

Adult Social Care & Public Health Sub-Committee

Date: **17 January 2024**

Time: **4.00pm**

Venue **Hove Town Hall - Council Chamber**

Members: **Councillors:** Burden (Chair), Galvin, Miller, West and Winder

Contact: **Giles Rossington**
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AGENDA

26 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.

27 MINUTES

7 - 14

To consider the minutes of the meeting held on 12 September 2023 (copy attached)

28 CHAIR'S COMMUNICATIONS

29 CALL-OVER

- (a) Items 33 - 37 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.

30 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 by the due date of 03 January 2024;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on 11 January 2024;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on 11 January 2024.

31 ITEMS REFERRED FROM COUNCIL

To consider the following item(s) referred from the Council meeting held on 14 December 2023.

32 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

33 RE-COMMISSIONING OF HEALTHWATCH SERVICES

15 - 20

Report of the Executive Director, Housing, Communities & Neighbourhoods (copy attached)

Contact Officer: John Reading

34 CARE HOMES SPOT PURCHASE RECOMMISSION

21 - 28

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

Contact Officer: Edward Barfoot

Ward Affected: All Wards

35 ANNUAL ADULT SOCIAL CARE FEES REPORT 2024-25

29 - 38

Report of the Executive Director, Health & Adult Social Care (copy

attached)

Contact Officer: Judith Cooper

Tel: 01273 296313

Ward Affected: All Wards

36 ANNUAL REVIEW OF ADULT SOCIAL CARE CHARGING POLICY 2024-25 39 - 64

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

Contact Officer: Angie Emerson

Tel: 01273 295666

Ward Affected: All Wards

37 BRIGHTON & HOVE CITY COUNCIL STRATEGIC RISK REGISTER: HASC RISKS 65 - 78

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

Contact Officer: Kat Brett

Ward Affected: All Wards

38 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to the [Insert Date] Council meeting 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

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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.

Brighton & Hove City Council
Adult Social Care & Public Health Sub-Committee

4.00pm 12 September 2023

Hove Town Hall - Council Chamber

Minutes

Present: Councillor Burden (Chair) Galvin, Miller, West and Winder

Part One

14 PROCEDURAL BUSINESS

14(a) Declaration of Substitutes

14.1 There were no substitutes.

14(b) Declarations of Interest

14.2 There were no declarations of interest.

14(c) Exclusion of the Press and Public

14.3 In accordance with Section 100A of the Local Government Act 1972 ("The Act"), the Sub Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the agenda on the grounds that it was 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 to them of confidential information as defined in Section 100(A) of the Act.

14.4 It was noted that the appendix to Item 24 on the agenda contained information which was exempt under Paragraph 3 of the Act. If the Sub Committee wished to discuss any information contained in the appendix they would need to do so whilst the public were excluded. Members did not raise any matters in respect of any information contained in the confidential appendix and therefore all of the business of the meeting was conducted in public session.

14.5 **RESOLVED** – That the Press and Public not be excluded from the meeting during consideration of any item of business on the agenda.

Webcasting of the Meeting

14.6 The Chair explained that the meeting was being webcast live and that it would be available for repeated subsequent viewing.

15 MINUTES

- 15.1 The minutes of the meeting held on 13 June 2023 were agreed as an accurate record of the proceedings.

16 CHAIR'S COMMUNICATIONS

- 16.1 The Chair gave the following communications:

Covid Vaccination

- 16.2 "This year's autumn flu and Covid-19 vaccine programmes are starting earlier than planned in England as a precautionary measure following the identification of a new Covid variant. This week (from 11 September), vaccinations are starting to be given to adult care home residents and those who are housebound. Vaccination teams will be in contact with settings to arrange dates if they haven't already. The timeframe for delivering the vaccinations is tight so homes should do everything they can to support the vaccination teams. From 18 September, the NHS will start to invite people in priority order of risk and those eligible will be able to book an appointment on the National Booking Service online, through the app or by calling 119. People who are immunosuppressed, adults aged 65 and over, carers, pregnant women, and health and social care staff will all be among the groups offered a Covid jab this winter. Eligible people should wait to receive an invite from their local provider and then take up the offer as soon as possible.

Ageing Well Festival

- 16.3 From 29 September, the Ageing Well Festival is back. It's offering offers a large and varied programme of events people aged 50+ in Brighton & Hove which are a chance to join in, meet new people and try something new. Running until 13 October, events include tours, cooking, creative workshops, talks, sports, exercise, advice, music, art, dancing, and much more at venues across the city. Many events are free. For full details visit the Ageing Well website or pick up a programme around the city.
- 16.4 **RESOLVED** - That the content of the Chair's Communications be received and noted.

17 CALL-OVER

- 17.1 All items appearing on the agenda were called for discussion.

18 PUBLIC INVOLVEMENT

- 18.1 There were no items of public engagement.

19 MEMBER INVOLVEMENT

- 19.1 There were no items of Member Involvement.

20 ITEMS REFERRED FROM COUNCIL

20.1 No items had referred from Council for consideration.

21 RECOMMISSIONING OF THE THE CARERS HUB FOR BRIGHTON AND HOVE

- 21.1 The Sub Committee considered report of the Executive Director of Health and Adult Social Care seeking approval for recommissioning of the Carers Hub, which would continue to be jointly funded by BHCC/NHS Sussex as a single point of contact for all family and friend unpaid carers in the city. The Carers Hub had been commissioned initially in 2017 to bring together the range of services for unpaid carers in the city and to ensure that there was a robust response for the statutory duties towards unpaid carers via a partnership of providers. Supporting unpaid carers was a priority across the statutory services with duties under the Care Act 2014, Children and Families Act 2014 and the Health and Care Act 2014 and the Health and Care Act 2022 as well as recognising the strategic importance of supporting family and family and friend unpaid carers.
- 21.2 Councillor West commended the work which had been undertaken and welcomed the report but queried the rationale for recommissioning what was clearly been established as a good service. Councillor West also expressed the view that it would be beneficial for Members to receive training in respect of contractual matters and the different approaches adopted as that would aid their understanding of the germane issues and processes involved.
- 21.3 The Executive Director, explained that due to changes in legislation there was a legal requirement to tender for a new contract. The points made regarding Members desire for training were noted.
- 21.4 Councillor Galvin enquired whether there would be multiple contracts to be let. It was clarified that there was a strong local provider who would had proven track record in delivering this service.
- 21.5 Councillor Miller enquired regarding the specific process to be undertaken in terms of cost and quality of provision and whether it could be stipulated that a local provider be appointed. It was explained that whilst this could not be required when awarding the contract factors such as experience and a proven track record would be taken into account.
- 21.6 A vote was taken and the Sub Committee voted unanimously to accept the report recommendations.
- 21.7 **RESOLVED** - (1) That the Sub Committee agrees to the re-commissioning of the Carers Hub for Brighton & Hove; and

(2) Grants delegated authority or the award of a new contract to the Executive Director, Health and Adult Social Care to procure and award a new contract to provide a Carers Hub.

22 SUPPORTED LIVING PRIOR INFORMATION NOTICE AND AWARD- OUTCOME REPORT

- 22.1 The Sub Committee considered a report of the Executive Director Health and Adult Social Care in respect of the Supported Living Prior Information Notice and Award.
- 22.2 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 coming through transition and those with complex needs. As a result of the lack of local provision many individuals with such needs were being placed outside of the city, often in placements at high cost which were an overprovision. To address this approval had been sought to issue Prior Information Notices (PINs) as Calls for Competition to the market to enable delivery of the necessary services.
- 22.3 A report had been presented to the Sub Committee in November 2022,(comprised of a different membership at that time) and in consequence of an amendment made to the recommendations it had been agreed that a report be placed before the Procurement Advisory Board (PAB) before the PIN was issued. PAB had considered that report at their meeting on 13 February 2023 at which time it had considered and overseen the content of the PIN before it was issued including the proposed award criteria in the event of multiple suitable expressions of interest.
- 22.4 At its meeting in November 2033, the Sub Committee had also requested that a report came back before it, identifying the preferred provider and seeking approval for their appointment. That report was now before the Sub Committee for its approval and details of the tender process were detailed in the report as was an analysis and consideration of any alternative options and the community engagement and consultation which had taken place.
- 22.5 Councillors Miller, Galvin and West stated that they had not been party to the original decision and the rationale for the decision that the report be referred back to the Sub Committee.
- 22.6 The Legal Adviser to the Sub Committee explained that it was unusual for a PIN to be referred back in this way. It was not, due however, to any concerns in respect of the process to be followed. The Council was required to comply with the Public Contracts Regulations 2015 in relation to the procurement and award of contracts above the relevant financial threshold. It would not be compliant with the regulations to award the contract to any supplier other than the successful bidder. If the process were to be abandoned tenderers were required to be informed of that situation and that decision could be subject to legal challenge.
- 22.7 Whilst Councillors Galvin, Miller and West considered that there was nothing to suggest that there had been any irregularity in this process they did not feel that they had sufficient information/knowledge in order to determine the matter.

- 22.8 Councillors Burden and Winder were content that the information provided in the report and at the meeting explained the position fully and therefore supported the report recommendation.
- 22.9 A vote was taken and on a vote of 2 for with 3 abstentions the report recommendation was approved.
- 22.10 **RESOLVED** - That the Sub Committee notes the outcome of the procurement and agrees that the contract will be awarded to the winning bidder.

23 YOUNG PEOPLE'S SUBSTANCE USE SUPPORT SERVICE CONTRACT

- 23.1 The Sub Committee considered a report of the Executive Director Adult Social Care and Health seeking the Sub Committees' agreement to contract the Oasis Project for the delivery of specialist substance use treatment and support for children young people and families.
- 23.2 It was noted that the funding for this work was to augment substance misuse treatment and for substance misuse treatment and support under the national Combatting Drugs Strategy. The children and young people's element of the Brighton and Hove proposal had been developed by the Council's Adolescent Service which delivered to children and young people and the Oasis Project which delivered to children, young people and parents.
- 23.3 Councillor Miller asked for further information about the project and it was explained that it delivered services across a number of areas including a therapeutic offer, some of which were funded in the city with some elements delivered via other funding streams. Councillor Miller noted that different approaches could be adopted to service delivery enquiring how the city's model compared with others and whether this impacted on crossover and transitional services.
- 23.4 The Executive Director explained that although a number of different services were involved measures were in place to ensure that all of the various elements were melded together cohesively.
- 23.5 Members voted unanimously in support of the report recommendation.
- 23.6 **RESOLVED** – That the Sub Committee agrees that the Council now enters into a formal written contract with Oasis project to deliver treatment and for substance use issues support to children, young people and families.

24 RESIDENTIAL AND NURSING CARE HOME BLOCK CONTRACTING

- 24.1 The Sub Committee considered a report of the Executive Director Health and Adult Social Care. The report explained that the Council was facing continued difficulties in securing residential nursing and complex needs care home provision at competitive and sustainable rates, the high demand for placements in the city had driven up costs. To help address this approval was being sought to block contract beds.

- 24.2 By entering into block contracts arrangements capacity could be secured at more competitive rates, whilst maintaining good quality provision. It was intended to issue Prior Information Notices (PINs) to seek expressions of interest from providers.
- 24.3 Councillor West referred to the arrangements being made (Chair's Communications) to roll out the vaccine, including care home residents who were being targeted specifically. The report sought to make additional bed spaces available, and he sought clarification regarding how this played against the current extreme funding pressures.
- 24.4 The Assistant Director explained that this process created stability as it provided an opportunity to engage with the market and helped to provide financial stability by working with the market/providers in reaching a price which they could operate at.
- 24.5 Councillor Miller sought confirmation regarding the process to be undertaken, requiring re-assurances that sufficiently robust measures were in place and that sanctions could be invoked if provision fell short of what was expected. It was explained that all providers/care homes needed to meet compliance standards.
- 24.6 Councillor West enquired regarding regulation by central government, and it was explained that precise clarification was awaited.
- 24.7 Councillor Galvin expressed concern that all staff should be paid the living wage. He was concerned that schemes could be used as a means of off-shore tax avoidance. It was explained that there would be closely scrutinised. The Executive Director explained that this was a country wide issue, most of the care homes in the city were run by local families the council worked very closely with these providers' but it was also necessary to work with the market as well.
- 24.8 Councillor Winder stressed that it was important that there was equality of provision and that there was sufficient local provision. It was explained that this was the guiding principle for this process It was hoped in Wish Ward for example, to bring 28 bed spaces back into the city. The Chair, Councillor Burden stated that this was welcomed.
- 24.9 A vote was taken and Members voted unanimously in support of the report recommendation.
- 24.10 **RESOLVED** - That the Sub Committee grants delegated authority to the Executive Director, Health and Adult Social Care to take all necessary steps to procure and award multiple block contracts for a period of eight years (8 Years) which will run with bi-annual breaks i.e., two (2) plus two o (2) plus two (2)plus two (2) for residential nursing beds.

25 PART TWO

- 25.1 No discussion took place in respect of the appendix to Item 24 above which contained exempt information under Category 3 of the Local Government Act. It was not necessary therefore to exclude the press or public from the meeting.

The meeting concluded at 5.20pm

Signed

Chair

Dated this

day of

Brighton & Hove City Council

Adult Social Care & Public Health Sub- Committee

Agenda Item 33

Subject: Re-commissioning of Healthwatch services

Date of meeting: 17th January 2024

Report of: Executive Director of Housing, Neighbourhoods and Communities

Contact Officer: Name: John Reading
Tel: 07517 131 351
Email: john.reading@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The report seeks the approval of the Adult Social Care & Public Health Sub-Committee to re-commission a Healthwatch service for Brighton & Hove.

1.2 The current contract ends on 31st March 2025.

2. Recommendations

2.1 That Committee approves the re-commissioning of the Healthwatch contract and delegates authority to the Executive Director for Housing, Neighbourhoods and Communities to procure and award a three year contract and to grant a two year extension (subject to satisfactory performance).

3. Context and background information

3.1 The Council has a statutory responsibility to have in place a Local Healthwatch service as set out in Part 14 Local Government & Public procurement in Health Act 2007 (as amended by the Health & Social Care Act 2012 and Part 6 NHS Bodies and Local Authorities (Partnership Arrangements; Care trusts, Public Health and Local Healthwatch) Regulations 2012.

3.2 The Council is required by law to establish a contractual agreement (grant or contract) with a social enterprise that delivers Healthwatch activities.

- 3.3 The statutory functions of a Healthwatch service and the high level elements of the required service provision are to:
- Obtain the views of people about their needs and experiences of local health and social care services. Local Healthwatch make these views known to those involved in the commissioning and scrutiny of care services.
 - Make reports and recommendations about how these services could or should be improved.
 - Promote and support the involvement of people in the monitoring, commissioning and provision of local health and social care services.
 - Provide information and advice to the public about accessing local health and social care services and the options available to them.
 - Make the views and experiences of people to Healthwatch England, helping them carry out their role as national champion.
 - Make recommendations to Healthwatch England to advise the Care Quality Commission to carry out special reviews or investigations into areas of concern.
- 3.4 The current contract expires on 31st March 2025. A waiver of the Council's Contract Standing orders was granted in March 2018 to facilitate the direct award of a new two-year contract for Healthwatch services from 1st April 2019 to 31st March 2021 to the existing supplier (Healthwatch Brighton & Hove CiC).
- 3.5 A further waiver was granted in 2020 to facilitate the extension of the two year contract with the existing provider from 1st April 2021 to 31st March 2022. This was to ensure that the delivery Healthwatch services were maintained during the Covid-19 pandemic, to reduce the work impact on Healthwatch staff and volunteers, and to maintain a period of stability whilst the national emergency continued, and future recovery took place.
- 3.6 A three-year direct award contract was awarded to the existing provider (Healthwatch Brighton & Hove CiC) in June 2021 for the period 1st April 2022 to 31st March 2025.
- 3.7 The current service provider has a good reputation in the city, performs well through the contract management reporting, and is well regarded by Healthwatch England. It is expected that this provider will express an interest in the new contract.
- 3.8 The officer recommendation is that a contract is now procured (using the Competitive Procedure with Negotiation process) for an initial period of three years, starting 1st April 2025, with the ability for it to be extended for a further two years (subject to satisfactory performance).
- 3.9 This new process involves publishing a Notice with qualitative selection criteria, which interested bidders need to pass in order to enter the next stage of the tender process. Those who pass the selection process will be shortlisted bidders and offered the opportunity to bid.

3.10 If from the selection process only one bidder is shortlisted then the tender phase is shortened to a negotiation.

4. Analysis and consideration of alternative options

4.1 Contract Length

4.1.1 Option 1: Three (3) + Two (2) years Contract.

This is the preferred option. The proposed route of a 3 + 2 contract allows for stability of delivery, whilst retaining options for change if that becomes necessary.

The total Contract value is estimated to be £893,000 with a Contract length of three (3) years + two (2) years. Therefore, these services fall within the ambit of the 'Light Touch Regime' (LTR) of the Public Contracts Regulations 2015 (PCR). The LTR is the rules the Council must comply with for purchasing social care services and other specific services that exceed the relevant threshold of £630,540. The Council must comply with the rules under the LTR of the PCR 2015, as well as the Council's Contract Standing Orders. Under this legislation, tenders must be published to the market, and follow the rules of transparency, fairness and equal treatment.

4.1.2 Option 2: Five (5) years Contract.

One option is to award a longer contract, for example a 5 year contract from day one. It is, however, possible that the national requirements for Healthwatch may change. Accordingly, this is not recommended as it would make changing the nature of the required delivery more complex.

4.2 Procurement Routes

4.2.1 Option 1 – Modified Competitive Process (with Negotiation) under the LTR

The proposed preferred option is to run a procurement process akin to a competitive procedure with negotiation. This process is least restrictive and will enable the Council to negotiate directly with the provider should only one potential provider pass the initial selection phase. This process is compliant under the LTR of the Public Contract Regulations 2015 and allows for an open and transparent procurement, whilst optimising the value of the service. It is an appropriate route to follow where it is considered that there is a limited market for the services required.

4.2.2 Option 2: Open Tender

One option would be an open tender procurement process. It is a competitive procedure where the tender is published to market and providers are required to bid against pre-defined requirements, without subsequent changes or

negotiations. An evaluation and moderation process of all bidders that pass the selection criteria would be required. This is the least preferred option because there are likely only a limited number of providers that can meet the requirements of the service.

5. Community engagement and consultation

- 5.1 There has been no community engagement or consultation in regard to this report's recommendation. However, if the Committee approves the recommendation, it will be the intention of officers to seek the views on the specification for the new contract with health and social care providers in the city.

6. Conclusion

- 6.1 The Council has a statutory responsibility to have in place a Local Healthwatch service and the current contract expires in March 2025.
- 6.2 Re-commissioning and award of a new contract using the recommended route of a 3 + 2 year contract through the Competitive Process with Negotiation route will offer value for money for the Council and give developmental stability of delivery to the successful bidder.

7. Financial implications

- 7.1 The total estimated contract value is set out at section 4.6 of the report, being £893,000. There is currently permanent recurrent funding within the Communities, Equalities and Third Sector revenue budget of £178,600 per annum for Healthwatch.

Name of finance officer consulted: Mike Bentley Date consulted (29/11/23)

8. Legal implications

- 8.1 The Council is required to arrange the provision of a local Healthwatch service in accordance with the Local Government and Public Involvement of Health Act 2007 (as amended). The statutory requirements of this service are prescriptive and they need to be met by the Council.
- 8.2 A re-procurement of this service must be carried out and an award made prior to the expiry of the existing contract at the end of March 2025 pursuant to the Public Contract Regulations 2015 (PCR 2015). This contract would fall within the Light Touch Provisions of the PCR 2015 as the value of the contract (£893,000 over 5 years) is above the threshold for Light Touch Regime (LTR) services of £625,050. The procedure governing the LTR is set out in Regulations 74 to 76 of the PCR and these rules, such as those on the publication of notices, must be followed. The LTR allows free choice of any procurement procedure, so long as the procurement is carried out on the

basis of equal treatment and transparency. Therefore, the proposed competitive procedure with negotiation is a suitable procurement route.

- 8.3 The Council must also comply with its Contract Standing Orders (CSOs). In accordance with CSO 3.1 contracts above £500,000 must be approved by Committee.

Name of lawyer consulted: Eleanor Richards Date consulted (30/11/23):

9. Equalities implications

- 9.1 An Equalities Impact Assessment will be completed prior to re-commissioning.

10. Sustainability implications

- 10.1 None.

11. Other Implications

Social Value and procurement implications

- 11.1 The contract, when awarded, will contain key social value elements, including the use of volunteers, recruiting local people, ensuring that pro-active work is undertaken to deliver on equality, diversity, and inclusion, including intersectional communities, and payment for staff of the Real Living Wage.
- 11.2 This procurement has been presented to the Lead Member Briefing before Committee.
- 11.3 The Lead Member for Procurement asked for the addition of payment of the Real Living Wage into the Social value elements within the specification. This has now been added

Crime & disorder implications:

- 11.4 None.

Public health implications:

- 11.5 Healthwatch services make an important contribution to improving local health and social care services, and in making residents in the city aware of services and how to access them.

Adult Social Care and Public Health Sub- Committee

Subject: Care Homes Spot Purchase Recommission

Date of meeting: 17th January 2024

Report of: Executive Director, Health & Adult Social Care

Contact Officer: Name: Christopher Davies
Tel: 01273 291071
Email: christopher.davies@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 This report outlines the proposed approach to the recommissioning of the provision of residential care homes with and without nursing (including specialist services), on a spot purchase basis.
- 1.2 The overarching aim of the recommissioning process is to commission quality care home placements which represent value for money for the Council and offer suitable care provision to our residents.

2. Recommendations

- 2.1 That the Sub-Committee agrees to the proposed re-commissioning of Residential Care Home Services, via the route to market identified in Section 4 awarding contracts for a period of six years.
- 2.2 That the Sub-Committee agrees that, if required, a compliant extension of the existing contracts until 30th September 2024 may be actioned.
- 2.3 That the Sub-Committee delegates authority to the Executive Director of Health and Adult Social Care to undertake the above recommendations 2.1 and 2.2.

3. Context and background information

3.1 Summary

Care homes provide accommodation and 24-hour personal care and support to people who may find it difficult to manage daily life at home.

Residential homes provide residents with a safe place where they are supported according to their needs, such as help with washing, dressing, toileting, administering medication and mobility. Residents who are referred to the service will have been assessed as having a support need under the Care Act 2014.

The current provision of these services are purchased through spot purchasing arrangements. The HASC Brokerage team is responsible for processing referrals, making placements and negotiating price with the provider at point of placement, with a starting point of the Council's set rates, agreed annually as part of the Fees Report. The existing contractual arrangements for spot purchasing are ending on 31st March 2024 and the Council is required to undertake a procurement exercise to secure future provision.

3.2 Challenges

Challenges being faced by Adult Social Care comprise of an ageing population, rising demand, increasing public expectations but with a reduction in government funding. These pressures continue to grow, with current population and dependency trends suggesting a 25% increase in demand for residential/nursing placements in the city by 2035.

Population projections come with an associated rise in the number of people living with complex long-term conditions; a combination of physical frailty, disability and mental health conditions. Not only is there increased demand for beds, there is also pressure on homes to deal with people with more complex needs.

Evidence has shown in recent years that the Council have been required to make placements above the Council's published set rates as a result of a variety of factors, including:

- immediacy of need and short supply. The number of beds we have been able to purchase at 'set rates' has steadily declined, from 66% in 2017/18 to lower than 10% now.
- pressures of Covid-19 on care home providers - though Covid has suppressed demand in general, care homes have increased prices in order to offset the impact of reduced residential numbers and recent cost increases (minimum wage rises, huge insurance premiums due to the pandemic, additional cleaning costs, PPE and so on).
- soft intelligence from our Brokerage and Supply team has identified that many of the care homes that can provide specialist placements will not accept placements at Council set rates – including dementia residential, nursing homes, mental health residential.

3.3 Block purchasing arrangements

The Council has recently undertaken a procurement exercise to secure provision of a number of block contracted beds in a mix of care homes. This exercise aims to provide security of supply and an element of cost control for the next two years.

The success of the block beds will be reviewed, and the Council is required to maintain spot purchasing arrangements in order to meet demand. Approval to increase block contracting with Residential Care Homes with and without Nursing was agreed at ASC & PH subcommittee 12th September 2023.

3.4. Proposed new elements to the Care Homes Specification

Core specification and Specialist services

Officers have sought to strengthen the new specification and contract through extensive consultation with stakeholders.

The core specification covers the following areas:

- o Residential care
- o Residential care specialist dementia.
- o Residential care with nursing.
- o Residential care specialist nursing dementia.
- o Residential care specialist physical nursing.

The supplemental provisions cover the following areas:

- o An updated specification for residential care homes with nursing provided by NHS Sussex Integrated Care Board (ICB) with new provisions including nurse training and referencing specific types of equipment like syringe drivers; and
- o Additional requirements for residential care homes, registered as specialist service providers with a description of the model of care for residents with
 - learning disabilities who may be autistic;
 - neuro divergent residents and who may be autistic;
 - residents with physical disabilities and sensory loss needs; and
 - residents with mental health needs with and without nursing.

These changes have been made to address the challenges being faced and to continue the commissioning of good quality residential and nursing care that meets the demands of the city.

In summary, the new areas in the core specification include:

- o **Infection, Prevention & Control (IPC)** standards and IPC Champions – a national initiative following the pandemic.
- o **Enhanced Health in Care Homes** supported through NHS Sussex ICB with closer integrated working with Care Homes.
- o **Public Health standards** including Oral Health care, Falls prevention, Food & Hydration and Dementia and Wellbeing standards and training.
- o **Compliance** with Capacity Tracker regulations. From July 2022, the DHSC made completion of the NHS Capacity Tracker mandatory for all CQC registered providers.

- **Modern Slavery** provisions relating to staff training, working practices and incident reporting.
- **Quality Requirements** - the specification is an outcomes focussed approach and has new standards included which are linked to a Quality Requirements Matrix (QRM). The outcomes have specific quality requirements linked to clauses within the specification..
- **Inclusive Care** - expecting service providers to evidence a commitment to inclusive care through initiatives such as the Brighton & Hove Switch Board Inclusive Care Award or Skills for Care LGBTQI Learning Framework.

4. Analysis and consideration of award recommendation.

The recommended route to market is chosen based on the commissioning intentions and the relevant procurement legislation for this service.

4.1 Award of individual overarching contracts for spot purchasing

This approach involves the Council undertaking a procurement process to award multiple stand-alone contracts with multiple providers. The focus of the commission is to ensure sustainability of supply.

All providers who successfully pass the qualifying assessment will be awarded a contract, with individual placements made and negotiated via the Council's Brokerage team based on referrals and demand. There will be no obligation to purchase any volume of services from each provider during the contract term. However, the Council is seeking to contract with as much of the local market as possible, provided they meet the qualifying criteria.

This route is the recommended route to market, as it enables the Council to identify a pre-qualified pool of providers to spot purchase from. The process will involve a qualifying assessment which cover areas such as CQC registration and inspection rating, financial appraisal, business conduct and statements in relation to Sustainability, Social Value and Modern Slavery. Additionally, this process is efficient and resourceful enabling swift access to quality, pre-approved care services, which is crucial where demand is higher than supply.

4.2 Potential extension to existing contract

This approach is anticipated to be completed by the end of March 2024, but if further time is required to ensure provision is secured, this report seeks approval from the sub-committee to utilise a potential six-month extension period, until 30th September 2024.

5. Community engagement and consultation

- 5.1 Officers have undertaken a range of engagement to help inform proposals and documentation. Officers have commissioned surveys with Trust for Developing Communities for the commissioning Equalities Impact Assessment. This is ongoing engagement work developing a Commissioning and Directorate wide EIA that includes intersectional issues such as Housing, Health, Social Care needs like with complex and compound needs such as Mental Health and nursing for example. This supports market shaping and helps to identify gaps in provision.
- 5.2 Officers have used data from NHS statutory surveys and BHCC ASC Service User surveys and engaged with other Local Authorities of a similar size like Medway, Coventry, Sheffield, Tyneside and our neighbours in East & West Sussex. Professional bodies such as the Registered Care Association and Healthwatch, Universities of Kent, Surrey and Sussex and the Care Quality Commission have also been consulted.
- 5.3 The Quality Monitoring Team have supported the commissioning work through their work with Care Homes, with residents and their families sharing information regularly. We regularly have feedback from, surveys, Assessment Teams and Health professionals such as Care Homes In Reach Team (CHIRT) Sussex Partnership Foundation Trust (SPFT).

6. Conclusion

- 6.1 It is recommended that the Adult Social Care and Public Health Sub-Committee delegates authority to the Executive Director of Health and Adult Social Care to undertake a procurement process and award qualified providers contracts spot purchase care home placements.

7. Financial implications

- 7.1 The proposal to commission care home contracts on a spot purchase basis is a continuation of the existing arrangement. The overall projected annual gross spend for external care home provision in 2023/24 is £74m across Adult Social Care, and over 6 years this will equate to approximately £450m plus inflation. There are no additional cost implications from the recommendation on the potential extension

Name of finance officer consulted: Sophie Warburton Date consulted (11/12/2023)

8. Legal implications

- 8.1 The Council must comply with the Public Contracts Regulations 2015 (PCR) in relation to the procurement and award of contracts above the relevant financial

threshold. The services outlined in this report fall within Schedule 3 of the PCR and exceed the relevant financial threshold for light touch regime services (£663,540 inclusive of VAT). The procurement process for the light touch regime is determined by the Council taking account of the specifics of the services and shall ensure compliance with the principles of transparency and equal treatment of economic operators as set out in Regulation 76 (2). Existing contracts may be modified in certain circumstances in accordance with Regulation 72 of the PCR, without a new procurement procedure. Legal Services will work closely with officers to ensure that the process followed is compliant with the PCR.

- 8.2 The Council must also comply with its Contract Standing Orders (CSOs) which apply to social care and public health services as set out in Section B of the CSOs.

Name of lawyer consulted: Manjinder Nagra Date consulted (12/12/2023):

9. Equalities implications

- 9.1 An extensive new Equalities Impact Assessment (EIA) was agreed and signed off in July 2022 as part of the care home contract recommission. As stated in section 5, there has been wide consultation with stakeholders which has meant the strengthening of the Equalities clause in the new specification, including expecting service providers to evidence a commitment to inclusive care through initiatives such as the Brighton & Hove Switch Board Inclusive Care Award or Skills for Care LGBTQI Learning Framework.

10. Sustainability implications

- 10.1 To ensure the provider shares the Council's commitment to reducing the impact of services on Brighton and Hove City's Carbon Footprint and support the Council in achieving its aims of a Carbon Neutral City by 2030, providers will be asked to propose sustainability outcomes and detail how they will be met. The outcomes will follow the principles of the *Quality Assurance Teams - Sustainability Support Tool for Providers*. This tool details outcomes that are formed around CQC requirements and Brighton and Hove City Council's Carbon Neutral Plan.
- 10.2 The service specification includes Quality Requirements relating to sustainability and the reduction of carbon footprint.

11. Social Value and procurement implications

- 11.1 The Council's Lead Members for Procurement have scrutinised the proposed route to market and their feedback has been incorporated into this report to strengthen the Social Value implications.

- 11.2 To ensure the provider shares the Council's commitment to improving the Social Value attained from services delivered in our city, providers must commit to delivering social value outcomes as part of the qualifying assessment. Providers will be expected to provide statements of commitment and details plans for delivering the commission's chosen social value outcomes, related to the City Plan:

Enable people to live healthy, happy and fulfilling lives, and live independently (City Plan outcome 3.1)

Potential examples:

- Initiatives to support older, disabled and vulnerable people by creating community networks
- Providing resources and or promoting fitness and wellbeing through community outreach programmes, for example walks / time / connection in nature, dance classes/healthy eating programmes/gym memberships for families on low incomes;
- improve access to and consumption of fresh, healthy food in order to support better mental health and wellbeing.

Employment and Training Opportunities (City Plan outcomes 1.3, 1.4 and 2.1)

Potential examples:

- Creating employment and retraining opportunities and other return to work opportunities for the unemployed
- Preparing students for the world of work
- Actions to develop a more inclusive workforce, including care experienced young people.

12. Public health implications

- 12.1 As this is a HASC service, public health implications are detailed in the sections above.

Brighton & Hove City Council

Adult Social Care & Public Health Sub Committee

Agenda Item 35

Subject: Adult Social Care Fees Report 2024/25

Date of meeting: 17th January 2024

Report of: Executive Director, Health & Adult Social Care

Contact Officer: Name: Judith Cooper, ASC Contracts Manager
Tel: 07713 711179
Email: Judith.Cooper@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

1.1 The purpose of the Adult Social Care Fees Report 2024-25 is to recommend fee levels and uplifts to be paid to Adult Social Care providers from 8th April 2024. 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 2024-25.

3. Context and background information

Background

3.1 Workforce capacity pressures have continued to grow during the cost of living crisis that has followed the pandemic, with significant changes in staffing in both the home care and care home sector. Recruiting staff became increasingly difficult until pressure from the care sector resulted in Social Care carers being added to the government's Shortage Occupancy List in February 2022, initially short-term but now ongoing. This is having a notable impact, and was referenced in the November 2023 Office for National Statistics report as one of the reasons for the uplift in net migration to the UK. However, the minimum salary requirement means that staff need to be employed full-time to satisfy it – something that is rare in a sector where zero-hour contracts and part-time staff are the majority.

- 3.2 Rising fuel costs have also hit the Care sector. 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 constantly examined, for example a trial of e-bikes was made available to contracted home care providers in 2023, but it is difficult to change the existing ways of working.
- 3.3 The accommodation based care sector - Care Homes and Supported Living - have also faced challenges regarding utility bills; central heating is commonly in use for much of the year in most care homes and environments where people are relatively immobile. Where food costs have increased, providers are seeking to pass these costs on in the form of higher fees.
- 3.4 A further ongoing cost that providers face is the Real Living Wage increasing by 10% both last year (£9.90 to £10.90) and the same percentage this year, taking the rate to £12. This is a contractual requirement for Home Care providers and a recommendation for all other care providers. The National Living Wage, currently £10.42, is also due to increase by 9.8% in 2024 to £11.44, and additionally will apply to 21 and 22 year olds.
- 3.5 **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 2023 only 10% of council funded people are in care homes at set rates. The set rate is currently £655, and with providers refusing to accept this rate due to their higher costs it is proposed to raise the set rate by 7% to £700 to incentivise pick-up of placements. Issues relating to this will be addressed in the recommissioning of the care home contract which is currently underway.
- 3.6 As regards the remaining 90% of placements, the average cost the Council paid for a placement in October 2023 was £998 for a Care Home providing physical care, and £1,095 for a Dementia Care Home which is more than 50% above the Set Rate. For these placements, it is 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, £1,000 per week for a care home and £1,100 per week for a nursing home. The proposal then distinguishes between a 5% uplift for care home fees at £1,000 or lower and nursing home fees at £1,100 or lower and a 3% uplift for those fees above £1,000/£1,100.
- 3.7 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**
There has been a recommissioning of the council's main Home Care services since the last Fees Report. Due to changes in service providers ,and the impact of the power to bring in overseas workers, Packages of

Care are being picked up by Home Care Providers, including in extra care establishments, in a more timely fashion. However, there are still 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 short supply, and prices are rising where care is not sourced by the Framework of providers on set rates. Workforce numbers remain an issue both locally and nationally; 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.

However, in October 2022 the council had around 100 people waiting to be sourced care, a figure that has dropped in October 2023 to an average of 10. Although the reasons are not completely clear this is believed in part to be due to the introduction of increased numbers of overseas workers.

- 3.9 It is proposed that all providers offering the current Framework rate will receive a 7% 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 5% or 3% (for hourly rates above £23.60).
- 3.10 It is proposed that packages of **Live-in care** will receive a 5% uplift as this reflects other accommodation-based uplifts, namely care homes and nursing homes.

3.11 Neighbouring authority 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) have given higher uplifts than the Council in the last two financial years. However, an analysis undertaken by the South East ADASS (Association of Directors of Adult Social Services) Commissioning & Market Development Network suggests that the council’s average rates for older people’s care and nursing homes are higher than both of our Sussex neighbours (see paragraph 3.11.1) although the reverse is true of home care (see paragraph 3.11.2).

3.11.1 The Council’s Set Rate for Care Homes is now £655 per week, across all care groups. In East Sussex ESCC pay weekly rates varying from £648.76 to £773.71 (across three different care rates). In West Sussex WSSCC pay weekly rates which range between £700 to £890 (also across three different care rates). The highest rates are for dementia care. To note – in addition to these figures residents in Nursing Homes receive Funded Nursing Care for at £209.19 per week (paid by the NHS).

3.11.2 The Council’s set rate for Home Care is now £21.27 per hour whereas ESCC pay between £22.44 to £33.60 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 £24 per hour, over 13% higher. WSSCC are paying providers a minimum

rate of £25.29 (nearly matching the United Kingdom Home Care Association's (UKHCA) published minimum cost of care for 2023/24 which is £25.95).

3.12 **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.

3.12.1 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. Rates under £21.27 will be increased by 7% and rates above by 5%. A new Dynamic Purchasing System has been commissioned that has attracted some new Community Support providers to the city. Providers submitted ceiling rates within this commission and must hold these rates until 31/03/2025.

3.12.2 The council has negotiated rates for **Supported Living** with a range of providers. There are ranges in fees as these are based upon individual assessed needs rather than set rates. A new Dynamic Purchasing System (DPS) has been commissioned that has attracted some new Supported Living providers to the city. It is anticipated that this will introduce more competitive rates but there are still some Supported Living providers that did not apply to the DPS, and an uplift is proposed of 6%.

3.12.3 **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. Shared Lives carers can also provide respite and day share options. Rates are subject to negotiation with the providers which have yet to be concluded but would not exceed 7%.

3.12.4 **Day Support Services** are all subject to negotiated rates. Most Day Services (over 90% of the total provision) are provided for people with learning disabilities. Providers are currently contracted via a DPS which will close at the end of March 2024 with Providers moving to interim contractual arrangements. The longer-term intention is for a review of Day Services and Opportunities in the city for adults with learning disabilities and a range of other need areas for example; Autistic Adults, Adults with Mental Health needs and Acquired Brain Injury. Proposed: 5%

3.13 **Direct Payments**

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 2024. Offering higher uplifts helps 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 is currently £10.42 but the council also encourages all people with a Direct Payment to pay the Real

Living Wage which has been set for 2024 at £12 which also supports the need for a higher uplift. Proposed 8%.

3.14 National picture

At the end of October 2023, the Local Government Association wrote to the government setting out the acute financial pressures councils face, and the steps they felt the Government needed to take to address them. Adult social care and winter pressures were listed as one of three key areas of council activity experiencing sharp financial and/or demand pressures. Although the Government provided additional funding for adult social care in 2023/24 the LGA stated that this did little more than allow councils to stand still given their ongoing cost and demand pressures. One of the main drivers for increased care fees was the 9.7% increase in NLW in 2023-24 – something that is likely to occur again with the new increase in NLW by 9.8%.

3.15 The Registered Care Association for East Sussex Brighton & Hove (comprising local care owners, directors and managers) has also sent a letter since the autumn budget statement citing a minimum cost pressure for 2024-25 of 8.9%.

3.16 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 2024-25 financial year. By setting healthy fees the council reduces the risk of destabilising the local market and care staff exiting the workforce.

4. Analysis and consideration of 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. The number of Care Homes accepting clients on Set Rates is in decline (15% in October 2022, 10% in October 2023) and process of setting care home fees will be reviewed as part of the recommissioning that is underway. Home Care providers are increasingly relying on overseas workers who need to be paid, broadly speaking, for a 40-hour week, unusual for a sector where zero-hour contracts are common.

5. Community engagement and consultation

5.1 The Council is committed to co-production. Regular Care Home Forums and Home Care 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. Additionally, Healthwatch are commissioned to carry out Home Care checks, where volunteers interview people who use Home Care services, focusing on one provider per month. Service users raise home care issues, but are also able to raise other care issues with the interviewers.

5.3 Engagement has taken place with stakeholders, clients and carers regarding the re-commissioning of the Home Care and Care Home contracts. This also supports the ongoing 'Market Sustainability and Fair Cost of Care Fund' work. The current recommissioning of Community Support and Supported Living also included extensive engagement to ensure the right services are commissioned.

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 8th April 2024.

7. Financial implications

7.1 The Council provides in the region of 3,500 packages of care with external providers for diverse types of care at a gross cost of £133m 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 a net increase Community Care spend of approximately £6.2m, prior to any additional negotiated increases following review of individual placements. The current 2024/25 budgeted inflation and identified corporate service pressure funding will accommodate the proposed fee increases.

Name of finance officer consulted: Sophie Warburton
Date consulted: 29/11/2023

8. Legal implications

8.1 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.

Name of lawyer consulted: Sandra O'Brien
Date consulted: 29/11/23

9. Equalities implications

9.1 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.

9.2 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.

10. Sustainability implications

10.1 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. The council's Transport team has also worked with Home Care providers to loan e-bikes as part of a pilot programme (started September 2023).

10.2 Sustainability implications are part of the recommissioning process currently underway for both care homes and Community Support/Supported Living.

11. Other Implications

Social Value and procurement implications

11.1 This Report does not have procurement implications. Procurement of social care services always includes consideration of Social Value, so that has been addressed outside of this report.

Crime & disorder implications:

11.2 None

Public health implications:

11.3 Providers of social care services are required to operate in line with appropriate infection prevention and control procedures including the purchase of PPE from the agreed fees.

Supporting Documentation

Appendix 1 – Fee Rates Table 2024-25

Service	Current fee 2023-24	New fee 2024-25	% uplift
Care Homes and Care Homes with Nursing - in city			
In city care homes – set fees per week	£655	£701	7%
In city care homes with <i>nursing</i> – set fees per week	£655 + FNC at £209.19 = £833.19	£701 + FNC to be paid by NHS	5%

In city care homes weekly fees	Fees between £702-£1,000	Variable	5%
In city care homes – over 65s physical and memory	Fees over £1,000	Variable	3%
In city care homes with <i>nursing</i> - over 65s physical and memory	Fees under £1,100 (excludes FNC at £209.19)	Variable	5%
In city care homes with <i>nursing</i> - over 65s physical and memory	Fees over £1,100 (excludes FNC at £209.19)	Variable	3%
In city care homes & care homes with nursing – specialist placements (learning disabilities, ABI, sensory, functional mental health) individually negotiated	Variable	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 <i>nursing</i> on set rates	Host Authority Rates	Host Authority Rates (<i>new placements only</i>)	Variable
Out of city care homes – over 65s physical and memory	Fees up to £1,000	Variable	5%
Out of city care homes – over 65s physical and memory	Fees over £1,000	Variable	3%
Out of city care homes with <i>nursing</i> – over 65s physical and memory	Fees up to £1,100	Variable	5%
Out of city care homes with <i>nursing</i> – over 65s physical and memory	Fees over £1,100	Variable	3%
Out of city care homes and care homes with nursing – specialist placements (learning disabilities, Acquired Brain Injury, sensory, functional mental health) individually negotiated.	Variable	Variable	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	Variable	6%
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)	Rates up to £21.27	Variable	7%
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)	Rates over £21.28	Variable	5%
Home Care			
Home care main area/back up provider - core fee	£21.27	£22.76	7%

Extra Care services	Variable	Various	7%
Dynamic Purchasing System Approved Provider Packages	£21.27 or lower	£22.76	7% or to reach £22.76
Dynamic Purchasing System Approved Provider Packages	£21.28 to £23.60	Variable	5%
Dynamic Purchasing System Approved Provider Packages	Above £23.60	Variable	3%
Live-in rates	Variable rates (DPS commissioned)	Variable rates	5%
Direct Payments			
Direct Payments Monday to Friday hourly rate for those employing Personal Assistants	£12.50	£13.50	8% (rounded)
Direct Payments Weekend hourly rate for those employing Personal Assistants	£13.60	£14.70 (rounded)	8% (rounded)
Direct Payments sleep-in rate	£56.50	£61.00 (rounded)	8% (rounded)
Other Direct Payment agreements	Variable (above set rates)	Variable	Variable
Shared Lives			
Shared Lives Management Fee	Variable	Variable	Up to 7%
Shared Lives fee to carers	Variable	Variable	Up to 7%
Day Support			
Day support for people with Learning Disabilities	Variable	Variable	5%
Day support for people with Acquired Brain Injury	Variable	Variable	5%
Day support for Older People	£34.70	£36.45	5% (rounded)

Brighton & Hove City Council

Adult Social Care & Public Health Sub-Committee

Agenda Item 36

Subject: Adult Social Care Charging Policy – 2024-2025

Date of meeting: 17th January 2024

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 and how much they must contribute towards the cost. The current charging policy is attached. There are around 2350 service users with non-residential care services and approximately 1220 in residential care homes. These include older people and working age adults with physical disabilities, mental health difficulties and learning disabilities and most people receive their 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 charges.
- 1.4 This report recommends an inflationary increase in the current maximum charges of 3.5% for all services.

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 3.5% increase (rounded) on the following maximum charges from **8th April 2023** (when state benefits increase):

Maximum Charges	2023-2024	2024-2025
Means Tested Charges	Maximum	Proposed Maximum
In-house home care/support	£31 per hour	£32 per hour
In-house day care Drop in Day Care	£46 per day £23 per session	£48 per day £24 per session
In-House Residential Care	£160 per night (£1120 per week)	£166 per night (£1162 per week)
Fixed Rate Charges		
Fixed Rate Transport	£4.70 return	£4.90 return

- 2.3 That Committee agrees to an increase for miscellaneous fees at 3.5% :

	2023-2024	2024-2025
Deferred Payment set up fee (see 2.13)	£617 initial charge	£639 one off charge
Initial fee for contracting non-residential care for self-funders	£325 initial charge	£336 one off charge
Ongoing fee for contracting for non-residential care for self-funders	£101 per year	£105 per year

- 2.4 That Committee agrees to increase Carelink Service fees by 3.5% as follows:

	2023-24	2024-25
Standard Carelink Plus	£22.30 per month	£23.10 per month
Enhanced Carelink Service	£26.70 per month	£27.60 per month
Mobile Phone (discontinued)	£28.90 per month	28.90 per month

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

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 and this figure is set by the government.
- 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 £32 per hour. Day Care attendance is recommended to increase to £48 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 2350 service users living at home. 400 of these people have non-chargeable services, mainly under Section 117 of the Mental health Act. 1950 people have a financial assessment and around About 36% of those people, 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 at the fixed rate.
- 3.5.2 54% of people have assessed charges ranging from £4 per week to £469 per week depending upon their income and savings. The average charge is around £45-£80 per week, usually based upon entitlement to additional disability benefits and premiums paid by the Department for Work and Pensions.

3.5.3 A further 10% of service users are assessed to pay the 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 £4.90 per return journey. This increase will affect around 40 people who currently receive this service. The income from transport charges is currently around £20,000 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 £336 and to increase the ongoing annual charge to £105 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 and hospital admissions. Most people pay the fixed charges listed in the table above. An increase of 3.5% is recommended for most people but excluding those with outdated mobile phone technology which will remain at £28.90 per month until phased out. Around 2150 people will be affected by this increase. Carelink is a relatively economical way to support vulnerable people in their own homes and it is felt that a higher increase in the charge would alienate customers, leading to cancellation of the service and potentially leading to other 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.

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 £166 per night (£1162 per week). There are currently 12 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 loan service but are not permitted to charge more than it actually costs to administer and it is recommended to increase the setup fee for DPAs to £639. 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.

The recommended increase to £639 has been benchmarked against a sample of 30 other councils. Fees for this service range from £240 to £935 making the average fee around £564.

18 council’s charge less than BHCC

11 council’s charge more than BHCC

4. Analysis and consideration of alternative options

4.1 There are currently 174 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. Also, there is no charge for people whose care falls under Section 117 of the mental health act or where they are receiving a home care reablement service for less than 6 weeks. However, those who are affected amount to 3 people with home care and 12 with residential care

4.2 Transport charges

At present 40 people would be affected by the increase in the set rate charge for transport services.

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. Conclusion

6.1 It is recommended to increase rates by 3.5% for all services with effect from 8th April 2024.

7. Financial implications

- 7.1. As part of the budget setting process Executive Directors are required to agree changes to fees and charges through relevant Committee Meetings. The management of fees and charges is fundamental both to the financial performance of the City Council and the achievement of the Council's corporate priorities. The council's Corporate Fees & Charges Policy requires that all fees and charges are reviewed at least annually and should normally be increased in line with the cost of providing the service to maintain income in proportion to the net cost of service. The Corporate Fees & Charges Policy also stipulates that increases above or below an agreed 'corporate rate of inflation' should be approved by committee. However, it should be noted that the corporate rate of inflation (3.5% for 2024/25) is not a default rate of increase and is a financial planning assumption only, set early in the financial year, and should not therefore determine actual increases which should normally reflect current and projected inflationary cost pressures to ensure that income is maintained in proportion to expenditure.
- 7.2. The committee are advised that if the proposed fees & charges recommended in this report are not agreed, or if the committee wishes to amend the recommendations, then the item will normally need to be referred to the Strategy, Finance & City Regeneration Committee meeting on 8 February 2024 to be considered as part of the overall 2024/25 budget proposals. This is because the 2024/25 final budget proposals will have been developed on the assumption that fees and charges are agreed as recommended and therefore any rejection or amendment of the proposed fees and charges may have an impact on the overall budget proposals, which means it would need to be dealt with by Strategy, Finance & City Regeneration Committee as per the requirements of the constitution. However, this does not fetter the committee's ability to make alternative recommendations to Strategy, Finance & City Regeneration Committee.
- 7.3. It is not always possible when amending fees and charges to increase by the exact inflation figure due to rounding. As a result, some fees and charges are rounded for ease of payment and/or administration.

Name of finance officer consulted: Sophie Warburton Date consulted (dd/mm/yy): 19/12/2023

8. Legal implications

8.1 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 12/12/23

9. Equalities implications

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

10. Sustainability implications

10.1 There are no sustainability implications

11. Other Implications

11.1 There are no other implications.

Public health implications:

11.2 There are no Public Health implications

Supporting Documentation

1. Appendices

The attached charging policy is current for 2023-2024 but will be updated when some of the figures included are published from DHSC and DWP.



Appendix 1

CHARGING POLICY For Adult Social Care Services – 11th APRIL 2023-24

CONTENTS

1. Introduction

- 1.1 Compliance with the Care Act 2014
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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. 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 meeting eligible need 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, including all eligible needs at home
Deep clean services
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 (where part of a care package)
*Carelink provided as a Preventive Service
Adaptations over £1,000
Other Preventive services
Protection of Property expenses

*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 2023 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 is 31 per hour**
(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 £31 per hour.
- 2.2 Day Care / Day Activity provided by the council (for any time period) is £46 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	£5.70 per meal
Transport to day centres	£4.70 per return journey

3 The Financial Assessment Process

3.1 The financial assessment follows on from the care needs assessment. Relevant details are referred 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 of 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 by email or post informing the chargeable amount and how it will be collected
- (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 allowable expenditure 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 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. 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 £325 for the initial contract set-up fee and then £101 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, internet, phones 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.

£215 per week for single people

£164 per week for one person in a couple

The National Minimum MIG for a person of working age and in receipt of maximum disability benefits is £171.75 per week. However, BHCC policy provides for an enhanced MIG allowance for people of working age by an extra £43.25 per week to allow for the additional costs of disability.

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 and:**

- a) aged 18 or older but less than 25, the amount of £82.15
- b) Aged 25 or older but less than pension credit age the amount of £103.65
- c) Pension credit age, the amount of £214.35
- d) Is a lone parent £103.65

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

- a) one or both are aged 18 or over, the amount of £81.40
- b) one or both have attained pension credit age, the amount of £163.65

Additional weekly allowances apply as follows:

For each dependent child living in the household an additional allowance of £94.90

For a single person with:

- a) Disability premium, the amount of the additional allowance is £45.75
- b) Enhanced disability premium, the amount of the additional allowance is £22.35

For one member of a couple in receipt of:

- a) Disability premium, the amount of the additional allowance is £32.60
- b) Enhanced disability premium, the amount of the additional allowance is £16.05

When in receipt of carers' premium, the amount of the additional allowance is £49.05
(The Personal Allowance for a resident in a **care home** is £28.25 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 £164 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 financial 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 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) of £28.25 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 usual 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 £617** 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 for temporary or Short Term stays.

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, or there has been a delay in providing this information, backdated assessments and charges will usually apply from the start of the service or from the date that any additional assets were acquired. This may include gifted assets.

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 person has been assessed to pay a contribution towards the cost, this will usually be payable direct to the care provider or otherwise **the council** may invoice the service user, monthly in arrears.

11.2 Care Homes:

Where a person is resident in a care home, they will usually pay 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 person 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 DRE Policy

- a) The maximum DRE allowance will be limited to the total of disability benefits as set out in the Care Act Regulations.
- b) Financial assessments always include an allowance for everyday living costs. This general living cost allowance is known as the Minimum Income Guarantee (MIG) and is explained at 5.1 of the BHCC Charging Policy. This allowance is intended to cover general living expenses including food, utilities, fuel, transport, leisure, insurances, pets, internet, phones and other miscellaneous living costs and includes any debts relating to these expenses.
- c) The National minimum MIG for a person of working age and in receipt of maximum disability benefits is £171.75 per week. **However, BHCC policy provides for an enhanced MIG allowance for people of working age by an extra £43.25 per week to allow for the additional costs of disability.**
 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.
£215 per week for single people
£164 per week for one person in a couple
- d) Further DRE allowances shown below may be agreed for all age groups and 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 psychology and also applies to chiropody and continence pads.

In the table below, 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 eligible for a DRE allowance 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 privately for a personal care service we will check the expenditure and the care plan to see whether this is considered eligible and necessary and not already included in the council funding. An allowance will be given where eligible.

It may be possible to provide a small allowance for additional costs relating to a specific diet as prescribed by a GP due to illness or disability. There is 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 – There is 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. There is 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 2023-24

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 £215 per week.

Annual inflationary update based on RPI Fuel index at November 2022. At this date fuel prices had increased by 92% in the last 12 months. The figures are obtained from Consumer price inflation tables - Office for National Statistics from the download "consumer price inflation detailed reference tables". The figures are found in Table 41 detailed reference tables - % change over 12 months	Standard Inc. South
Single person - Flat/Terrace	£2,761.73
Couple – Flat/Terrace	£3,643.68
Single person – Semi Detached	£2,933.32
Couples – Semi Detached	£3,872.45
Single – Detached	£3,568.76
Couples – Detached	£4,704.40

Notes – adjustments 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 £14 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	£4.60 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 £14 per week is considered reasonable
Wheelchair	£4.75 per week manual £11.55 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 £5.25 per week	Evidence of purchase
Turning bed	Actual cost divided by 500 up to a maximum of £9.20 per week	Evidence of purchase
Powered reclining chair	Actual cost divided by 500 up to a maximum of £4.15 per week	Evidence of purchase
Stair-lift	Actual cost divided by 500 up to a maximum of £7.40 per week	Evidence of purchase without DFG input
Hoist	Actual cost divided by 500 up to a maximum of £3.65 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 £14 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

Brighton & Hove City Council

Adult Social Care and Public Health Sub- Committee

Agenda Item 37

Subject: Strategic Risk Focus Report: SR13

Date of meeting: 17th January 2024

Report of: Executive Director, Health and Adult Social Care

Contact Officer: Name: Kat Brett
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 is one SR 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

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: 11/12/2023

8. Legal implications

- 8.1 Appendix 1 to this Report provides a detailed description of Strategic Risk SR13 (Not keeping adults safe from harm and abuse) being focused on in this Committee cycle. Care Act 2014 imposes a duty on Local Authorities to Safeguard adults with care and support needs in their area from (or at risk of) abuse or neglect.
- 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: 07/12/2023

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 has 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 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 Risk Report – SR13
- 2. A guide on the risk management process

Risk Details

Risk Code	Risk	Responsible Officer	Committee	Last Reviewed	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 Rob Persey	Adult Social Care Public Health Sub-Committee	26/10/23	Threat	Treat	 L4 x I4	 L3 x I4	Future - Adequate,

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 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 review
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
14. The CQC Inspection Preparation Group have completed a self-assessment and identify areas to improve assurance and monitor progress.

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 Learning Disabilities services.
6. Service Improvement Panel – with multiagency partners, including NHS Sussex ICB, to share inspection results, complaints, and other issues for care provider quality.
7. Mental Health Oversight Board
8. Housing & New Homes Committee
9. Supported Accommodation Panel
10. Prevent Board
11. Practice Development Assurance Board meets monthly to focus on Social Work Quality Assurance.

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. The CQC have started to assess local authority Adult Social Care and BHCC are preparing for inspection within the next two years.
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 consistently attended by HASC. The Head of Adult Safeguarding is a member of the SAR panel (multi agency, chaired by independent sector) where referrals for reviews are discussed in depth and 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
 - * 2023/24: Adult data handling (Reasonable Assurance); Service agreements (Partial Assurance)
 - * 2022/23: Adult Social Care In-house services (Reasonable Assurance); Direct Payments (follow up) (Partial Assurance); ASC Financial Assessments (Partial Assurance)
 - * 2021/22: HASC Modernisation Programme (Reasonable Assurance), Home Care (Reasonable Assurance); Care Payments (Reasonable Assurance)

Risk Action	Responsible Officer	Progress %	Due Date	Start Date	End Date
<p>Ensure 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</p> <p>Comments: The Prevent mandatory training had come off the mandatory courses for the BHCC and this has been raised with the senior leadership. In view of the statutory Duty, the Prevent Training will be included back in the mandatory training package, and this will be endorsed at the Prevent Board Meeting on 12/12/2023. HASC already includes Prevent as a mandatory training.</p> <p>Communication from the Prevent Lead Officer has been disseminated across directorates and includes information that will increase awareness of strategic risks of terrorism in the city (CTLP – Counter Terrorism Local Profile headlines), further information for staff members to effectively identify some of those risks (e.g., extreme right wing, incel...), how to make a Prevent referral within the city and local support programme and finally the Prevent training offer.</p> <p>Prevent SPOC (Single Point of Contact or lead) in each directorate have agreed to this approach and it will be monitored through the quarterly Prevent Board meetings. Additionally, the Prevent Lead Officer has been working with FDFP and HASC safeguarding hub to review the Prevent Pathway, the revised procedures will be promoted internally and across directorates once confirmed and will also be available through the directorate SharePoint sites.</p> <p>Future work will include reassuring ourselves that all our commissioned and contracted services are advised of the Prevent Duty and training requirements, and these are monitored through our performance monitoring and quality assurance work.</p>	Nahida Shaikh, Prevent Lead Officer		31/03/24	01/04/21	31/03/24
<p>Ensure there are appropriate services and support for people with care needs in the city</p> <p>Comments: There are a number of projects currently underway to recommission a range of services including care homes, supported living, community support, mental health provision and equipment services. Homecare and extra care contracts have been recommissioned and the contract provides a suitable model for the future. Other contracts are due to be recommissioned over the next 18 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>	Andy Witham, Assistant Director – Commissioning & Partnerships	80	31/03/24	18/11/21	31/03/24

Ensure there is appropriate accommodation and support for vulnerable homeless and rough sleepers Paul Cooper, Assistant Director – Housing Needs & Supply 80 31/03/24 18/11/21 31/03/24

Comments: Our Rough Sleeper and Single Homeless Service continues to support vulnerable homeless and rough sleepers across the city. A rough sleeper is defined as someone who is bedded down or about to bed down in the open air or in place that is not designed for habitation (e.g. stairwells, sheds, make shift structures).

As of September 2023 there were 56 verified rough sleepers on the single night count that took place.

Of the 56 people sleeping rough, 26 had a local connection to Brighton & Hove; 7 people had accommodation available to them and 15 were verified as new to rough sleeping that night.

Of the 56 verified rough sleepers counted in September 2023 there were 43 males, 11 females, 2 where gender was unknown.

The current count reflects the seasonal change to the number of rough sleepers, for the summer period. Brighton has historically seen an increase in rough sleepers during the summer months and commissioned Reconnections Services will target those relevant individuals to ensure they are safely reconnected to their previously connected areas.

The Council commissions Street Outreach Services and Off Street accommodation for Rough Sleepers. These services include reconnections services to provide targeted intervention for Rough Sleepers who are not locally connected to Brighton & Hove. Services provide tailored, trauma informed support to enable clients to move away from Rough Sleeping and into supported accommodation.

Accommodation projects aim to ensure recovery from homelessness and engage with Rough Sleepers around their multi compound needs, with the view to move on to independent living. The commissioned services work in close partnership with the Council's Housing Options team to ensure Rough Sleepers receive statutory assessments alongside the support provided.

The Council's additional Government funded (DLUHC) Off Street Offer has been fully mobilised within the quarter and continues to prioritise placements for women which and those with no recourse to public funds. This fund will be in place until March 2025. Both of the Council's Off Street Offers work under a 'Single Service Offer' targeted move on model to ensure quick, targeted interventions for rough sleepers.

RS15 (externally) funded projects operational and being monitored

-Commissioning of single homeless supported accommodation pathway on progress and on track:

- H&NH Committee Member Workshop (Sept23): COMPLETED
- Detailed specifications for future service (Dec23): ON TRACK
- New contracts awarded (Jan24): ON TRACK
- New contracts mobilised (April24): ON TRACK

High quality social work is provided to ensure that adults are effectively safeguarded Richard Cattell, Principal Social Worker 80 31/03/24 18/11/21 31/03/24

Comments: In January 2023, HASC introduced a new practice audit framework which enables evaluation of the quality of Social Work practice in relation to 8 practice principles wellbeing, keeping safe, proportionality, partnership, accountability, prevention, carers and planning support. Although the principles are interdependent components of high quality social work, the “keeping safe” and “wellbeing” principles are most relevant but not exclusive to effective safeguarding.

To date, 69 audits have been completed covering a wide range of practice from all HASC operational services.

Audits are graded as either good, satisfactory, requires improvement or inadequate.

In the period since January 2023

1. In relation to the ‘Wellbeing’ principle 80% audits were rated as either good or satisfactory and 20% were rated as requiring improvement or inadequate
2. In relation to the ‘Keeping Safe’ principle 77% audits were rated as either good or satisfactory and 23% were rated as requiring improvement or inadequate.
3. In relation to the overall rating of all audits, 83% audits were rated as either good or satisfactory and 17% were rated as requiring improvement or inadequate with a proportion requiring some level of management follow up action to ensure practice improvement or system/process change.

The Adults Principal Social Worker

- Has introduced additional practice tools to support the assessment of risk in safeguarding and care act assessment
- Provides a quarterly update to the DMT on emergent themes from practice audits.
- Is developing a practice improvement plan (based on practice quality themes from audit) to ensure that gaps in practice are adressed through additional learning and skills development.

Provide assurance and support to reduce the risk of provider failure in the city Andy Witham, Assistant Director – Commissioning & Partnerships 100 31/03/24 18/11/21 31/03/24

Comments: Provider failure plans have been updated. 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	Katherine Taylor-Birnie, Head of Safeguarding	85	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

80% completed. All work of the BHSAB continues with the Local Authority lead statutory partner. A peer challenge event has been completed in December. The James SAR (ABI) action plan which was a challenge for agency partners is now complete and has fed into system development work such as ABI pathway development (ICB) and the Changing Futures Steering Group. SAR Craig (compound risk) action planning stage has now been completed with HASC able to provide robust evidence of assurance across all areas required The thematic review (women with multiple compound needs) action planning has also been completed. A new SAR is being commissioned around transitions and safeguarding. All challenges and action plans are met with Local Authority engagement and increased input from the operational area is supporting the SAB workplan and tasks well. Local system development continues to respond to these SAR's and overall themes (transitional safeguarding benchmarking for transitions steering group, consideration of risk management frameworks and approaches, enhanced learning regarding cuckooing theme) Evidence for SAR response is clear and timely. Updates for HASC directorate are fed back to the Operational Management Team and Directors Management Team regularly to ensure internal oversight and engagement.

The Directorate has developed an internal safeguarding development meeting led the Principal Social Worker and attended by Head of Adult Safeguarding, Social Work Practice Managers and now Operational Managers on a monthly basis and therefore increased oversight regarding practice is ongoing. % Safeguarding outcomes met continues as a directorate KPI which is monitored by the Performance Team and Head of Adult Safeguarding with engagement from front line teams a key aspect to this measure and consistently high performance (80%+). Engagement actions with all operational front line social work teams are being completed by the Head of Adult Safeguarding 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 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

60% completed. 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.

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

100% completed. 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 Safeguarding input is now invited by exception as and when needed and concerns are signposted to our operational area without delay.

Provide assurance that 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

Jenny Holmes, Recruitment Manager 75

31/03/25 01/04/21 31/03/24

Comments: DBS checking for new starters is up-to-date and in place. BHCC policy is to recheck staff in roles that require an enhanced DBS check every three years. This currently has a backlog due to staff sickness. A process is in place to address this.

APPENDIX 2: A guide to the risk management process

Risks are prioritised by assigning a rating between 1 and 5 to the likelihood (L) of the risk occurring, and the potential impact (I) should it occur. These are then multiplied to provide the risk score; the higher the result of $L \times I$, the greater the risk. e.g. L4 x I4 which denotes a Likelihood score of 4 (Likely) x Impact score of 4 (Major), which gives a total risk score of 16.

LIKELIHOOD	Almost certain (5)	5	10	15	20	25
	Likely (4)	4	8	12	16	20
	Possible (3)	3	6	9	12	15
	Unlikely (2)	2	4	6	8	10
	Almost impossible (1)	1	2	3	4	5
		Insignificant (1)	Minor (2)	Moderate (3)	Major (4)	Catastrophic (5)
		IMPACT				

A colour coded system, like the traffic light system, is used to distinguish risks that require intervention. Red risks are the highest (15-25), amber risks are significant (8-14), yellow risks are moderate (4-7), and then green risks are lowest (1-3).

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.

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

The Initial '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' position for the risk, taking account of existing controls.

The Revised 'Target' Risk Score focuses on the application of time and/or 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.

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.

