien

Date consulted: 12/12/2022

9. Equalities implications

- 9.1 Equalities implications are considered in describing strategic risks, their potential consequences and when developing mitigating actions. This will continue to be part of regular ELT & DMT risk review sessions. Equalities Impact Assessments are a regular part of activity within Health and Adult Social Care and will be undertaken where relevant for mitigating actions.
- 9.2 SR13 and SR37 both have a key focus on outcomes for people with safeguarding, health, and social needs in the city.

10. Sustainability implications

- 10.1 Sustainability implications are considered in describing strategic risks, their potential consequences and when developing mitigating actions. This will continue to be part of regular ELT & DMT risk review sessions.

11. Public Health Implications



- 11.1 Public health implications are considered in describing strategic risks, their potential consequences and when developing mitigating actions. This will continue to be part of regular ELT & DMT risk review sessions.
- 11.2 If the risks in SR13 and SR37 occur then there are significant implications for the health and wellbeing of the people in the city, so it is critical to have mitigating actions to reduce the likelihood and impact of these risks occurring. Through our fair and inclusive action plan and the day-to-day work of Public Health and Adult Social Care, we aim to reduce inequalities and hence the enhanced impacts that certain groups of people in the city may face.

Supporting Documentation

1. Appendices

1. Strategic Risks – SR13 and SR37
2. A guide on the risk management process

Risk Details

Risk Code	Risk	Responsible Officer	Committee	Issue Type	Risk Treatment	Current Risk Score	Target Risk Score	Eff. of Control
SR13	Not keeping adults safe from harm and abuse	Executive Director Health and Adult Social Care	Adult Social Care Public Health Sub-Committee	Threat	Treat	 L4 x I4	 L3 x I4	Revised: Uncertain

Causes

- The council has a duty to keep adults, for whom they have statutory responsibility for, safe from harm and abuse. Brighton & Hove City Council has a statutory duty to co-ordinate safeguarding work across the city and the Safeguarding Adults Board. This work links partnerships across the Police and Health and Social Care providers.
- Under the Care Act, since 2015, the Local Authority has a statutory duty to enquire, or cause others to enquire, if it believes a person with care and support needs is experiencing or is at risk of harm and abuse and cannot protect themselves.
- There has been an increase in safeguarding concerns received, increase in complexity of adult social care packages and unknown demand in the context of Covid-19 recovery
- There is not enough appropriate accommodation and services in the city for those with significant and complex needs or specific needs such as ABI, Physical Disability, Learning Disability or Mental Health
- Due to workforce shortages in the domiciliary care market, challenges to commercial viability and increased pressure for council's responsibility on quality monitoring, there is higher risk of provider failure
- Changes to government legislation and funding, pressures on the health and care system as a whole and pressures on resourcing and budgets across the sector with rising costs in the provider market

Potential Consequence(s)

- Failure to care for and safeguard adults properly could result in death, abuse, neglect or injury to individuals.
- Failure to meet statutory duties could result in legal challenge and reputational damage to the organisation and public trust
- Inequalities could be created in terms of how disadvantaged groups of our community i.e. multiple and complex needs can access care and support services
- Provider market costs continue to rise which could lead to overspend of budget to meet statutory responsibility
- Service users may need to move out of the city to receive services required
- People are placed in inappropriate accommodation which may present a danger or risk to them or others and people may not get the appropriate services and support to address their needs
- Any failure of delivery across the health and care system could impact on costs and pressures throughout the system and frustrate attempts to release efficiency savings and improve system performance.

Existing Controls

First Line of Defence: Management Controls

1. Performance management across adult social care enables a more informed view on current activity and planning for future service changes and reviewed monthly by Finance & Performance Board. A BHCC Safeguarding Adults performance dashboard is provided monthly.
2. Directorate Management Team (DMT) oversee developments and monitor risks.
3. Brighton and Hove Safeguarding Adults Board (BHSAB) work plan and multi-agency partnership commitment. Multi agency safeguarding adult procedures are in place, for preventing, identifying, reporting and enquiring into allegations of harm and abuse, in line with Care Act requirements, endorsed by all 3 Sussex Safeguarding Adults Boards. Front line practitioner and manager events are provided within every Safeguarding Adults Review and our senior management team ensure attendance for reflective and systemic learning and engagement.
4. Dedicated resources for: safeguarding adults S.42 decision making; oversight, specialist advice and guidance of complex people in a position of trust; input into Domestic Homicide multi agency review panel; co-ordination of all Deprivation of Liberty Safeguards (DoLS) referrals in line with statutory requirements; continuous professional development requirements in line with Social Work Professional Capabilities Framework
5. Safeguarding referrals can be made by anyone including other professionals, GPs, Police, neighbours, friends. Safeguarding referrals are assessed by Social Workers.
6. BHCC Quality Monitoring Team oversee process in place to monitor quality of adult social care providers, in partnership with NHS Sussex and Care Quality Commission (CQC), which supports quality and preventative safeguarding objectives. A monthly Service Improvement Panel which is multi agency, meets to discuss emerging themes and preventative responses and is a robust effective risk mitigating factor.
7. A Practice Development Assurance Board is in place and meeting monthly to consider practice development and assurance areas of focus bringing updates from internal partners and data share.
8. Learning from Safeguarding Adult Reviews (SARs), monitored through SARs subgroup of BHSAB and a dedicated Safeguarding Lead post who ensures we are involved in responding, liaising and prompting other internal partners and in contributing to learning and development within our system. Accessibility to service provision is a key consideration in learning from SAR, systemic change where needed and improvement for adults experiencing risk and disadvantage at the fore of the shared multi agency approach.
9. Homelessness Transformation Programme
10. Housing Allocations Policy framework
11. The Health and Wellbeing Strategy is delivering the Joint Strategic Needs Assessment on people with multiple and complex needs as part of its Living Well and Ageing Well Workstreams. The Changing Futures Programme (Sussex wide) is in place with external partners and organisations to consider this area and systemic change, development and training needs to bring the system together to consider development needs in this area.
12. Provider failure business continuity plans are in place
13. Provider partnership working through forums, working groups and partnership boards

Second Line of Defence: Corporate Oversight

1. Pan Sussex Safeguarding Adults procedures group - robust partnership group producing specialist procedural guidance across the Sussex area and protocols and meets quarterly with working groups between to complete multi agency tasks together. Strong multi agency working together is featured consistently and is Sussex wide so takes a broader view. Protocols and guidance designed and issued is often across the County which provides a

stronger collaborative approach.

2. Health & Wellbeing Board oversees Joint Health & Wellbeing Strategy and BHSAB annual report.
3. Adult Social Care & Pub Health Subcommittee oversees effective social care commissioning.
4. Care Governance Board oversees quality monitoring of care services and attended by CQC.
5. Learning Disability Governance Group ensures robust links between directorates for LD services.
6. Service Improvement Panel – with multiagency partners, including CCG, to share inspection results, complaints and other issues for care provider quality.
7. Mental Health Oversight Board
8. Housing Committee
9. Strategic Accommodation Board meets to focus on vulnerable adults and children within the housing strategy
10. Homelessness Reduction Board (HRB) promotes reduction and prevention of homelessness, it is chaired by the Chair of the Housing Committee.
11. Prevent Board
12. Practice Development Assurance Board meets monthly to focus on Social Work Quality Assurance. The Principal Social Worker chairs this and the Safeguarding Adults Lead will attend on Safeguarding assurance matters.
13. The Audit & Standards (A&S) Committee reviewed SR13 in April 2022.

Third Line of Defence: Independent Assurance

1. For the council's in-house registered care services Care Quality Commission (CQC) Inspections on an on-going regular basis.
 2. CQC's programme of inspections of all registered care providers are published weekly and available on CQC's website www.cqc.org.uk. These are monitored for local relevance by the council's Quality Monitoring team.
 3. Brighton & Hove Safeguarding Adults Board (BHSAB) is independently chaired and meets quarterly with the three statutory agencies for city wide safeguarding assurance. The subgroups are always attended by HASC. The Safeguarding Lead is a member of the SAR panel (multi agency, chaired by independent sector) where referrals for reviews are discussed in depth. Input is provided in a robust manner for all reviews and related pieces of work for example multi agency audits and action plan reviews required by SAB.
 4. Internal Audit
- * 2022/23: Care Payments (Reasonable Assurance)
 - * 2021/22: HASC Modernisation Programme (Reasonable Assurance), Direct Payments (Partial Assurance), Home Care (Reasonable Assurance)
 - * 2020/21: Hospital discharge arrangements (Reasonable Assurance), Care System Replacement Project – Eclipse (Reasonable Assurance)

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
Ensure there are appropriate services and support for people with care needs in the city	Assistant Director of Commissioning and Partnerships	50	31/03/24	18/11/21	31/03/24
<p>Comments: There are a number of projects currently underway to recommission a range of services including care homes, home care & extra care, supported living, community support, mental health provision and equipment services. These contracts are due to be over the next 24 months. There is specific work being completed to understand the need in the city and engage with key stakeholders. We have recently reviewed feedback from the service user and carers surveys and action plans are being developed. The Authorisation Panel meets once a week and consists of staff across Adult Social Care and the commissioning and assessment teams meet regularly to understand any current gaps in services and where further commissioning activity is required.</p>					
Ensure there is appropriate accommodation and support for vulnerable homeless and rough sleepers	Assistant Director Housing Needs and Supply	50	31/03/24	18/11/21	31/03/24
<p>Comments: Our Rough Sleeper and Single Homeless Service continues to support vulnerable homeless and rough sleepers across the city.</p> <p>In the latest Rough Sleeper count, which took place in November 2021, 37 people were found sleeping rough. This is down 57% compared to the 2019 count.</p> <p>The service is currently providing 891 bed spaces to vulnerable homeless and rough sleepers, and the majority of these bed spaces are in supported accommodation where residents receive additional support with their needs, such as mental health.</p> <p>Alongside this the service is also:</p> <ul style="list-style-type: none"> • Increasing its Housing First stock to 90 units • expanding its team of Welfare Officers to support people in emergency accommodation • purchasing 30 new homes for rough sleepers as part of its Rough Sleeper Accommodation Programme (RSAP) • leasing 30 properties from private landlords for rough sleepers with a lower level of need • working with No Second Night Out and Off the Street Offer providers to help rough sleepers into settled accommodation • continuing to deliver the Rough Sleeper Initiative (RSI) and revising our Homelessness and Rough Sleeping Strategy Action Plan 					
High quality social work is provided to ensure that adults are effectively safeguarded	Principal Social Worker	75	31/03/24	18/11/21	31/03/24

Comments: The Practice Development and Assurance Board (PDAB) has been operational since December 2021. The Board is responsible for the oversight of all practice assurance and development needs, including the monitoring of training targets and identification of emergent gaps and need.

A new audit framework to evaluate the quality of social work/practice interventions has been developed. Practice audits will evaluate quality across a range of statutory care and support planning interventions. Audit outcomes will inform future practice development and assurance needs. Practice Audits for Q3 2022 have been completed as part of piloting the new framework and will report through the Practice Development and Assurance Board in February 2023. The new practice audit framework will go live across all adult social care assessment services from January 2023. Audits will be conducted within agreed targets and will continue to report through PDAB and DMT on a quarterly basis to ensure that targets are met and that actions are agreed to support practice improvement where necessary.

Provide assurance and support to reduce the risk of provider failure in the city	Assistant Director of Commissioning and Partnerships	90	31/03/24	18/11/21	31/03/24
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Comments: Provider failure plans have been updated and signed off by BHCC and NHS Sussex. Alongside this continued governance arrangements are in place through the use of incident management meetings and the role of our public health and quality monitoring and commissioning teams to support providers both in terms of covid related activity and ongoing provider quality issues. The Care Governance Board also provides strategic oversight of quality and provider failure issues jointly with health partners and regulators of services.

Provide assurance of safeguarding adults arrangements across the council and with our partners	Safeguarding Lead	58	31/03/24	01/04/21	31/03/24
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Comments: Risk Response Actions:

1. Ensure meaningful learning across the directorates and with our partners from Safeguarding Adults Reviews, Domestic Homicide Reviews, Coroners inquests and case reviews

Dec 22 – 75% completed. All work of the BHSAB continues with the Local Authority a statutory partner. The James SAR (ABI) action plan/Reg 28 progress continues to present some more challenges areas (ABI commissioning pathway for SW undertaking MCA Mental Capacity Act Assessment) being taken forward by the Safeguarding Adults Lead over a period of months and being escalated through the SAB and ICB. This is now progressing to a multi-agency round table discussion with specialist ABI partners, supported by workforce development team which is positive progress. SAR Andrew (LD) has been completed and cross directorate action planning completed with a high level of meaningful engagement and actions from LD assessment and provider services. SAR Craig is in progress and nearing conclusion having held a learning event well attended by HASC safeguarding, assessment services and Principal Social Worker. The thematic SAR regarding women with multiple and complex needs has been completed and is nearing action plan stage and links to the JSNA and changing futures programme who have successfully started a multi-disciplinary team in assessment services to work with people with multiple and complex needs where significant complexity factors and challenges exist, this is beneficial as supports access for this

service user group and acknowledges the complexity. Updates for HASC directorate will be fed into the Practice Development Assurance Board and Safeguarding Development Group to ensure awareness engagement in SAB partnership development work and collaborative oversight. The Brighton and Hove SAB have co funded a SAR review in East Sussex regarding a young adult, with a transitions theme which is very relevant to safeguarding in our area and of useful learning. An increase of SAR referrals continues to be noted locally showing an increased awareness of this process, HASC are engaging with all review referrals and the SAR process via the safeguarding adults lead, providing summaries of information where needed. The Directorate has developed an internal safeguarding development meeting held with the Principal Social Worker Safeguarding Adults Lead and Social Work Practice Managers on a monthly basis and therefore increased oversight of SAR referrals and any areas we can respond to proactively is occurring. % Safeguarding outcomes met is now a corporate KPI which is monitored by the Performance Lead and Safeguarding Adults Lead with engagement from front line teams a key aspect to this measure. Engagement actions with all operational front line social work teams are being completed by the Safeguarding Adults Lead and improvements to the eclipse database are actions which are being brought in to enhance the reporting and accuracy of this data and its narrative.

2. Provide Assurance that mandatory PREVENT training is embedded in all training induction and development plans within the organisation to support effective identifiers and that the referral pathway is known

Dec 22 - 30%. Strategic training updates on this area are included in a set of workforce development mandatory training dashboards (quarterly) % accessed training remains low but efforts will continue to monitor this and work on improvements regarding take up. Communication messages (learning and development and in the loop newsletters) have requested staff completion and highlighted the mandatory nature of this training completion and request). Training levels remain low and have not increased significantly. Oversight of this is currently significantly reduced as the training accessed is picked up via the Learning Gateway which has recently been decommissioned in September.

A variety of improvement measures have been completed in 2022 so far, for example a pathway for Prevent information coming into HASC has been mapped out by the Safeguarding Adults Lead with key internal stakeholders in recent months and is in place. This month this pathway has been reviewed following feedback from the Prevent Lead, which increases the expertise involved in oversight of Prevent information leaving and coming into the directorate at front line operational level. The Channel Lead has provided bespoke training sessions on Prevent to front line assessment teams identified by the Safeguarding Adults Lead which will raise the % training completed figures and importantly, awareness. A Prevent and Safeguarding chapter has been written by the Safeguarding Adults Lead and is now included in the Sussex wide safeguarding adults procedures which should support multi agency awareness of this important area.

3. Provide Assurance that recognising reporting and responding to abuse and neglect is embedded and that safeguarding training (appropriate to role and task) is being provided to staff across the organisation and offered to partners

Dec 22: 45% ongoing monitoring of uptake of safeguarding training is in place within the organisation and continues to be offered to all staff in applicable roles, and to partners, for example causing others training and basic awareness, with refreshers offered proactively by workforce development for front line assessment social work staff. Oversight of this is currently significantly reduced as the training accessed is picked up via the Learning Gateway which has recently been decommissioned in September.



4. Seek Assurance and post acute COVID review to assure there is a comprehensive clear Disclosure and Barring Service (DBS) check and recheck process

in place which reduces risk to the organisation and to the community

Dec 22: Oversight of DBS rechecks is in place in Human Resources.

5. Ensure effective partnership working across directorates and with external partners to deliver a robust supportive and safe process for the Ukrainian Refugee Hosting Scheme

Dec 22 - Since April 22 HASC have actively supported since the development and design of new processes, working with all partners to support the scheme and meet local authority responsibilities, including where potential risk issues and concerns arise regarding hosts either pre placement or once guests are in situ. Safeguarding concerns are picked up proactively with multi agency working groups and collaborative partnership working is strong.

Risk Code	Risk	Responsible Officer	Committee	Issue Type	Risk Treatment	Current Risk Score	Target Risk Score	Eff. of Control
SR37	Adverse impact on health outcomes and business continuity from high levels of disease transmissions and pandemics in the city	Executive Director Health and Adult Social Care	Adult Social Care Public Health Sub-Committee	Threat	Treat	 L4 x I4	 L3 x I4	Revised: Uncertain

Causes

In the event of a health protection emergency (e.g., an infectious disease outbreak, epidemic or pandemic) there is a risk that the Council would not be able to meet its statutory duty to be assured that relevant organisations are managing the incident appropriately to mitigate the impact of harm to the local population and to prevent adverse impact on the business continuity of the Council.

Potential Consequence(s)

1. Harms to physical and mental health from health protection incidents and infectious disease outbreaks including increased health inequalities
2. Compromised ability to deliver Council statutory duties and business as usual including not delivering safe services and meeting needs
3. Trust and confidence and reputation of the council affected
4. Damage to city economy and the wealth of citizens
5. Capacity of staff, providers and contractors tested
6. Health and wellbeing impact on those delivering services
7. Emergency operating arrangements increase budget overspend
8. Sustainability of local tax base affects council's financial position to deliver Corporate Plan

Existing Controls

First Line of Defence: Management Action

1. BHCC Public Health Department in HASC maintains oversight of assurance of local infectious disease and health protection.
2. BHCC Public Health Department works closely with UK Health Security Agency (UKHSA), the national specialist and lead agency for health protection including advice and guidance, in managing outbreaks and incidents. The local authority delivers local leadership for health and wellbeing including working with the UKHSA SE Health Protection Team to manage the local consequences of outbreaks and incidents. In practice UKHSA, the local authority, NHS Sussex and other partners work together as a single public health system. Plans are in place that describe the roles that each organisation delivers including in response to outbreaks and incidents.

3. Brighton & Hove Health Protection & Screening Forum meets quarterly, chaired by lead BHCC Public Health Consultant on behalf of the Director of Public Health, and operates an annual programme that maintains oversight of the local health protection system. Membership includes BHCC Public Health, BHCC Emergency Resilience Team, NHS Sussex, NHS England and UKHSA.

4. Infectious disease population data and outbreaks in vulnerable people's settings including care settings, homeless, schools and other sites are monitored as well as impacts on local population and health and care services. As part of the response data and information is proactively shared with NHS, BHCC and other partners as required. BHCC Care Settings Incident Management Team meetings are held regularly and scaled up if required

5. In event of a health protection incident or outbreak requiring enhanced communications, systems are established within BHCC Comms team in collaboration with UKHSA to provide appropriate internal and external communications, e.g., council website, press releases, councillor and stakeholder briefings and BHCC intranet, joining up with NHS and UKHSA Comms teams as required.

6. Cold weather, heatwave, vulnerable people and pandemic flu plans are updated annually by Public Health in collaboration with Council directorates and NHS partners and care settings emergency response plan is also updated annually by Adult Social Care in collaboration with public health and NHS partners.

Second Line of Defence: Corporate Oversight

1. Annual update on health protection assurance will be provided to the Brighton & Hove Health & Care Partnership Executive Group.

2. The City Council is a core member of the Sussex Resilience Forum (the Local Resilience Forum for Sussex) and the Local Health Resilience Partnership.

3. BHCC Emergency Resilience Team is well connected with neighbouring local authorities and blue-light services.

Third Line of Defence: Independent Assurance

1. UK Health Security Agency (UKHSA) review of local and regional health protection systems and MOU's.

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Business Continuity Plans (BCPs) are quality assured and regularly updated with corporate oversight for any current and future pandemics</p>	Head of Safer Communities	75	31/03/23	17/11/21	31/03/23
<p>Comments: Reports are completed for the Executive Leadership team (ELT). The last update was presented at in October 2022. This showed that 71% of business continuity plans are in place and are quality assured. 21 services have not completed business continuity plans. Officers are currently looking at a refresh of the reporting timetable to ELT and a change of date for updating the plans going forward to June each year rather than September. Requests for plans and updates are sent to relevant directors on a quarterly basis.</p>					
<p>Ensure an appropriate service risk assessment is in place, reflecting Public Health/Government guidance which covers measures needed for the prevention of Covid transmission in the workplace</p>	Interim Head of Health and Safety	100	31/03/23	01/04/21	31/03/23
<p>Comments: Complete. Throughout the Covid-19 pandemic the Health & Safety team have worked to interpret government guidance and collate this into a Covid Risk Assessment, as required by the Regulations. This has included a Covid-19 template Risk assessment that services could adapt and a School specific Risk Assessment. It also involved advice and guidance around PPE usage which was incorporated into a PPE rationale. The H&S team also completed a Schoolwide audit and inspection of Covid Risk Assessments to determine legal compliance, as well as an inspection of a number of services/teams across the Council.</p>					
<p>Maintain Health Protection function of Public Health, providing assurance of health protection system and support to Council and commissioned services in managing the consequences of infectious disease and outbreaks. Continue to support prevention and infection control measures in high risk settings.</p>	Director of Public Health	90	31/03/24	01/04/22	31/03/24
<p>Comments: Throughout the Covid-19 Pandemic, Public Health has provided additional support to high risk settings in managing outbreaks and promoting prevention measures. Health protection objectives are to build resilience in these high risk settings having learnt from experience of outbreaks and maintaining services.</p>					
<p>Under the national Living with Covid policy and infection prevention and control guidance, UKHSA are leading on health protection with local Public</p>					

Health roles including consequence management in outbreaks and local assurance. We have also maintained enhanced support for Infection Prevention and Control to support high risk settings in Winter 2022/23. A local Infection Prevention and Control Network for care settings was launched in July 2022 and for homeless settings in August 2022.

Local Public Health continue to monitor data on Covid-19, influenza and other infectious disease ensuring a suitable response to identified risks and issues.

Public Health will continue to be up to date with government guidance and requirements from UKHSA. Also maintaining joint working with Sussex wide colleagues.

Public Health chair the local Health Protection and Screening Forum and an annual report will be produced later in the financial year.

APPENDIX 2: A guide on the risk management process

including the questions Members might want to ask of Risk Owners in relation to Strategic Risks

1. Across the council there are a number of risk registers which prioritise risks consistently by assigning risk scores 1-5 to the likelihood (denoted by 'L') of the risk occurring, and the potential impact (denoted by 'I') if it should occur. These L and I scores are multiplied; the higher the result of $L \times I$, the greater the risk. e.g. $L4 \times I4$ which denotes a Likelihood score of 4 (Likely) x Impact score of 4 (Major), which gives a total risk score of 16.

		IMPACT				
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
LIKELIHOOD	Almost Certain (5)	0	0	0	0	0
	Likely (4)	0	0	0	1	0
	Possible (3)	0	0	0	1	1
	Unlikely (2)	0	0	0	0	1
	Almost Impossible (1)	0	0	0	0	0

2. A colour coded system, similar to the traffic light system, is used to distinguish risks that require intervention. Red risks are the highest, followed by Amber risks and then Yellow, and then Green.

3. The Strategic Risk Register (SRR) mostly includes Red and Amber risks. Each strategic risk has a unique identifying number and is prefixed by 'SR' representing that it is a strategic risk.

4. Each risk is scored twice with an Initial 'Current' level of risk and a Revised 'Target' risk score:

- a) The **Current Risk Score** reflects the Existing Controls already in place under the 'Three Lines of Defence' methodology. This represents good practice as it identifies the First Line – Management Controls; Second Line – Corporate Oversight; and Third Line – Independent Assurance and the currency and value of each control in managing the risk. Therefore the Initial Risk Score represents the 'as is/' 'now' position for the risk, taking account of existing controls.
- b) The **Target Risk Score** focuses on the application of time and expenditure to further reduce the likelihood or impact of each risk. It assumes that any future Risk Actions, as detailed in risk registers, will have been delivered to timescale and will have the desired impact.
- c) The Risk Owners are asked to consider the 4Ts of Risk Treatments – Treat, Tolerate, Terminate, Transfer. Risk actions should reduce the likelihood and/or impact – if neither are true, there will not be any reason to undertake the action.

Suggested questions for Members to ask Risk Owners and officers on Strategic Risks

The Audit & Standards Committee has a role to monitor and form an opinion on the effectiveness of risk management and internal control. As part of discharging this role, the Committee focuses on at least two Strategic Risks at each of their meetings.

The Committee invite the Risk Owners of Strategic Risks to attend Committee and answer their questions based on a CAMMS Risk report appended to each Report. In the CAMMS Risk report, the Risk Owner:

1. Describes the risks, the causes and potential consequences and provides an **Current Risk Score** which takes account of the existing controls in place to mitigate the risk.
2. Existing Controls are set out using the Three Lines of Defence model:
 - 1st line: management controls
 - 2nd line: corporate oversight
 - 3rd line: independent assurance

This is provided in order that Members can identify where the assurance comes from, and how frequently it is reviewed and in the case of the 3rd line, then whether audits or inspections have happened and if so when that did it happen and what the results were. Risk Owners ensure that existing controls continue to operate effectively.

Effectiveness of controls should be reviewed based on the certainty of how the existing controls will mitigate the risk – adequate, uncertain, inadequate

3. (Future) Risk Actions then are detailed and allocated to individuals with progress percentages achieved against target dates, with commentary on the current position. This provides the **Target Risk Score** which assumes that all the risk actions have been successfully delivered.

The Risk Owners of Strategic Risks will always be an Executive Leadership Team (ELT) officer. They may bring with them to Committee other officers who are more closely connected to the mitigating work.

Three areas of enquiry are suggested to be explored by the A&S Committee:

1. Is the Risk Description appropriately defined? Does the Committee understand the cause and potential consequences?
2. Is the Committee reassured that each (future) Risk Action either reduces the impact or the likelihood of the risk? Are members reassured that risk actions are actually being delivered?
3. In respect of the Initial 'Current' and Revised 'Target' Risk Scores, does the Committee feel comfortable with Risk Owner's assessment? This represents the risk level that the organisation is prepared to accept.

How Members and officers can input on Strategic Risks (SRs)

The risk management process benefits from input by Council Members and by staff at all levels. The opportunities to do this are:

Members to ELT leads:

- Any Members can approach an ELT lead with risks that they foresee.
- Any risk suggestion from Members will be reviewed by ELT and any actions taken will be reported back to the relevant Member(s).
- Each SR is discussed between Members and ELT leads at the regular meetings with Committee Chairs and annually at the relevant policy committee.

Officers to Line Manager, Directorate Management Team (DMT) or corporate risk management lead:

- The Behaviour Framework expects all officers to escalate risks and/or suggest mitigations to their line managers. If officers feel they do not have appropriate access to their line managers, they may escalate the risk to the corporate risk management lead
- Risks may get discussed as part of staff meetings, PDPs/121s/ team and service meetings or part of projects or programmes. Any significant risks to be escalated through to their Head of Service/ Assistant Director to raise through the management chain and discuss at quarterly DMT risk reviews.
- The ELT lead within a directorate will discuss escalated risks with the DMT at least on a fortnightly basis and will seek assistance as required. They have access to ELT and determine the way forward in consultation with the Risk Management Lead.

DMT to ELT:

- The quarterly SR review at ELT includes a summary of Directorate Risks reviewed at DMTs
- The ELT lead within a directorate will discuss escalated risks with the ELT and determine the way forward i.e. whether to amend the Strategic Risk Register

Brighton & Hove City Council

Adult Social Care & Public Health Sub-Committee

Agenda Item 28

Subject: Adult Social Care Charging Policy – 2023/2024

Date of meeting: 10TH January 2023

Report of: Executive Director, Health & Adult Social Care

Contact Officer: Angie Emerson

Tel: 01273 295666

Email: angie.emerson@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The Care Act 2014 provides councils with a power to charge for care and support services subject to a means test which is set down in government regulations with prescribed limitations. The DHSC updates the statutory national minimum rates for savings thresholds and allowances in April of each year and we await confirmation of these revised rates. At present, people with funds over £23,250 must pay the full cost or maximum charge for care services.
- 1.2 People eligible for adult social care services are means tested to establish whether they must contribute towards the cost. The current charging policy is attached. There are around 2300 service users with non-residential care services and approximately 1200 in residential care homes. These include older people; working age adults with physical disabilities, mental health difficulties and learning disabilities and most people have care services from external providers.
- 1.3 Most care services, funded by the council, are provided by private organisations and the maximum charge depends upon the fees charged by them. **There are very few chargeable in-house services but where these services are provided by the council there are maximum charges set by the Council which are usually reviewed in April each year to align with the date the Department of Work and Pensions increase state benefits.** Most charges are subject to a financial assessment to determine individual affordability, but the charging policy also includes several, low cost, fixed rate charges and additional one-off fees.
- 1.4 This report recommends an inflationary increase in the current maximum charges of 10% for all services except Carelink which is a vital preventive service. Carelink saves a significant drain on other services for example when vulnerable fall and it is likely that people will cancel this service if the charges increase significantly. The proposal for Carelink is to increase the set fees by 6%.

2. Recommendations

- 2.1 That Committee agrees with the current charging policy for care and support services which includes an individual financial assessment to determine affordability and complies with the requirements of Section 17 of the Care Act 2014.
- 2.2 That Committee agrees to a 10% increase (rounded) on the following maximum charges from **10th April 2023** (when state benefits increase):

Maximum Charges	2022-2023	2023-2024
Means Tested Charges	Maximum	Proposed Maximum
In-house home care/support	£28 per hour	£31 per hour
In-house day care	£42 per day	£46 per day
In-House Residential Care	£133 per night (£931 per week)	£146 per night (£1022 per week)
Fixed Rate Charges		
Fixed Rate Transport	£4.30 return	£4.70 return

- 2.3 That Committee agrees to an increase for miscellaneous fees at 10% as follows:

	2022-23	2023-24
Deferred Payment set up fee (see 2.13)	£561 single charge	£617 one off charge
Initial fee for contracting non-residential care for self-funders	£296 single charge	£325 one off charge
Ongoing fee for contracting for non-residential care for self-funders	£92 per year	£101 per year

- 2.4 That Committee agrees to increase Carelink Service fees by 6% as follows:

	2022-23	2023-24
Standard Carelink Plus	£20.30 per month	£21.50
Enhanced Carelink Service	£24.30 per month	£25.80
Exclusive Mobile Phone	£26.30 per month	£27.90

- 2.5 That Committee agrees to continue with the existing policy not to charge carers for any direct provision of support to carers.

2.6 If the above recommendations are not agreed, or if the committee wishes to amend the recommendations, then the item will normally need to be referred to the Policy & Resources Committee meeting on 9 February 2023 to be considered as part of the overall 2023/24 budget proposals. This is because the 2023/24 budget proposals are developed on the assumption that fees and charges are agreed as recommended and any failure to agree, or a proposal to agree different fees and charges, will have an impact on the overall budget proposals, which means it needs to be dealt with by Policy & Resources Committee as per the requirements of the constitution. This does not fetter the committee's ability to make recommendations to Policy & Resources Committee.

3. Context and background information

- 3.1 Where a person is assessed as eligible for care and support under sections 18 to 20 of the Care Act, the Council may charge the service user subject to the financial assessment set out in Section 17 of that Act (subject to certain limited exceptions).
- 3.2 The council must provide reablement services (either at home or in residential care) free of charge for up to 6 weeks, and any services provided under Section 117 of the Mental Health Act 1983 must be free of charge.
- 3.3 Financial assessments determine a fair contribution towards care costs and are subject to appeal in exceptional circumstances. People with very limited income will not be charged. People with additional disability benefits and other income are usually charged a contribution towards the cost of their care service and the amount varies according to their personal financial circumstances. Currently people with savings over £23,250 must pay the full cost of services but the Government may increase this rate in April 2023.
- 3.4 **Most people have care provided by an external provider** where fee rates are often set and agreed under the council's contracted terms and conditions. People with savings over £23,250 or with high incomes will be assessed to pay the full fees charged by their care provider. Fee rates can vary depending upon individual needs and availability of carers. The maximum charge for in-house home care is recommended to increase to £31 per hour. Day Care attendance is recommended to increase to £46 per day. People who have savings of less than £23,250 will usually pay less than the full cost of care, in line with their financial assessment.

3.5 Charging for care services for people living at home

- 3.5.1 Services include personal care, community support, support costs in extra care housing, day activities, direct payments, money management and other support, and there are around 2300 service users living at home. About 44% of service users, who have minimal savings and limited income from state benefits, will continue to receive free means tested care services as their

income is too low to afford a charge. They will only be affected by the increases in this report if their service includes transport.

3.5.2 Around 46% are assessed to contribute an average of around £45-£75 per week, usually based upon their entitlement to additional disability benefits and benefit premiums paid by the Department for Work and Pensions.

3.5.3 A further 10% of service users are assessed to pay the full cost or maximum charge for care where they have savings over the threshold of £23,250, or very high incomes, or low cost care packages.

3.6 Fixed Rate Charges (not means tested)

3.6.1 Where the council provides or funds transport to and from day services or other services it is recommended to increase the fixed contribution to £4.70 per return journey. This increase will affect around 43 people who currently receive this service. The income from transport charges is currently around £19,600 per annum.

3.6.2. Fees for contracting care services at home on behalf of self-funding service users

Where people have savings over £23,250 and they ask the council to contract with a non-residential service provider on their behalf, the council charges an arrangement fee for this service. This covers the additional work to procure care and set up the contract with the care provider, to set up financial arrangements and provide contract monitoring and amendments on an ongoing basis. It is recommended to increase the initial arrangement fee to £325 and to increase the ongoing annual charge to £101 per year.

3.7 CareLink Plus Services

The Council's Carelink Plus service is well-used and welcomed by vulnerable people in the city. This preventive service can often reduce the need for additional care services, ambulance call outs etc. Most people pay the fixed charges listed in the table above. An increase of 6% is recommended and around 2150 people will be affected by this increase. It is not recommended to increase carelink charges by 10% as this may deter people from taking up or cancelling this cost-saving preventive service. Carelink is a relatively economical way to support vulnerable people in their own homes and it is felt that a high increase in the charge would alienate customers, leading to cancellation of the service, and potentially leading to any crises requiring significant interventions from another part of HASC that is far more costly. Some councils install an equivalent service free of charge to encourage a greater take up and reduce critical intervention costs.

6% is anticipated to increase income by around £2,500 per month and a 10% increase would potentially raise a further £1,700 per month unless people cancel the service.

3.7.1 Where people consider cancelling the service for financial reasons, the Carelink team will assist with claiming any potentially eligible state benefits. They will also consider whether a free service may be available due to exceptional needs and financial difficulties.

3.8 Charging Carers for carer services

3.8.1 The Care Act empowers councils to charge for the direct provision of care and support to carers. The recommendation is to continue with the current policy not to charge carers in recognition of the significant value they provide to vulnerable people. (Note that where the service is provided direct to the service user in order to give the carer a break, then the service user is means tested and charged in the usual way)

3.9 Residential Care

3.9.1 People with over £23,250 in savings and property pay the full cost for residential care. All other residents contribute a variable amount towards the care home fees mainly from their income. The majority of residential care is provided by the independent sector and fees for self-funders can vary significantly. The council has limited provision of inhouse residential care, and it is mainly used as a respite service, for hospital discharges, or an emergency service as well as longer term for people with mental health issues. It is proposed to increase the maximum charge to £146 per night (£1022 per week). There are currently 14 people who would be affected by this increase.

3.9.2 Deferred Payment Agreements (DPA)

The Care Act requires councils, in specified circumstances, to “loan fund” care home fees where the resident is assessed to pay the full cost because they own a property but are not immediately able or willing to sell it. Councils may charge for this service and it is recommended to increase the setup fee for DPAs to £617. This is based on the estimated average administrative cost for a DPA during the lifetime of the agreement including a legal charge on property, ongoing invoicing costs and termination costs.

4. Analysis and consideration of alternative options

4.1 It is customary to increase these charges on the same day that the DWP increase state benefits. This is because we re-assess most people on this date to take account of increased benefits and allowances. It could be possible to increase some of these charges earlier, from 13th February having given people a one month notice period. This would raise a limited amount of income for this financial year.

There are currently 147 people using in-house services and most will not be affected by the increase in charges due to having a lower financial assessment than the costs involved in providing their care package.

However, those who are affected amount to 7 people with home care and 14 with residential care

4.2 In house Home Care:

It is not recommended to bring forward the increase in charges for existing home care service users as this would cause additional administration and estimated additional in-year income would be limited at around £700 for an 8 week period.

4.3 In house Residential Care

For the 14 people paying the full cost in the council's residential homes, an additional 8 weeks in this financial year would bring around £11,000 to this year's budget. There are currently 14 people who have the means to pay the full cost and early implementation of an increase in charges by 10% would be straightforward to administer and could be achieved.

4.4 Transport charges

43 people are currently paying the fixed transport charge and an early implementation of 8 weeks would increase in-year income by around £300. However, the cost of dealing with the administration and subsequent issues with service users, who would be expecting an increase in April rather than February, would outweigh the benefit. This is not recommended.

4.5 Carelink

Carelink customers have previously been advised that the charges may increase from April 2023 and the logistics of notifying around 2150 people, alongside the risks of cancellation is of such significance it is not recommended to bring in the increased charges earlier than April.

5. Community engagement and consultation

5.1 Relevant councillors and officers have been consulted

Community engagement has not been carried out for this report as this is a fiscal matter.

6. In-year budget position (additional information)

6.1 In response to recommendation 2.7 of the Targeted Budget Management (TBM) 2022/23: Month 7 (October) report to Policy & Resources Committee on the 1st December 2022, the actions that the Health & Adult Social Care Directorate have been taking and plan to take to support the in-year budget position are as follows:

- 1) All vacancies are scrutinised to determine whether or not they can be filled through redeployment, covered by alternative arrangements (e.g. increasing part-time hours, overtime or acting positions), delayed or left unfilled. However, the directorate has a wide range of exemptions for care workers and social work staff to maintain statutory services, which means that there are limitations to the level of impact this measure can have.

- 2) The Executive Director for Health & Adult Social Care sent a message to all managers on 1st December requesting that all non-essential spend stop.
- 3) All care placement and packages are appropriately authorised as per the scheme of delegation, and high-cost care plans are presented to a weekly authorisation panel.
- 4) Proposal to increase certain fees & charges for the directorate prior to 1st April as outlined in this report, which equates to £0.006m.
- 5) Recovery measures have been identified and further options are regularly explored by the Directorate Management Team. At present measures totalling £0.104m have been identified and are contributing to a reduced TBM forecast, including increasing the number of reablement beds and ensuring appropriate funding for packages of care.
- 6) Seeking alternative funding sources where appropriate.

6.2 The current projected position for the directorate is an overspend of £0.691m. In particular the key significant cost pressures are as follows:

- £1.067m on 65+ Physical Support;
- £0.225m on Community Equipment Services;
- £0.153m on Life Events

6.3 There are estimated recovery measures totalling £0.104m. These, together with other favourable variances totalling £0.754m result in the net forecast overspend of £0.587m as at Month 7 (0.8% of the net budget).

6.4 The rising cost of services and the increasing cost pressures experienced by many providers means that ensuring the right services are provided at a sustainable price remains challenging. This is a national picture being faced by many local authorities with Adult Social Care responsibilities. From a budget strategy perspective, the impact of rising inflation and the impact of the pandemic on our unit costs for both residential and nursing care confirms that the current pricing framework, which was already significantly strained, remains challenged.

6.5 Following the impact of Covid-19 and potentially of EU Exit, care providers have been dealing with difficulties in workforce recruitment. This has impacted all care sectors across the country but has been particularly acute for home care providers. The direction of travel is still to enable people to receive care in their own homes rather than for them move to residential care, though this has been challenging over the past year due to there being currently higher demand for home care than availability, which has also impacted on the ability to achieve in-year savings.

7. Conclusion

7.1 It is recommended to increase rates by 10% for all services except for the preventive service of Carelink at 6%

It is not recommended to increase at an earlier date with the exception of Residential care.

8. Financial implications

- 8.1 Charges for Adult Social Care services within this report have been reviewed in line with the Corporate Fees & Charges Policy and budget guidance. This is to ensure that fees and charges are appropriately benchmarked to comparative services and recover the full cost of service wherever possible.
- The Adult Social Care in-house council services are significantly subsidised through Council funding.

It is anticipated that the proposed charges will deliver the level of income assumed in the 2023/24 budget strategy, approximately £0.090m. However, the level of income is variable as it will be determined on a means tested basis.

Where any change (or rejection of proposals in whole or in part) is likely to have a negative impact on the service's budget and/or will affect a budget saving proposal negatively, and is approved by the Board (either via amendment or by voting against the recommendations), the item will normally need to be referred to Policy and Resources Committee meeting on 9 February 2023 to be considered as part of the overall 2023/24 budget proposals.

Name of finance officer consulted: Sophie Warburton Date consulted (dd/mm/yy): 14/12/2022

9. Legal implications

- 9.1 The legal basis for charging for services is explained in the body of this report as is rationale for the recommended percentage increase.

Name of lawyer consulted: Sandra O'Brien Date consulted 14.12.2022

10. Equalities implications

- 10.1 There are no equalities issues with these recommendations. The charging policy is not changing and the rates charged are proposed to increase by inflation.

11. Sustainability implications

- 11.1 There are no sustainability implications

12. Other Implications

12.1 There are no other implications.

Supporting Documentation

Appendices

1 Charging Policy 2022-23



Appendix 1

CHARGING POLICY For Adult Social Care Services – 11th APRIL 2023-23

CONTENTS

- 1. Introduction**
 - 1.1 Compliance with the Care Act 2014
 - 1.2 Review of policy in the light of *SH v Norfolk County Council [2020] EWHC 3426*,
 - 1.3 Services covered by this policy
 - 1.4 Services excluded from the charging policy
 - 1.5 Carers' Services

- 2. Maximum Charges for in-house services**
 - 2.1 Home Care
 - 2.2 Day Care / Day Activities
 - 2.3 Additional fixed rate charges for meals and transport

- 3. Financial Assessment Procedure**
 - 3.1 The Financial Assessment Process

- 4. The Financial Assessment Calculation**
 - 4.1 Treatment of capital
 - 4.2 Income to be taken fully into account
 - 4.3 Income to be disregarded

- 5. Calculations for non-residential services**
 - 5.1 Standard allowances
 - 5.2 The Disability Related Expenditure assessment (DRE)
 - 5.3 Housing Costs
 - 5.4 Method of calculation for non-residential services
 - 5.5 Assessing Couples.

- 6 Charging for permanent Residential Care and Nursing Homes**
- 7 Charging for Residential Care on Temporary Basis**
- 8 Reassessments and Reviews**
- 9 Backdating Charges**
- 10 Notification of Charges**
- 11 Paying the Contributions**
 - 11.1 Care Agencies
 - 11.2 Council Services
 - 11.3 Direct Payments

12. Recovery of Debt

13. Appeals and Complaints

Appendix A Disability Related Expenditure Assessment

1. Introduction and Legal basis for charging for Care and Support

- 1.1 This policy is approved by Brighton and Hove City Council and is compliant with The Care Act 2014, Care Act Regulations and Guidance. The aim is to provide a consistent and fair framework for assessing and charging all service users following an assessment of individual needs, and individual financial circumstances. The policy applies to all service users equitably. Section 14 of The Care Act 2014 provides councils with a power to charge for meeting a person's eligible needs in a single legal framework. Section 17 of The Care Act requires local authorities to undertake an assessment of financial resources. This will determine the amount a person should pay towards the cost of providing for their needs for care and support whether provided to people living in their own home or in a care home. Some of the assessment rules for residential care differ from non-residential but many are the same. The policy for non-residential services was originally formulated in December 2002 under consultation with service users and their carers. This has been revised to take account of the requirements of the Care Act 2014 and subsequent amendments. For the purposes of this policy, an adult is a person aged 18 or over and whose eligible needs are being met through Adult Social Care funding.

- 1.1 **In *SH v Norfolk County Council [2020] EWHC 3426***, the High Court decided that Norfolk's charging policy unlawfully discriminated against severely disabled people in the enjoyment of their benefits income. SH was of working age and her income comprised the highest rates of (severe) disability benefits. The national charging regulations expressly disregard earnings but do not disregard most disability benefits. Norfolk applied the minimum allowances against SH's income as prescribed by DHSC, which led to higher charges. It is open to councils to give higher allowances so that people are left with more of their income after charging. The decision of the High Court in this case is not binding on other councils but BHCC has taken the opportunity to review its own Charging Policy in light of it. BHCC cannot amend the DHSC regulation to disregard income from severe disability benefits. That is a national requirement. However, BHCC does make a more generous allowance to people of working age which is above the minimum allowances prescribed by DHSC. BHCC also provides for a bespoke Disability Related Expenditure Assessment which looks at necessary additional expenditure particularly related to disability and provides for further allowances in appropriate circumstances so that charges are reduced. For these reasons no material changes are considered necessary to the BHCC charging policy.

1.2 The services included for this financial assessment policy are:

Home Care
Day Care, Day Activities
Community Support / outreach services
Intermediate and reablement care after 6 weeks

Direct Payments / Personal Budgets for any services
 Money Advice and money management services
 Supported Accommodation*
 Shared Lives Schemes*
 Extra Care Housing care services
 Residential Care including Nursing Homes
 Carelink alarm systems
 Adaptations over £1,000

*People in Shared Lives and Supported Accommodation schemes, including Extra Care Housing, in addition to any assessed care and support charge, will also be responsible for rent, food and utilities from their own income, often with Housing Benefit or universal credit.

1.3 Services excluded from charges are:

All Daily Living Equipment
 Adaptations under £1000
 Services provided under Section 117 of the Mental Health Act, “after care” services.
 Intermediate Care and Reablement Services for up to 6 weeks
 Any Care funded under Continuing Health Care by the Health Authority
 Care and support provided to people with Creutzfeldt-Jacob Disease
 Assessments of care needs and care planning

1.4 Care and Support for Carers

There is no charge to carers for any services provided directly to them during 2022/22. This policy will be kept under review. Where services are provided directly to the service user to meet their eligible care needs, in order to provide the carer with support, the service user will be charged in accordance with this policy.

2. From April 2021 the maximum charges for non-residential services are as follows:

2.1 Home Care provided by the council, including all forms of support at home £28 per hour

(Please note that the charge is double where two carers are provided)
 The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between providers but is usually less than £27 per hour.

2.2 Day Care / Day Activity provided by the council (for any time period) £42 per day

The maximum charge for care provided by an independent agency will depend upon the fees set by them. This can vary between independent day care providers.

2.3 Additional Fixed Rate charges

Any meals provided at a Day Centre and any transport costs will not form part of the assessed charge as they substitute for ordinary daily living costs.

These charges are payable in addition to assessed contributions.

Meals at a day centre **£5.20 per meal**
 Transport to day centres **£4.30 per return journey**

3 The Financial Assessment Process

3.1 The financial assessment follows on from the care needs assessment. When care needs have been assessed, details are passed to the Financial Assessment team who may make arrangements for a personal visit to the service user or their representative. In some cases it may be possible to complete an assessment over the telephone or by post or email but information received will be subject to full verification. Where a person lacks mental capacity to complete a financial assessment form we will contact someone with Power of Attorney for Property and Affairs or a Deputy under the Court of Protection. If there is no person with a formal authority we can discuss the financial assessment with someone who has been given Appointeeship by the Department of Work and Pensions (DWP) or any other person who is helping to deal with that person's affairs. We will:

- (a) Gather financial information from the service user or their representative and have sight of relevant documentation for verification purposes e.g. Bank statements, property valuations, completion statements etc.
- (b) Assist with the completion of the Financial Assessment Form which is signed as a correct statement by the service user or their representative
- (c) Arrange for "Forms of Authority" to be signed if any information needs further written verification from the asset holders, building societies etc.
- (d) Complete postal or telephone assessments and any further financial enquiries and verification
- (e) Undertake a Welfare benefits check, either directly with the person or remotely from council and DWP records and we will help with benefit claims if applicable.
- (f) Provide written notifications to service users of the chargeable amount and how it will be collected by email or post.
- (g) Notify the care provider of the charge for their collection (in some cases).
- (h) Arrange for invoices to be sent to the service user by the council's Central Collections Team (in some cases)

4. The Financial Assessment Calculation for all services

First we take account of Capital and Savings (including property where applicable)

Then we take account of income

Then we make allowances for various types of expenditure

The difference between the income calculation and the expenditure allowances is the amount charged for care services.

The amount charged will depend upon whether the service user needs a Residential Care Home service or other services while remaining in their own home (known as "non-residential services" or "community services")

4.1 Treatment of Capital and Savings

People with over £23,250 in chargeable capital and savings are assessed to pay the full cost of any service from the start date of the service.

People who do not want to disclose full financial information may opt to pay the full cost without going through a financial assessment. This is sometimes known as a light touch assessment.

People who are unable to show that they do not have savings above £23,250 will pay the full cost from the start of the service.

Where care needs are met in a person's own home, the main residence occupied by the service user will not be taken into account but the value of all other forms of capital and savings will be taken into account, including any other property, eg second homes, holiday homes, whether or not they are rented out and whether they are located in this country or abroad. Where a property is not occupied as a main home, for example where the person has moved out to live with other family members or to live in rented accommodation, the property value will usually be taken into account for charging purposes. This does not apply to a temporary absence from home, for up to 26 weeks where there is a viable plan to return home.

We take into account any form of savings irrespective of where and how they are invested (with the exception of special complex rules regarding capital held in a trust and capital held in investment bonds with Life Assurance). (Note that, where funds are held in trust, or in a disregarded savings bond, the financial assessment will seek to determine whether any income received should be included or disregarded. Copies of trust documents (e.g. Trust Deeds, Will Settlements etc.) must be provided for verification. The council's policy follows the Care Act 2014 Charging Regulations and Statutory Guidance.

The capital limits are currently £23,250 upper limit and £14,250 lower limit with effect from April 2021. Any capital above £14,250 is calculated as "tariff income" which is calculated as £1.00 per week for every complete £250 or part).

People with more than £23,250 held in their own name, or held in their share of joint accounts, or in accounts held by another person on their behalf, will pay the full cost of the care service. **This charge applies from the start date of the service.**

Where a person is liable for the full cost of care provided at home and chooses to use the Council's contract for care services there will be a charge **of £296 for the initial contract set-up fee and then £92 per year administration charge thereafter.** (Note: the level of these fees are reviewed, usually in April each year and are subject to change).

4.2 Notional assets, savings or income included in the financial assessment:

If a person has gifted any savings, investments, income or property to another person, prior to, or whilst receiving any care services, any such amounts may be included in the financial assessment as though they remain in their own possession. This is called "notional capital" or "notional income". Each case will depend upon detailed information and will apply where the person ceases to possess assets in order to reduce the level of the contribution towards the cost of their care. This may also apply where a person has spent down their capital more significantly than would usually be the case, with the purpose of paying less for care services. Consideration will be given to relevant circumstances. This is sometimes referred to as deprivation of assets and can include transfer of ownership or conversion from one kind of asset to one that would otherwise be disregarded. In all cases, it is up to the person to

prove to the council that they no longer possess the income or asset and the council will determine whether deprivation has occurred as part of the financial assessment. Notional capital or income will also be taken into account if a person is not claiming monies to which they are entitled.

Where notional assets are included in the assessment and the resident is unable to pay for their care and support, the council may instead charge the person(s) who received the gifted monies.

4.3 Income to be taken fully into account

Income includes **most state benefits** means tested and non-means tested, including State Retirement Pension, Pension Credit, Employment and Support Allowance, Income Support (including all premiums for age, family and disability), Job Seekers Allowance, Attendance Allowance, DLA and Personal Independence Payments (PIP) care component, Universal credit etc.

And all other Income: ***(subject to exceptions below in 4.3)***

Occupational Pensions

Private Pensions

Income from annuities

Trust Income (where applicable)

Income from charitable or voluntary sources (subject to £20 per week disregard)

Rental Income / lodging payments (including other persons in the household)

Where another person, who is not a spouse or partner or civil partner or a dependent child, lives in the household of the service user (e.g. relatives, friends, lodgers etc.) the payments they make towards the household expenses will be taken into account as income.

Where no actual payments are made by the person living in the household there will be an assumed income of one third of the basic Income Support allowance as a contribution towards general household living costs.

4.4 Income to be disregarded

- Earnings are disregarded (Earnings consist of any remuneration or profit derived from employment or self-employment, including bonus or commission and holiday pay but excluding re-imbursment of expenses and any occupational pension)
- Personal Independence Payments (PIP) — Mobility Element only
- Disability Living Allowance (DLA) — Mobility Element only
- War Pensions payable to those in service
- War Pensioners Mobility Supplement
- War Widow(er) Special Payments
- Tax credit income (related to earnings)
- Child Tax Credits
- Child Benefit
- Child Support Maintenance payments

- Savings Credit element of Pension Credit payments are disregarded for non-residential services but there are other special rules for residential care with a partial disregard
- And any other disregards required in the Care Act 2014 Charging Regulations and Statutory Guidance.

5. Assessment for non-residential services

5.1 General Living Allowance – known as MIG (Minimum Income Guarantee)

Local authorities must ensure that a person's income is not reduced below a specified level, after charges have been deducted. The allowance rates are set out in the Care and Support (Charging and Assessment of Resources) Regulations and are reviewed by the Department of Health every April. **This allowance is for people who live in their own home** and is intended to cover general living expenses including food, utilities, fuel, transport, leisure, insurances, pets and other miscellaneous living costs and includes any debts relating to these expenses.

In this policy single people or people in a couple with no dependent children will be given the following weekly allowance irrespective of the age of the service user.

£195 per week for single people

£149 per week for one person in a couple

Where there are dependent children living in a household, the weekly allowance rates for adults differ according to age and other circumstances and the general allowance is calculated in accordance with Government Guidance as follows:

Where the service user is a **single person**:

- aged 18 or older but less than 25, the amount of £74.60
- Aged 25 or older but less than pension credit age the amount of £94.15
- Pension credit age, the amount of £194.70

Where the service user is a **member of a couple** the basic weekly allowances are:

- one or both are aged 18 or over, the amount of £73.95
- one or both have attained pension credit age, the amount of £148.65

Additional weekly allowances apply as follows:

For each dependent child living in the household an additional allowance of £86.20

For a single person with:

- Disability premium, the amount of the additional allowance is £41.55
- Enhanced disability premium, the amount of the additional allowance is £20.30

For one member of a couple in receipt of:

- Disability premium, the amount of the additional allowance is £29.60
- Enhanced disability premium, the amount of the additional allowance is £14.60
- When in receipt of carers' premium, the amount of the additional allowance is £44.55

(The Personal Allowance for a resident in a **care home** is £25.65 per week)

5.2 The Disability Related Expenditure assessment (DRE) for non-residential care

Service Users who live in their own homes will be asked to list any additional expenses, extra to the standard allowances explained in 5.1 that arise specifically as a consequence of disability. Examples of such expenditure and verification methods are set out in **Appendix A**.

5.3 Housing Costs for people in their own homes

Allowances are given for the following housing costs:

- Rent (net of Housing Benefit - or Universal Credit)
- Council Tax (net of Council Tax Reduction and discounts)
- Minimum mortgage repayments (as a substitute for rent) excluding enhanced mortgage payments.
Ground Rent and Maintenance (except costs already allowed in the standard living allowance eg. Lighting, heating, Hot water, etc.)
- Water Rates / Metered Water Costs

No Allowance for rent will be made where the service user lives in another person's household and there is no legal liability for rent payments. This is because any charge made for living in the other person's household will be deemed to be covered by the general living allowance of at least £149 per week. Where the person is not liable for these costs but contributes towards them through a private board agreement or similar, then the service user will be expected to meet this expenditure from their general living allowance.

5.4 Method of Calculation for non-residential services

- a) Income less expenditure and allowances equals "assessable income"
- b) Assessable income is rounded down to the nearest whole pound.
- c) There is no charge if this is below £3.00 per week
- d) Note that where the actual service costs are less than the assessed charge, the lower amount will be charged.
- e) Note that for adaptations over £1000, the weekly charge will be calculated in the same way but the charge will be payable for a maximum of 7 years.

5.5 Financial Assessment for couples

When assessing one member of a couple, that person will be assessed on their own resources: Where the total savings and assets of the service user are over £23,250, including any beneficial interest in savings held by their partner or any other person, the full cost of care services will be charged

- 100% of solely owned and 50% of all jointly owned capital will usually be taken into account unless there is evidence of an unequal share, in which case a different percentage will be used.
- All assessable income appropriate to the service user will be taken into account.

Where benefits are paid at the couple rate, the benefit income will be apportioned.

In these cases we will usually presume the service user has an equal share of the income unless it is clear that this is not the case and consideration will be given to both partners' financial circumstances.

*Note: Savings and capital are normally defined as belonging to the person in whose name they are held. However, in some cases there may be a beneficial ownership for a partner, e.g., where they have the benefits of ownership, even though the title of the asset is held by someone else or where they are able to make or influence transactions. The origin of the income and capital will be considered and the intentions for future use and such assets may be considered as notional income or capital. For this reason, financial assessments will usually be completed by reference to all income, savings and expenditure of the household.

- 50% of a couple's eligible household expenditure will usually be allowed
- Eligible Disability Related Expenditure for the service user will be allowed (see appendix A)

The general living allowance will be applied in line with statutory regulations as set out above at 5.1.

6. Care Homes: Charging for residents with long term care needs.

6.1 Where a person's long term needs are assessed to be met in a care home the financial assessment will determine whether the person must pay the full cost of the care home fees or whether the council will help to pay towards the cost.

6.2. Charges for residential care are payable from the date care commences.

6.3 If the resident owns any property the net value is usually taken into account when calculating the level of savings and capital. Where that value exceeds £23,250 the resident will be assessed to pay the full cost of the care home fees. However where the residents' former home is occupied by a spouse or partner or another relative aged over 60 or disabled, the value will not be taken into account as it will be disregarded in the financial assessment.

Further details are available in the Care Act 2014 Guidance at paragraphs 34/35 and can be found at the following website

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

6.4 The Financial Assessment will take into account income, capital and the value of any assets. The charging calculation will take into consideration any mandatory disregards of income, capital and property as defined in the Care and Support Statutory Guidance.

6.5 The Assessment will allow the prescribed minimum personal allowance known as the 'Personal Expenditure Allowance' (PEA). This is £25.65 per week. Some people may also qualify for an additional Savings Credit Disregard depending upon the level of their income and state benefits.

6.6 Where someone chooses to live in a care home with fees above the council's set fee rates they must identify a person, known as a third party, to meet the additional cost. This additional cost is often called a 'top-up'. The local authority has the right to refuse this option if the extra costs cannot be met over a sustained length of time.

6.7 The third party must confirm they are able to meet the costs of the top-up for as long as the resident remains in the care home and they will be asked to enter into a formal agreement.

6.8 People who own a property may be eligible to defer the cost of part of their care home fees costs. They will be required to agree to a legal charge against the value of their property and this is known as a Deferred Payment Agreement. There is a **setup fee for this arrangement of £561** and there are interest charges on the amount loaned to pay for care home fees. Details of this scheme can be found in the council's separate **Deferred Payment Agreement information sheet**.

7. Charging for Care Homes where support needs are assessed as temporary

7.1 The council will financially assess and charge people having a temporary stay in a care home from the start date of the service.

7.2 A temporary resident is defined as a person whose need to stay in a care home is intended to last for a limited period of time **and where there is a plan to return home**. The person's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.

7.3 Where a person's stay is intended to be permanent, but circumstances change and the stay is temporary, the council will usually review the assessment on the basis of a temporary stay but this may depend upon the length of time the person has been resident in the care home.

7.4 The financial assessment for a temporary stay in a care home accounts for income and capital in the same way as for permanent residential care with the following exceptions:

7.5 The value of the person's main or only home will be disregarded where the resident intends to return and there is a plan to return home.

7.6 The value of the following will be disregarded:

- All Disability Living Allowance or Attendance Allowance or Personal Independence Payments will be disregarded
- Where Severe Disability Premium or Enhanced Disability Premium are in payment, these will be included in the assessment.
- Liabilities for rent, mortgage interest and water rates are taken into account subject to verification

8. Financial re-assessment reviews for all Services

Reviews will be conducted in the following circumstances:

- a) Where someone receives a new or backdated state benefit, such as Attendance Allowance, Severe Disability Premium etc. Note that charges will be backdated to the date of the DWP award for the additional benefit. (Actual payments from DWP may be later).

- b) At any time where the council discover an amendment to the financial information previously provided: e.g. financial or property Inheritance, previously undisclosed property, savings or income, including benefits (this can lead to additional charges being backdated).
- c) Where a person notifies the council that their circumstances have changed
- d) Where there is a significant change to Government regulations, state benefit entitlements or charging policy revisions
- e) Where state benefits are uprated (usually in in April of each year)
- f) Otherwise, financial reviews will take place over a period of time

9. Backdating charges

Charges will usually date from the start of the service.

Backdated charges apply where additional benefits have been successfully claimed. People will be advised of this policy in writing and will be required to pay the additional charge from the date they are found to be eligible for the benefit. This may include a period of backdated payment from the DWP.

Where people have not provided correct financial information, backdated assessments and charges will usually apply from the start of the service or from the date any additional assets were acquired. This may include gifted assets.

Sometimes, for residential care, we are unable to establish the extent of a person's income in a timely manner but as the resident is receiving full care and board, the charge will be backdated once the information is available to calculate the charge.

Where it is found, at any time, that a person still has or had, over £23,250 the full cost will be backdated to the start date of the service.

10. Notification of Charges

The outcome of the financial assessment and charge information will be confirmed in writing. This might provide a provisional charge pending the verification of income, savings, capital, expenditure, additional costs related to personal disabilities, or awaiting the outcome of state benefit claims. If all financial information is complete the notification will provide details of the final assessment.

11. Paying the contributions

11.1 Care Agencies:

Where the person has capital over £23,250 and is therefore assessed to pay the full cost for care services, **they will pay the agency direct**, upon receipt of an invoice from the care agency or by standing order or other method agreed with the agency. If the service user fails to pay the provider, further action may be taken.

Where the home care service is provided by an independent agency and the person does not have to pay the full cost but has been assessed to pay a contribution, **the council** will usually invoice the service user, monthly in arrears.

11.2 Care Homes:

Where a person is resident in a care home, they will be asked to agree to make payment of their contribution directly to the care home

11.3 Council Services:

Where the service is provided directly by the Council the service user will receive an invoice, monthly in arrears, from the Council's Central Collections Team.

11.4 Direct Payments for care services

Where the service user receives Direct Payments in order to purchase their own care services, they will be required to pay their contribution into their Direct Payments account. The preferred method is for the service user to set up a standing order from their personal bank account into the Direct Payments account. Where a contribution has been assessed, the service user must pay this into the account first, to cover the first part of the care costs, and the council will pay the remainder of the agreed eligible care costs into the account on a 4 weekly basis. Failure to pay the contribution into the account may lead to further legal action.

12. Recovery of Debt

12.1 Where a person fails to pay the amount they have been assessed to pay for their care and support, the Care Act 2014 provides the council with powers to recover money owed

12.2 Action for recovery of debt extends to the service user and their representative, where they have misrepresented or have failed to disclose (whether fraudulently or otherwise), information relevant to the financial assessment

12.2 The council will only proceed with Court action where alternatives have been exhausted. Any proceedings will usually go through the County Court. The council will deal with each case of debt on an individual basis and all circumstances will be carefully considered.

13. Appeals and Complaints

Service users have the right to ask the Council for a review of the assessed charge if they consider it to be unreasonable.

The appeal will involve the following checks:-

That income included in the assessment is correct

That the standard disregards/allowances are correct

That all eligible additional disability costs have been included

That any further exceptional circumstance has been considered which may warrant special discretion.

The Appeal Decision is initially made by the Head of Financial Assessments to ensure consistency and equity with other service users and provides an information base of exceptional decisions. The appeal should be completed within 4 weeks of referral including written notification of the outcome. If the service user is still dissatisfied they can use the complaints procedure.

Diversity and equality

The council is committed to the broad principles of social justice and is opposed to any form of discrimination. It embraces best practice in order to secure equality of both treatment and outcome. The council is committed to ensuring that no one is treated in any way less favourably on the grounds of personal differences such as age, race, ethnicity, mobility of lifestyle, religion, marital status, gender, sexual orientation, physical or mental impairment, caring responsibilities and political or personal beliefs.

BRIGHTON AND HOVE CITY COUNCIL CHARGING POLICY

APPENDIX A - Disability-related expenditure (DRE)

The Care Act Guidance states: “Where disability-related benefits are taken into account, the local authority should make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the local authority”

The Statutory Regulations refer as follows:

SCHEDULE 1 Regulation 15

Sums to be disregarded in the calculation of income

4.—(1) Where a local authority takes into account in the calculation of income any disability benefits the adult receives, any disability-related expenditure incurred by the adult.

(2) In this paragraph—

“disability benefits” means any attendance allowance (other than severe disablement occupational allowance), disability living allowance or personal independence payment;

“disability-related expenditure” includes payment for any community alarm system, costs of any privately arranged care services required including respite care, and the costs of any specialist items needed to meet the adult’s disability.

Care Act Guidance: Disability-related expenditure (DRE)

40) In assessing disability-related expenditure, local authorities should include the following. However, it should also be noted that this list is not intended to be exhaustive and any reasonable additional costs directly related to a person’s disability should be included:

(a) payment for any community alarm system

(b) costs of any privately arranged care services required, including respite care

(c) costs of any specialist items needed to meet the person’s disability needs, for example:

(i) Day or night care which is not being arranged by the local authority

(ii) specialist washing powders or laundry

- (iii) additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt)*
- (iv) special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability*
- (v) additional costs of bedding, for example, because of incontinence*
- (vi) any heating costs, or metered costs of water, above the average levels for the area and housing type*
- (vii) occasioned by age, medical condition or disability*
- (viii) reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services*
- (ix) purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability; reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the local council*
- (x) personal assistance costs, including any household or other necessary costs arising for the person*
- (xi) internet access for example for blind and partially sighted people*
- (xii) other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example, council-provided transport to day centres is available, but has not been used*
- (xiii) in other cases, it may be reasonable for a council not to allow for items where a reasonable alternative is available at lesser cost. For example, a council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS.*

Brighton and Hove City Council Policy

The maximum DRE allowance will be limited to the total of disability benefits as required in the Care Act Regulations.

It should be noted that financial assessments include an allowance for everyday living costs which is higher than standard means tested benefit payments where no disability benefits are in payment. This general living costs allowance is known as the Minimum Income Guarantee (MIG) and is explained at 5.1 of the BHCC Charging Policy.*

***5.1 General Living Allowance – known as MIG (Minimum Income Guarantee)**

Local authorities must ensure that a person's income is not reduced below a specified level, after charges have been deducted. The minimum allowance rates are set out in the Care and Support (Charging and Assessment of Resources) Regulations and are reviewed by the Department of Health every April. This allowance is for people who live in their own home and is intended to cover general living expenses including food, utilities, fuel, transport, leisure, insurances, pets and other miscellaneous living costs and includes any debts relating to these expenses.

In this policy the assessment for single people or people in a couple with no dependent children will have the following weekly allowance irrespective of the age of the service user.

£195 per week for single people
£149 per week for one person in a couple

The DRE allowances shown below may be agreed but this is not an exhaustive list of disability-related costs. It is reasonable to expect that most people would not qualify for the full range of allowances. The council would not expect to allow costs that could be obtained free of charge or should otherwise be met by other agencies, such as the NHS. This includes therapies, such as physiotherapy, and applies to chiropody and continence pads.

Some allowances have maximum amounts but these can be reconsidered where there is evidence of actual expenditure, such as receipts and bank statements. These may be requested at the Council's discretion to verify that items claimed have actually been purchased, particularly for unusual items or heavy expenditure. Eligible allowances should be based on actual past expenditure. Spending not yet incurred is not allowed as it is not practicable for assessments to take account of expenditure people might incur if they had more income. Where receipts have not been kept, the council may request they are kept for future expenditure allowances.

To qualify for the additional allowance the expenditure claimed must be directly related to the person's disability or medical condition and must be over and above the amount a non-disabled person might incur in everyday general living costs.

For example, some people may have a disability which means they are not able to manage the essential cleaning tasks in their home. Where they live alone or nobody else in the household is able to do this, they may pay someone else to do this for them. BHCC has a guideline maximum allowance of £13 per week which is based on an hour per week but this may be subject to proof of payment and essential cleaning needs and can be higher in exceptional circumstances.

Where a person is paying someone for their personal care service we will check the expenditure and the care plan to see whether this is considered eligible and necessary and is funded privately instead of needing council funding. An allowance will be given where eligible.

It may be possible to provide a small allowance for any additional costs of a specific diet as prescribed by a GP due to illness or disability. We have a maximum allowance of £6 per week. This is because different diets are not likely to cost more than the "average cost" of a diet which has already been allowed for in the MIG allowance. Extra costs must be "reasonable" and as a result of disability / medical issues rather than choice.

An allowance may be given for essential garden maintenance, for example, grass cutting in the growing months once per month – we have a guideline maximum weekly allowance of £13 which is based upon an average of £56 per month. This is subject to proof of expenditure and applies where people have a disability such that they are not able to manage essential garden maintenance themselves and where they live alone or nobody else in the household is able to do this.

An additional allowance may be given for transport costs necessitated by illness or disability, including costs of transport to day centres, over and above any benefits received for mobility component of DLA or PIP. In some cases, it may be reasonable for a council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, for example is available, but has not been used. We have a guideline maximum allowance of £13 per week which is considered to be an amount extra to average general transport costs which are already included in the General Living Costs allowance (MIG). No allowance will apply

where a person is able to use public transport and has a free bus pass. Free taxi vouchers may be a suitable alternative.

DISABILITY RELATED EXPENDITURE ALLOWANCES 2022-23

An additional fuel allowance will apply where costs exceed average usage as set out in the table below. If you pay a set amount each month based on estimated usage we will need a copy of the statement you receive detailing your actual usage during the year. Amounts paid will be compared to the national average for a similar household size and type. Any additional allowance will be the difference between the average cost and the amount you pay. The average cost is already included in the MIG allowance of £195 per week.

The figures are obtained from www.statistics.gov.uk from the download "consumer price inflation detailed reference tables" and are found in Table 41 detailed reference tables - % change over 12 months.	Standard Inc. South
Single person - Flat/Terrace	£1,438
Couple – Flat/Terrace	£1,897
Single person – Semi Detached	£1,527
Couples – Semi Detached	£2,016
Single – Detached	£1,858
Couples – Detached	£2,450

Notes - consideration will be made where additional household members incur additional fuel costs.

Winter Fuel payments are disregarded

The guideline maximum allowances shown below can be reviewed in individual circumstances.

ITEM	AMOUNT	EVIDENCE
Community Alarm System	Actual cost to service user	Bills from provider
Domestic support services	Actual cost where this is not provided in the care provision and the amount is reasonable and necessary for hygiene purposes	Evidence of employment and correct payments to an employee under UK law. Or paid invoices from care agency. Guideline Max £13 per week.
Private care services	Actual cost where this is not provided as part of the care plan but the amount is reasonable and necessary for care and support	Evidence of employment and correct payments to an employee under UK law. Or paid invoices from care agency.
Laundry/ Specialist Powder	£4.20 per week is considered to be reasonable as additional expenditure due to disability and more than 4 loads per week	Care Plan or other source identifies continence problems.

Special Dietary needs	Discretionary as special dietary needs may not be more expensive than average weekly food costs	Medical evidence and details of special purchases. An allowance of up to £6 per week is considered reasonable
Gardening	Discretionary based on individual costs of garden maintenance	Signed receipts for at least 4 weeks using a receipt book. An allowance of up to £13 per week is considered reasonable
Wheelchair	£4.29 per week manual £10.43 per week powered	Evidence of purchase. No allowance if equipment provided free of charge
Powered bed	Actual cost divided by 500 (10 yr life) up to a maximum of £4.74 per week	Evidence of purchase
Turning bed	Actual cost divided by 500 up to a maximum of £8.30 per week	Evidence of purchase
Powered reclining chair	Actual cost divided by 500 up to a maximum of £3.76 per week	Evidence of purchase
Stair-lift	Actual cost divided by 500 up to a maximum of £6.70 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £3.29 per week	Evidence of purchase without DFG input
Prescription Charges	Cost of an annual season ticket divided by 52 or actual cost of prescriptions whichever is less	Where ineligible for free prescriptions
Transport	Discretionary based on costs that are greater than those incurred by the general public.	Evidence in Care Plan for transport needs where person cannot use public transport– max £13 per week

Note: - Mobility Allowance cannot be included in the financial assessment as an income but the statutory guidance states that transport costs should be allowed where necessitated by illness or disability, over and above the mobility component of DLA/PIP if in payment. Therefore no further transport costs are allowed if Mobility Allowance covers them.

Summary of Publications

The following publications have been referred to in the compilation of this policy

- The Care Act 2014
- The Care Act 2014 Regulations Part 1
- The Care Act 2014 Care and Support Statutory Guidance
- Mental Health Act 1983

AE: 31-3-22

Brighton & Hove City Council

Agenda Item 29

ADULT SOCIAL CARE & PUBLIC HEALTH SUB COMMITTEE

Subject:	Adult Social Care Fees Report 2023/24
Date of Meeting:	10th January 2023
Report of:	Rob Persey, Executive Director Health and Adult Social Care
Contact Officer:	Andy Witham, Judith Cooper
Email:	andy.witham@brighton-hove.gov.uk Judith.cooper@brighton-hove.gov.uk
Ward(s) affected:	All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The purpose of the Adult Social Care Fees Report 2023-24 is to recommend fee levels and uplifts to be paid to Adult Social Care providers from 10th April 2023. It attempts to balance the pressure on public finances with the need to manage and sustain the provider market to support the increasing complexity and demands for care while also complying with the duties placed on Brighton & Hove City Council ("Council") by the Care Act 2014 to meet the needs of those requiring care and support.

2. RECOMMENDATIONS

- 2.1 That the Adult Social Care & Public Health Sub Committee agrees to the recommended fee increases as outlined in Appendix 1. The underpinning background to this proposed fee change is contained in the main body of the report. The proposed fee increases are within the council funding allocated for uplifts for 2023-24.

3. CONTEXT/BACKGROUND INFORMATION

- 3.1 The pandemic has significantly increased the costs of social care. Throughout 2020-21 and 2021-22 the adult social care sector received financial support from the Department for Health and Social Care ("DHSC") to support providers during the Covid-19 pandemic. This funding was introduced to support providers with implementing infection control measures, and then extended to include support for testing costs, vaccination costs with final grants issued to support workforce

recruitment and retention. However, all these grants ended in March 2022 after being provided for nearly two years.

- 3.2 Workforce capacity pressures have been growing significantly over the last two years, notably impacting on the home care sector as many more people are choosing to have care in their own home rather than within a care home. This has been exacerbated by home care and care home staff leaving the care sector due to low salaries and burnout after the pandemic. Funding provided by the government to support recruitment and retention of care staff has had little long-term impact. It is now more difficult to recruit staff from the European Union due to post Brexit government requirements, although Social Care carers are now on the government's Shortage Occupancy List following pressure from the sector (February 2022). However, the salary requirements mean that staff need to be employed full-time to reach the minimum salary requirement – something that is rare in a sector where zero hour contracts and part-time staff are the majority.
- 3.3 Rising fuel costs have hit the Care sector significantly. In Home Care carers outside the central city area regularly use cars as many outlying parts of the city are too hilly to use bicycles and it is too slow to use buses between care calls. Alternatives to car use are being examined as part of the current recommissioning of Home Care (expected completion July 2023) but until that time it is difficult to change the existing ways of working.
- 3.4 The accommodation based care sector - Care Homes and Supported Living - have also faced rising fuel costs; central heating is commonly in use for the majority of the year in most care homes and environments where people are relatively immobile. Similarly food costs have increased substantially in 2022 and providers are seeking to pass these costs on.
- 3.5 A further ongoing cost that providers face is the Real Living Wage increasing by 10% from £9.90 to £10.90 (a contractual requirement for Home Care providers) and the National Living Wage, currently £9.50, which has been announced to increase by just under 10% to reach £10.42 in 2023.

3.6 **Care & Nursing Homes**

Due to the issues listed in 3.1-3.5 above it is increasingly difficult to place clients at the Council's set rates and as of October 2022 only 15% of council funded people are in care homes at set rates. Although the Set Rate is now £624 the average cost the Council paid for a care home placement in October 2022 was £816 for a Care Home providing physical care and £918 for a Dementia Care Home which is more than 33% above the Set Rate.

- 3.7 Rather than looking at Set Rates it is thus proposed to use the average of fee rates agreed for care and nursing home placements as the basis for fee uplifts for **Older People**, using as the averaged figures, £900 per week for a care home and £1,000 per week for a nursing home. The proposal then distinguishes between a 5% uplift for care home fees at £900 or lower and nursing home fees at £1,000 or lower and a 2% uplift for those fees above £900/£1,000.

- 3.8 However, it is proposed that all **specialist care and nursing home placements**, which are mainly for people of a working age requiring lifelong support (learning disabilities, physical disabilities, sensory impairments, Acquired Brain Injuries

(ABI) and mental health), receive a standard uplift of 5% as the higher Fees reflect the increased support that people in specialist placements require.

3.8 **Home Care and Extra Care**

The impact of the issues listed in 3.1-3.5 above is reflected in an extremely low pick up of Packages of Care by Home Care Providers including in extra care establishments. This means that there are significant delays in people receiving care; the more complex the support package required, the slower it is likely to be picked up; double-up carers and carers with the use of vehicles are in particular short supply. The council currently has around 100 people waiting to be sourced care, comprising over 1,200 hours of support.

3.9 Additionally, Home Care providers are asking to hand-back packages of care where they are saying that they have insufficient numbers of carers to provide care safely. Where carers are absent from work due to Covid or other sickness it is difficult to replace them with agency staff and care companies are having to go further afield to source alternative care often at significant cost. Three of the Council's largest providers have asked to return multiple packages of care since February 2022. This is not exclusive to Brighton and Hove but is part of a national picture and an issue that is being addressed by the ADASS South East group, Skills for Care and others. If providers cannot offer competitive rates of pay then potential staff are choosing other career options whilst longstanding career carers are also leaving for alternative work in supermarkets or the hospitality sector.

3.10 It is proposed that all providers offering the current Framework rate will receive a 6% uplift – this applies to the council's main Framework providers who are on set rates and over 50% of other packages of care which are provided by providers on the council's Dynamic Purchasing System. Those providers who bid at higher rates on the council's Dynamic Purchasing System will receive either 4% or 2%.

3.11 **Neighbouring authorities rates for Care Homes and Home Care**

The position in Brighton and Hove has been made more challenging as our neighbouring authorities East Sussex County Council (ESCC) and West Sussex County Council (WSSCC) pay a range of Set rates unlike the council.

3.11.1 The Council's set rate for Home Care is now £20.07 per hour whereas ESCC pay between £20.40 to £30.56 per hour dependent on area. A local comparison is the ESCC Saltdean rate as the area of Saltdean is divided between the Council and ESCC – the rate paid by ESCC in Saltdean is £21.80 per hour. WSSCC are paying providers a minimum rate of £23.20 (to match the United Kingdom Home Care Association's (UKHCA) published minimum cost of care for 2022/23).

3.11.2.1 The Council's Set Rate for Care Homes is now £624 per week. In East Sussex ESCC pay weekly rates currently vary from £589.75 to £738.43 (across six different care rates). In West Sussex WSSCC pay weekly rates vary from £591.26 to £840.92 (also across six different care rates). Both East and West Sussex County Councils pay higher rates for dementia care beds.

3.12 **Fair Cost of Care and strategic direction**

3.12.1 This year the Department of Health & Social Care required all local authorities to survey a range of providers covering older people's care homes and Over 18s home care to improve the understanding of the actual costs of delivering care in their local area. Brighton & Hove City Council ran a data collection exercise throughout June & July 2022 and included engagement events for Care Homes and Home Care providers operating within the City.

3.12.2 Providers were under no obligation to submit a return and the overall return level was low and therefore the use of the information is limited. However the submitted returns and calculated averages will help contribute to the information we are using in recommissioning and strategic direction. There are other factors including Council budgets, existing demand and service pressures, legislative reforms and new inspection frameworks that will also inform our approach to commissioning.

3.12.3 The Fair Cost of Care funding will be continued in 2023-24 with funding available to support older people's care homes and Over 18s home care as before. Proposed Fees for 2023-24 have included this fund.

3.13 **Specialist Support Services**

The council commissions a range of specialist support services for clients with learning disabilities, physical disabilities, sensory impairments, Acquired Brain Injuries (ABI) and mental health issues.

3.13.1 The council has negotiated rates for **Community Support** with a range of providers. The recommendation is to increase the hourly rates by the same percentage as framework Home Care providers as Community Support providers are competing to recruit staff from the same workforce pool as Home Care carers and there is a shortage of Community Support currently. There is a report due to this sub-committee on Community Support in early 2023 which will propose the commissioning of a Dynamic Purchasing System that will address issues of varying rates and open up the market. Proposed 6%.

3.13.2 **Supported Living** rates are usually negotiated per person so there are no set rates. Due to cost pressures some providers negotiated a further in-year uplift (on top of the original 2% for 2022-23). A Dynamic Purchasing System is to be commissioned in the 2023-24 year (to commence the following year) and until this takes place an uplift that is comparable to care home and nursing home specialist placements is proposed as supported living is also an accommodation placed service: 5%.

3.13.3 **Shared Lives Services** – the basis of Shared Lives is that people live in a Shared Lives Carer's home and this is a service area that the council is trying to grow. Rates are subject to negotiation with the providers which have yet to be concluded but would not exceed 5%.

3.13.4 **Day Support Services** are all subject to negotiated rates. The majority of Day Services (over 90% of the total provision) are provided for people with learning disabilities. Due to cost pressures some providers negotiated an in-year uplift (additional to the original 2% 2022-23 uplift). Proposed: 4%

3.14 There is a project underway to look at **Direct Payments**, the issues that deter people from choosing a Direct Payment and increasing their take-up; this work will continue into 2023. It is proposed to offer a higher uplift on the hourly rates in 2023-24 to encourage people to become Personal Assistants (PAs), as a lack of PAs in the market is one of the deterrents to people taking on a Direct Payment. There is a legal obligation to pay the National Living Wage which rises to £10.42 next April 2023 but the council also encourages all people with a Direct Payment to pay the Real Living Wage which has been set for 2023 at £10.90 which also supports the need for a higher uplift. Proposed 8%.

3.15 **National picture**

In June 2022 the Local Government Association stated that Provider costs are likely to increase by at least 6.7% in 2023/24. In more recent weeks (November 2022) this figure has been projected at 9%. However, the council needs to set sustainable Fee Rates within budget and significant efforts have been made to create a nuanced yet robust approach for the setting of Fees for the 2023-24 financial year.

3.16 By setting healthy fees the council reduces the risk of destabilising the local market and care staff exiting the workforce.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 Given the pressure on the care system and most specifically the difficulties to recruit and retain the care workforce which is one of the lowest paid in the economy there is no other option than to provide fee uplifts. Despite in-year increases to Home Care providers they are handing back Packages of Care and discussing exiting the Brighton and Hove market while Care Homes are rarely accepting clients on Set Rates.

5 COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The Council and the NHS Brighton and Hove (partners to the care home and home care contracts) are committed to co-production. Regular Care Home Forums and Home Care Stand-up meetings are held where provider organisations can raise issues which includes fee rates.

5.2 The annual Social Care and Support Services survey for clients is resuming this year and the responses from it are always considered by the Council's ASC Commissioning & Contracts Team.

5.3 Engagement has taken place with stakeholders, clients and carers regarding the re-commissioning of the Home Care and Care Home contracts. This will also support the 'Market Sustainability and Fair Cost of Care Fund' work.

6. CONCLUSION

6.1 Despite the considerable financial pressures on the Council and the support measures put in place to assist the provider market during the last three years, the Council recognises the ongoing rising costs and pressures that providers continue to experience. With this in mind the increases are proposed as set out below to be applied from 10 April 2023.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The Council provides in the region of 3,500 packages of care with external providers for different types of care at a gross cost of £115m across all primary support groups i.e. Physical Support, Sensory Support, Memory & Cognition Support, Mental Health Support and Learning Disabilities.
- 7.2 The proposed increase in rates is set out in the main body of the report and summarised in Appendix 1. These changes will result in an increased Community Care spend of approximately £4.8m, prior to any additional negotiated increases following review of individual placements. The current 2023/24 budget inflation and identified corporate service pressure funding will accommodate the proposed fee increases.

Finance Officer Consulted: Sophie Warburton Date: 15/12/2022

Legal Implications

- 7.3 It is a function of the Adult Social Care and Public Health Sub-Committee to make Council decisions about Adult Social Care in Brighton and Hove. The Council has statutory duties under the Care Act 2014 to ensure that there is sufficient provision of a diverse range of services to meet people's social care and support needs and ensure there is a varied, viable and sustainable market of social care providers able to deliver the required services both now and in the future.

Lawyer Consulted: Sandra O'Brien 13/12/22

Equalities Implications:

- 7.4 This funding will have an impact in ensuring that some of the most vulnerable members of our community in Brighton and Hove receive good quality, effective care and support services and will contribute to reducing health inequalities. An uplift in fees will also provide support for an increasingly fragile market (both locally and nationally) and demonstrates a commitment to provide support for both service users and some of the lowest paid members of the local workforce.
- 7.5 Equalities Impact Assessments are currently being conducted as part of the recommissioning process for both the Care Home and the Home Care contracts and will take place for any other re-commissioning.

Sustainability Implications:

- 7.6 There are no specific sustainability implications for this report; it does not include changes to services or recommissioning. However, it is of note that the DHSC Covid-19 funding was available to providers to use to purchase bicycles for staff to use to get to/from work or to visit clients
- 7.7 Sustainability implications are part of the recommissioning process currently underway for both care homes and home care.

Brexit Implications:

- 7.8 Recruitment has become more challenging as a result of Brexit and the government's requirements regarding entry to the UK to work which are restrictive in terms of cost to providers and that many carers would not satisfy the Skilled Visa requirements. In February 2022 the government placed Carers on the Shortage Occupation List but carers will need to earn £10.50 per hour and work a 48 hour week to satisfy the salary requirements.

Any Other Significant Implications: None

Crime & Disorder Implications:

- 7.9 There are no Crime & Disorder implications.

Risk and Opportunity Management Implications:

- 7.10 If the Adult Social Care & Public Health Sub Committee failed to agree the Fees Report 2023-24 there is a significant risk that providers would refuse to accept new clients or serve notice on existing ones. This risk is still in place (but at a lower level) by proposing the uplifts listed in Appendix 1.

SUPPORTING DOCUMENTATION

Appendix 1 – Fee Rates Table

Service	Current fee 2022-23	New fee 2023-24	% uplift
Care Homes and Care Homes with Nursing			
In city care homes – set fees per week	£624	£655	5%
In city care homes	Fees between £625- £900 per week	Variable	5%
In city care homes – over 65s physical and memory	Fees over £900	Variable	2%
In city care homes with nursing – over 65s physical and memory	Fees under £1,000 (excludes FNC at £209.19)	Variable	5%
In city care homes with nursing - nursing – over 65s physical and memory	Fees over £1,000 (excludes FNC at £209.19)	Variable	2%
In city care homes & care homes with nursing – specialist placements (learning disabilities, ABI, sensory, functional mental health) individually negotiated	Variable rates	Variable	5%
Out of City Care Home and Care Home with Nursing Placements			
Out of city care homes on set rates	Host Authority Rates	Host Authority Rates (<i>new placements only</i>)	Variable
Out of city care homes with nursing on set rates	Host Authority Rates	Host Authority Rates (<i>new placements only</i>)	Variable

Service	Current fee 2022-23	New fee 2023-24	% uplift
Out of city care homes – over 65s physical and memory	Fees up to £900	Variable rates	5%
Out of city care homes – over 65s physical and memory	Fees over £900	Variable rates	2%
Out of city care homes with nursing – over 65s physical and memory	Fees up to £1,000	Variable rates	5%
Out of city care homes with nursing – over 65s physical and memory	Fees over £1,000	Variable rates	2%
Out of city care homes and care homes with nursing – specialist placements (learning disabilities, Acquired Brain Injury, sensory, functional mental health) individually negotiated.	Variable Rates	Variable rates	5%
Supported Living & Community Support: Learning & Physical Disabilities, functional mental health			
Supported Living for people with learning disabilities, Physical and/or Sensory Disabilities and Acquired Brain Injury	Variable rates	Variable rates	5%
Community support for people with learning disabilities, Physical and/or Sensory Disabilities and Acquired Brain Injury or functional mental health issues (excluding block contract agreements)	Variable rates	Variable rates	6%
Home Care			
Home care main area/back up provider - core fee	£20.07	£21.27	6%
Home care main area/back up provider – enhanced fee	£22.31	Uplift to be confirmed by NHS	
Extra Care services	Variable rates	Variable rates	6%
Dynamic Purchasing System Approved Provider Packages	£20.07 or lower	£21.27	6% or to reach set rate £21.27
Dynamic Purchasing System Approved Provider Packages	£20.08 to £22.50	Variable rates	4%
Dynamic Purchasing System Approved Provider Packages	Above £22.50	Variable rates	2%
Live-in Care	Variable rates (DPS commissioned)	Variable rates	Variable
Direct Payments			
Direct Payments Monday to Friday hourly rate for those employing Personal Assistants	£11.55 to £11.60	£12.50	8% (rounded)
Direct Payments Weekend hourly rate for those employing Personal Assistants	£12.60	£13.60	8%
Other Direct Payment agreements	Variable (above set rates)	Variable rates	Variable
Shared Lives			
Shared Lives Management Fee	Variable rates	Variable rates	Variable
Shared Lives fee to carers	Variable rates	Variable rates	Variable
Day Support			
Day support for people with Learning Disabilities	Variable rates	Variable rates	4%

Service	Current fee 2022-23	New fee 2023-24	% uplift
Day support for people with Acquired Brain Injury	Variable rates	Variable rates	4%
Day support for Older People	£33.70	£34.70	4% (rounded)

Brighton & Hove City Council

Adult Social Care and Public Health Sub- Committee

Agenda Item 30

Subject: Re-commissioning Home Care and Extra Care

Date of meeting: 10th January 2023

Report of: Rob Persey, Executive Director of Health
& Adult Social Care

Contact Officers: Name: Mandy Offield
Email: mandy.offield@brighton-hove.gov.uk

Name: Claire Rowland
Email: claire.rowland@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The report sets out the proposed approach to the recommissioning of both Home Care and Extra Care and seeks Member agreement to proceed with a tender process.

2. Recommendations

That the Sub-Committee:

- 2.1 delegates authority to the Executive Director of Health & Adult Social Care to procure contracts for both Home Care and Extra Care as proposed in this report; and
- 2.2 delegates authority to the Executive Director of Health & Adult Social Care to award the contracts to the successful bidders for an initial term of five years with the option to extend the contracts for a further period of up to three years subject to satisfactory delivery and performance; and
- 2.3 delegates authority to the Executive Director of Health & Adult Social Care to contract manage the above commissions, including administering future permissible variations or awards to meet any changing need during the lifespan of the contract.

3. Context and background information

Background context:

- 3.1 Home Care, or Domiciliary Care, is the provision of services that support individuals in their own home, and which is delivered by third-party contractors in Brighton & Hove.
- 3.2 Tasks delivered by these contractors are tailored to meet the needs of individuals and range from giving medication, to personal care support with activities such as bathing or dressing. It is a critical component of social care delivery.
- 3.3 Extra Care is the provision of self-contained accommodation with an element of on-site care provision. This service type caters for those individuals whose care needs are best met in conjunction with their housing needs, and whose needs do not meet the threshold for traditional residential care settings. In Brighton & Hove, the care offered in Extra Care settings is delivered via third party providers across four schemes, three of which are subject to this recommission.
- 3.4 The current BHCC contracts for Home Care and Extra Care were let in 2016 and have been extended until 2nd July 2023. There is a further potential extension available to 4th September 2023.
- 3.5 BHCC Home Care demand has decreased by 2% from September 2016 to November 2022 in terms of number of Home Care hours being purchased. For the number of clients being supported, this has reduced by 5%. These figures refer to existing packages of care and do not reflect the unmet need in the system.
- 3.6 BHCC Home Care services will continue to support hospital discharge flow and closer working with health partners.
- 3.7 Engagement with relevant partners which has informed the design of the contractual specification is outlined in section 5 below.
- 3.8 The east of the city has proven to be the most difficult to service. This is due in part to limited recruitment of staff in that area and it is compounded by travel difficulties due to limited bus services to the outskirts. By increasing the geographical areas to combine with more central areas it is hoped that staff will be redirected to support the east of the city also. Providers will be asked to consider their green travel plans for their workforce as part of the tender process.

Recruitment and Retention:

- 3.9 The current model of paying for minutes of care does not support the much-needed recruitment and retention of Home Care workers in the city. Presently, staff are paid only for the minutes of care that are actually provided. These call durations are variable in nature and subject to change at short notice meaning that a care call may be shorter than that which is rostered. This means that staff are not guaranteed pay or set working hours in relation to the care calls they deliver. To address this, the recommission seeks to pay on bands of rostered hours which will mean that Home Care staff will receive pay for the full call time, as it is planned and resourced. The hourly rate for home care includes payment for travel time.

Current contracting arrangements:

- 3.10 The current contracting arrangements are delivered in three parts as set out below:

a) Approved area providers

Brighton & Hove is split into 10 geographic areas across the city and for each of these there is a single provider designated as a lead, and a further provider designated as back-up. Care offered under this contract is delivered at a fixed hourly rate, pays by the minute and includes Continuing Health Care packages.

b) Individual site contracts for Extra Care

Each Extra Care scheme has a contract with a single Home Care provider to deliver the care services as assessed in individual resident's care plans, including provision of night cover. The support services, such as buildings' maintenance, differ slightly depending on the care scheme.

c) Dynamic Purchasing System (DPS).

The council also operates a Dynamic Purchasing System (DPS) which operates as a back-up list and allows providers to bid for the work which has not been picked-up by the lead or back-up providers. The DPS allows a competitive request for tenders for each package of care, and it is open to providers to apply to join throughout the life of the contract. There is not a fixed price for DPS, so hourly rates are determined by the market and is sometimes linked to complexity of need.

Proposed future contracting arrangements:

Home Care:

- 3.11 The Home Care service will be divided into eight contracts based on four geographical locations across the city, organised by postcode and aligning with the newly configured community assessment worker's restructured localities; East, West, Central and North. There will be two contracts for each area; a lead and a back-up contract. This is with the aim of supporting and enabling place-based partnerships and the collaborative arrangements formed by the organisations responsible for coordinating and delivering health and care services in each neighbourhood/community. This will support the NHS' Place Based Approach and complement the work being undertaken by social care colleagues regarding capacity building within the community and voluntary sector.
- 3.12 Where possible, existing contracts will be extended to ensure continuity of care for service users and the new contractors will receive new business only. Based on referral data between December 2021 and November 2022, this equates to an estimated 140 hours of new referrals per month across each of the four geographic localities, with some variation between them. The model will still require a lead and back-up provider in each area so the eight contracts will be complemented with a new Dynamic Purchasing System (DPS) option as contingency.
- 3.13 Currently, Continuing Health Care are joint partners to the Home Care contract. However, going forward, Continuing Health Care have made the decision to commission and source their own care by having a unified pan-Sussex approach as opposed local variances across East and West Sussex and Brighton & Hove.
- 3.14 Providers of all other service types collect service user contributions from the client directly whereas Home Care is an outlier in this respect (since last commission of 2016 only). This recommission will see this task reverting to providers. The provider has the closest relationship with the service user and is more able to quickly make adjustments to care, and therefore charging, in terms of both unplanned and planned events, such as hospital admission or holidays. (The current contractual arrangements can sometimes result in protracted processes for Officers, primarily because council staff are not privy to all the relevant information between client and provider whereas providers have all the details of the care delivered to help resolve issues should disputes arise.)

- 3.15 Except in special circumstances, 15-minute care calls will no longer be commissioned as doing so is seen as poor practice due to the transactional focus and lack of person-centred approach these care calls have. Individuals who currently receive 15-minute calls will be reassessed as part of a person's planned review and these calls will be replaced with 30-minute minimum calls as appropriate.
- 3.16 Based on timesheets submitted at the end of September 2021, the removal of 15-minute call bandings to ensure a minimum call payment of 30 minutes would mean an annual increase of up to £630k, depending on the outcome of individuals' reviews, and therefore an additional budgetary pressure. (The data showed for one week that there were 3,620 care calls across 471 clients which were less than 30 minutes. The cost of these calls was £21,069 per week and if all calls had been paid at a 30-minute rate, the cost would have been £33,155 an additional £12k per week or £630k per annum).
- 3.17 The recommissioned model of Home Care will focus on a strengths-based approach to care delivery and not on traditional time and task duties, in line with Care Act guidance. The Care Act 2014 requires local authorities to 'consider the person's own strengths and capabilities, and what support might be available from their wider support network or within the community to help' in considering 'what else other than the provision of care and support might assist the person in meeting the outcomes they want to achieve'. To do this the assessor 'should lead to an approach that looks at a person's life holistically, considering their needs in the context of their skills, ambitions, and priorities'.
- 3.18 The proposed new model for Home Care has been met favourably by providers particularly in terms of the following:
- payment on provider's planned/rostered care delivery
 - end of minute-by-minute payment
 - less focus on time and task care planning and a move toward strength-based and enabling approaches to care delivery
 - removal of 15-minute calls (through the general review process) except in special circumstances
 - incumbent providers retaining current packages of care
 - changes to the referral process via the Brokerage team
 - review of KPIs
 - move toward trusted assessment model

Extra Care:

- 3.19 There are 3 Extra Care establishments in the city for which on-site Home Care services will be recommissioned. They are:
- New Larchwood which has 38 flats
 - Brooke Mead which has 46 flats
 - Patching Lodge which has 76 flats

- 3.20 Whilst the establishments are run by housing providers, the on-site Extra Care services are commissioned by the council. The care provider delivers the care and support needed to meet the needs of the individuals who live in the establishments in accordance with their care plans.
- 3.21 The same principles will apply as with the main Home Care commission, such as the removal of time and task care planning, which will bring more flexibility to how staff are deployed throughout the establishments over a 24hr period.
- 3.22 Staff working in Extra Care environments need to be responsive and flexible in meeting an individual's fluctuating and/or complex needs. Each Extra Care establishment must have a focus on links to the local community, with on-site activities offered through partnership working with 3rd sector agencies to support preventative work through strengths-based approaches and adding social value with its work with the wider community.
- 3.23 However, the present model lacks the ability to react effectively to unscheduled calls and/or meeting complex needs. This is due to the rigidity of the current contractual arrangements in terms of how staff are organised over the course of a day. This issue will be addressed through this recommissioning by paying for floating care staff hours to be used on site during core hours. These floating hours will be used flexibly to respond to unscheduled needs, increased social value activities and to enable the provider to be proactive in considering recruitment and retention approaches. This approach ensures that there is always an active staff presence on site. This will mean that staff can work flexibly to deliver the support as required whilst ensuring responsive care delivery. This will be funded through block contract arrangements akin to the current night block contract which will be a cost to the Council's general fund budget and will be part-funded by client contributions (means tested). The hours available will be determined by the number of flats in each scheme.

Payment and billing terms in relation to Home Care and Extra Care:

- 3.24 Terminology
- **Actual** hours/minutes: those hours/minutes 'actually' worked; (i.e. those that the provider delivered to the client, as per current contractual arrangements)
 - **Rostered** hour/minutes: hours/minutes planned for care delivery; (i.e. as the provider has resourced/scheduled to be delivered)
 - **Commissioned** hours/minutes: hours/minutes assessed by BHCC staff as needed. (i.e. as captured on Carefirst service agreement)
- 3.25 Whilst being mindful of the current financial position the council finds itself in regards budgetary pressures, it is widely accepted that there must be a move away from minute-by-minute payments based on 'actual' care delivery, which has taken considerable toll in regards provider/council relationships and has compounded issues with workforce recruitment and retention, resulting in increased hand-backs and poor pick up.

- 3.26 The proposal is to pay on rostered hours from the start of the new contract; paying the hours as planned and resourced by providers at the start of each week. This will increase spend by £1.6m per annum.
- 3.27 The increased £1.6m per annum cost to the delivery of the service has been factored into budget setting. Increased costs will be mitigated through robust performance monitoring and dedicated contract management combined with proactive working arrangements between providers, assessment, and commissioning colleagues to right-size packages of care.
- 3.28 Work is ongoing with relevant colleagues to develop procedures that are both attractive to providers and their workforce, and to the council in terms of assurances. This includes resourcing and shoring up contract management processes involving Home Care and reviewing the application of tolerance levels to expenditure. It also includes internal process reviews with the aim of streamlining referral and variation routes, identifying opportunities for targeted work with assessment colleagues to right-size packages of care, and benchmarking data i.e. rostered calls vs commissioned calls vs actual calls to support discussions with providers regarding care delivery in accordance with the specification.

Workforce:

- 3.29 There is ample evidence to demonstrate that staff recruitment and retention are critical issues for Home Care agencies and the care market more generally. To support this issue, payment on provider's rostered care will support the workforce. The contract will outline requirements that home carers must be paid as they are rostered – per shift as planned as opposed per minute per call which is subject to constant change - and that they must receive at least the real Living Wage as supported by the Brighton & Hove Living Wage Campaign. Options for carer recruitment and career progression will also be explored with providers as part of new contracts as well as discussing any potential avenues with Health colleagues.

4. Analysis and consideration of alternative options

4.1 Recommended Option: Procurement under the Light Touch Regime (as recommended and agreed by Procurement Advisory Board).

The services required are subject to the Light Touch Regime of the Public Contract Regulations 2015. As a result, contracting authorities have the discretion to design their own procurement processes as long as they follow the principles of transparency and equal treatment. The procurement will comply with these principles.

Initial assessment of tenders would be based on selection criteria including Care Quality Commission registration, and the organisation's record of delivering Home Care.

Providers would bid to be Lead and/or Back-up Provider for the four geographical areas. Providers would also be able to tender to apply to be the contracted provider at one (or more than one) of the three Extra Care schemes in the city.

Home Care is currently delivered at a set hourly rate, proposed by Health and Adult Social Care and agreed by Members via the annual Fees Report. It is proposed that this arrangement continues for the new contract. The current Home Care framework rate is £20.07 per hour for 2022/23.

Extra Care is currently priced based on rates submitted as part of a competitive tender process and this is again proposed for the new Extra Care contracts. Bidders' pricing proposals will be evaluated based on their submitted rate for an individual daytime care hour, plus a submitted annual block rate for fixed costs (i.e. night cover, IT, premises costs etc).

Once the main contracting arrangements have been established, a complementary but distinct DPS will be required to sit alongside these arrangements. The existing DPS may continue to be used (subject to further consideration of the legal position), but with a revised service specification to ensure Home Care is delivered to the same standard across the city but at a variable rate.

Other Options:

4.2 Collaboration with another local authority

Due to the requirement to deliver the service within service users' homes, providers are required to have local care staff and operational bases within a distance that allows them to support these staff. Each local authority has their own specific challenges, approach, and provider market in relation to Home Care. As a result, contractual collaboration has been discounted as an option. However, extensive engagement, discussion and information sharing has taken place with a number of local authorities, and this has helped inform the proposed model.

4.3 Continuation of existing arrangements

The existing contracts are due to expire and there is limited extension provision remaining. As noted in this report, a number of improvements are required which the new contract seeks to address.

4.4 Delivery of the services in-house

The council currently operates a small in-house Home Care operation in the form of Independence at Home. This service has a reablement focus and supports individuals with their discharge from hospital back to their own home. The service is also tasked with piloting a community-based reablement offer to prevent hospital admission and to help maximise a person's independence. The service can sometimes pick up traditional Home Care although this is not its primary purpose.

Due to the scale of the Home Care requirement across the city, the council is not resourced to expand this operation and provide the required staffing, training, legislative arrangements, logistics management and transport, or budget. This is therefore not an option.

5. Community engagement and consultation

- 5.1 Commissioners from Health & Adult Social Care - alongside legal, finance and procurement colleagues as well as representatives from health - formed a Board to oversee the recommissioning. The Board serves to provide governance in respect of the contracting terms and the resultant specification and operational model. The Board has sight of, and is mindful of, the Equalities Impact Assessment (EIA) and the engagement work.
- 5.2 A report was submitted to the Procurement Advisory Board (PAB) on 21 November 2022 and the Board recommended that the council proceed to reprocure Home Care and Extra Care for an initial term of five years with the option to extend for a further period of up to three years, subject to satisfactory performance.
- 5.3 The views of service users have been considered through a variety of means; through feedback received via carers and representatives and through assessment of the NHS Digital Survey results (which include specific social care questions) in relation to Home Care. The overriding picture is that people want carer continuity, good communication and timeliness of care delivery. Additional feedback is being/has been compiled via the commissioned Healthwatch service 'Home Care Check' (formerly known as Lay Assessors) and targeted engagement with relevant groups identified through the Equalities Impact Assessment and thus far conducted by Switchboard in respect of LGBTQI+ and The Trust For Developing Communities in respect of race/ethnicity.
- 5.4 Providers, both incumbent and potential, were invited to engagement sessions held in Summer 2022 whereby the proposed model and process changes were discussed and were well received, particularly regarding the changes to payment arrangements and the subsequent impact this will have on the recruitment and retention of care staff.
- 5.5 Home Care and Extra Care providers can currently attend three-weekly 'stand up' meetings with Officers; it is usually a meeting to discuss operational issues and service updates, but it is also a space to discuss the recommissioning proposals when relevant. Home Care providers and Extra Care providers also have triannual fora which will recommence in the new year. Several providers have taken opportunities to meet with Officers separately to discuss proposals.
- 5.6 BHCC's social care assessment staff are represented at Board level and are keen to progress with the recommissioning proposals. Assessment Staff more broadly have been engaged via survey to gauge their views and further work is planned in the new year to support staff with process and practice changes.

- 5.7 Regular engagement with health colleagues has occurred throughout all stages of the recommission and has included particular focus on Continuing Health Care, PCT presentation and hospital discharge processes. Work with relevant partners will continue to address system-wide matters in relation to care delivery.

6. Conclusion

- 6.1 The current contracting arrangements for Home Care and Extra Care are outdated and no longer deliver a robust care and support offer for the city.
- 6.2 The model of the recommission is strengths-based and is in line with social care strategy and best practice; proposals have been welcome from all stakeholders.
- 6.3 The new commission will draw on improved partnership working between the successful bidders, assessment colleagues and commissioning representatives.
- 6.4 The recommission will benefit those people using the services through having a focussed place-based approach to care delivery and a renewed emphasis on enabling approaches to delivering care. Extra Care establishments will restore focus on social value both within their premises and with their interactions with, and their offers to, the residents in the wider community. Care staff will be paid as they are rostered and will receive the living wage as minimum, making recruitment more attractive and thereby improving retention. Additionally, providers can anticipate and plan for the volume of work and therefore flex their capacity to meet variances in demand and/or need. Providers will still be able to access BHCC's training programme to up-skill their workforce as required.
- 6.5 Contract management will be a key feature of the commission especially in terms of supporting individuals to receive the right care at the right time with an increased focus on provider performance and adherence to the contractual requirements.

7. Financial implications

- 7.1 The current gross costs of the home care framework contract is approximately £11m per annum. The projected additional annual cost following the introduction of the new contract is £1.6m per annum (a 15% increase to the current contract value). This reflects the additional costs of paying providers based on rostered hours rather than actual hours delivered.
- 7.2 This additional cost has been included as part of the investment and service pressures funding proposal within the medium-term financial plan. The proposals are subject to agreement by Budget Council in February 2023 as part of the annual budget setting process.
- 7.3 For Extra Care housing, the current gross costs are £1.4m per annum and the projected additional annual cost of the new contract is £0.1m. This will be a pressure to the budget but is expected to be partly mitigated from a spend to save review.

- 7.4 Any further increase in the hourly rate, for both Home Care and Extra Care, as a result of the new contract will be an additional pressure to those outlined above.

Name of finance officer consulted: Sophie Warburton
Date consulted: 08/12/2022

8. Legal implications

- 8.1 The proposed contracts and Dynamic Purchasing System will need to be procured in accordance with the Public Contracts Regulations 2015 and the Council's Contract Standing Orders (CSOs).

Name of lawyer consulted: Alice Rowland
Date consulted: 21/12/22

9. Equalities implications

- 9.1 Officers have discussed the recommission with the council's Equality leads and an Equalities Impact Assessment has been compiled to support the recommission. As with best practice, an action plan has subsequently followed.
- 9.2 The action plan is a live document, and it will determine any necessary activity to ensure that those with protected characteristics are in receipt of inclusive and affirmative services. Providers will be monitored on specific equality issues as per BHCC Quality Monitoring Standards, and as needed outside of this process.

10. Sustainability implications

- 10.1 Officers have discussed the recommission with the council's Sustainability lead and as part of the tender, bidders will be assessed and scored on their proposals regarding transport, including Active Travel and their approach to managing and minimising waste, including PPE. Bidders will also be asked for their Carbon Reduction Plan.

11. Other Implications

Social Value and procurement implications

- 11.1 Officers have discussed the project with the council's Social Value lead. As part of the tender, bidders will be assessed and scored on their proposals regarding adding social value as part of their service delivery.
- 11.2 Areas of social value that bidders may propose could include linking with voluntary sector organisations and the provision and/or signposting of information and advice. Digital inclusion and innovation and the creation of place-based support hubs could also be considered.

- 11.3 A key social value factor for this procurement is the employment and conditions of care staff, the vast majority of whom will be Brighton & Hove residents. Bidders will be assessed in this area as part of a separate quality question.
- 11.4 Securing additional social value is a particularly strong focus for the Extra Care Lot of the procurement. Bidders will be asked to detail their proposals for increasing activities and community engagement within the schemes, outside of the core requirement of delivering care. Both Patching Lodge and New Larchwood have a restaurant and activities; they are busy sites and are also open to the wider community to access.

12 Crime & disorder implications:

- 12.1 There have been no crime and disorder implications identified.

13 Public health implications:

- 13.1 Engagement with relevant Public Health colleagues has taken place to help inform the direction of travel for both Home Care and Extra Care in terms of preventive approaches to contractual delivery.
- 13.2 There are plans to work with Public Health colleagues throughout the life of the contract in terms of sharing information regarding best practice and relevant updates from Public Health England to maintain consistent standards across settings.