

NHS Highland



Meeting: Highland Health and Social Care Committee
Meeting date: 2 March 2022
Title: Adult Social Care Commissioned Services: 2022-2023 Fee Rate Update and Assurance Process
Responsible Executive/Non-Executive: Louise Bussell, Chief Officer
Report Author: Gillian Grant, Interim Head of Commissioning

1 Purpose

This is presented to the Board for:

- Decision

This report relates to an:

- Emerging issue

This aligns to the following NHS Scotland quality ambition(s):

- Safe
- Effective
- Person Centred

This report relates to the following Corporate Objective(s)

Clinical and Care Excellence <ul style="list-style-type: none"> • Improving health • Keeping you safe • Innovating our care 	X	Partners in Care <ul style="list-style-type: none"> • Working in partnership • Listening and responding • Communicating well 	X
A Great Place to Work <ul style="list-style-type: none"> • Growing talent • Leading by example • Being inclusive • Learning from experience • Improving wellbeing 		Safe and Sustainable <ul style="list-style-type: none"> • Protecting our environment • In control • Well run 	X
Other (please explain below)			

2 Report summary

2.1 Situation

The Health and Social Care Committee has previously, over the course of 2021-2022, considered the role and remit of the Adult Social Care Fees – Commissioning, Briefing and Instruction Group.

The report firstly updates on the current fee setting process and status and then offers recommendations for the Committee's consideration, to both address time sensitive fee and contract sign off arrangements for 2022-2023, and also address the role and remit matters highlighted by the Committee at previous meetings.

2.2 Background

NHS Highland annually considers fee levels and the contractual arrangements that will apply to commissioned adult social care services for the following financial year. These services include care home, care at home, support and day care services, which equate to over 250 contracts and over £95m in value.

An agreed process is undertaken annually, in accordance with the remit previously agreed by the Health and Social Care Committee, which is then reported back to the Committee to provide assurance around this area of activity.

2.3 Assessment

2.3.1 Fee Rates 2022-2023

The setting of adult social care fee rates is undertaken on a fee category basis, which means that where fees and contract extensions are set, there is a unified approach across that category.

The fee rate approach applied for 2021/ 2022 is provided below:

Fee Category	Fee Approach 2021-2022	Contract Duration	Source of Fee Approach Recommendation	
SDS Option 1	+2.2%	+1 year	Scottish Government	
SDS Option 2	+2.2%	+1 year	Scottish Government	
NCHC Care Homes	COSLA settlement Nursing +3.2% and Residential +2.83%	+1 year	COSLA	
Standard Care Homes				
Non Standard Care Homes				
Out of Area Highland Care Homes				
Out of Area Placements	Continue to align with host authority rate	+1 year	NHS Highland	
Care Homes 1:1	Current rates +2.2%		NHS Highland	
Care at Home				
Support Standard				
Support Non Standard				
Housing Support				
Home Based Respite				
Spot purchase Day care				
Registered Day care			Current rates +2.2% and continued payment at gross	+1 year
Third Sector	Standstill		+1 year	NHS Highland (Third Sector Project Board)
Non care home non standard	Standstill	+1 year	NHS Highland	
Non Standard bespoke Services	Standstill	+1 year	NHS Highland	
Care homes non standard placement agreements	Standstill	+ 1 year	NHS Highland	
Care Home specialist use beds including respite and flexible use	COSLA settlement Nursing +3%	+ 1 year	COSLA	

The process of reviewing adult social care fee rates is based on a number of elements, a crucial component of which is the outcome of the National Care Home Contract (NCHC) national negotiations and settlement. In respect of 2022-2023, these are unlikely to conclude before the end of March 2022.

In addition, and now for the last two financial years, the Scottish Government has also provided clarification and direction for fee uplifts to non residential contracted services.

These two key areas (NCHC approach and SG direction) therefore inform the fee approach to be applied to specified fee categories and influence the fee approach applied to most other fee categories.

The process of fee setting for 2022- 2023 has not, at the time of writing this report, been finalised. The NCHC settlement outcome is awaited and there is a need for

necessary clarification and analysis before recommendations can be offered and considered within the due process.

In respect of the 2022-2023 financial year, NHS Highland is aware that the Scottish Government has confirmed a minimum rate of pay of £10.50 per hour for staff providing direct care within Adult Social Care commissioned services, but associated detail and application is awaited and imminently expected.

Particularly in the current context of adult social care recruitment and retention pressures, it is critical that timely assurance is provided to care providers regarding forthcoming fee rates, to enable staff awards to be confirmed and made. This is a crucial action to promote sustainability in commissioned provision, which is a current Scottish Government and NHS Highland priority in order to continue to access current, and also additional, capacity.

Accordingly, to ensure service continuity and for providers to be notified of fee rates for 2022/23 and contract extension, there is a need to communicate fee award decisions to providers, where at all possible, before contract expiry on 31 March 2022, in order to avoid a contractual gap and associated risks.

At the stage of drafting this report, the required Scottish Government confirmations and NCHC clarifications have not yet been received to enable inclusion in this report for committee consideration and approval, and the timing of the next meeting of this committee is such that it would present a delay in provider notification.

In order to address the need for both timeliness and also the governance matters previously considered by this Committee (and as referenced below at 2.3.2), the Committee is requested to consider the following:

a) to **agree** to a delegated mandate for a joint decision on annual fee and contract arrangements to be made by the Chief Officer and Director of Finance, aligned to the imminent Scottish Government and NCHC requirements and agreed financial plan, for 2022-2023 to ensure service continuity and sustainability, thereafter providing an assurance report to this committee. In the event of any recommended or proposed uplift **beyond and not aligned** the Scottish Government requirement, this would necessitate approval being sought from this Committee.

or

b) to **agree** to establish a sub committee of the H&SCC, with a single item focus in relation to fee and contractual matters, in order to consider and agree annual fee rate and contract arrangements, at the appropriate time in the financial year; and if minded to agree to the establishment of such a sub committee, to consider and **agree** appropriate membership to enable the convening of this committee during March / April 2022, as required.

With regard to Third Sector activity, the current position is as noted within an **Appendix B**, which is to follow.

2.3.2 Adult Social Care Fees – Commissioning, Briefing and Instruction Group Role and Remit

The current role and remit for the Adult Social Care Fees – Commissioning, Briefing and Instruction Group was last reviewed in December 2019. An updated role and remit was presented to the Highland Health and Social Care Committee on 30 June 2021 to reflect updated governance structures and group membership.

In its consideration of this report, the Committee requested further amendments to the proposed governance routes.

A further update was subsequently provided in the Chief Officer’s assurance report for the Highland Health and Social Care Committee on 2 November 2021 meeting, which referred to the need to revise the role and remit for the Adult Social Care Fees Briefing and Instruction group, to take account of the request of this committee to undertake a sign off role in respect of annual fee and contract arrangements.

However, the committee’s consideration of the approach to the area described at 2.3.1 above, will clearly link to and impact on, the committee’s preferred approval arrangements in terms of the role, remit, governance and sign off arrangements.

It had been intended to present a final role and remit, but given the request set out earlier in this paper, this has been currently drafted to take account of the noted two options, and will be updated accordingly to reflect the committee’s agreed (or alternative) preference. The role and remit currently drafted by way of this described approach, is set out at **Appendix B**.

It is also highlighted for information, that the full range of described remit within the attached has not been fully met over the course of the last 18 months, due to the continued redirection of resource to the Adult Social Care Covid-19 response. This is an area which is being addressed as a priority and an update on this matter will be provided to the next meeting of this Committee.

2.4 Proposed level of Assurance

This report proposes the following level of assurance:

Substantial	<input checked="" type="checkbox"/>	Moderate	<input type="checkbox"/>
Limited	<input type="checkbox"/>	None	<input type="checkbox"/>

3 Impact Analysis

3.1 Quality/ Patient Care

No impact

3.2 Workforce

The need for service continuity and sustainability regarding the fee sign off arrangements for 2022/23 will ensure that pay increases for providers’ staff are not unavoidably delayed.

3.3 Financial

The cost of the fee approach recommendations will be contained within the agreed NHS Highland financial plan for 2022-2023.

3.4 Risk Assessment/Management

Contractual and service continuity risk has been mitigated by seeking appropriate measures, to ensure decision making within the required timescales.

3.5 Data Protection

No impact

3.6 Equality and Diversity, including health inequalities

Not applicable

3.7 Other impacts

None

3.8 Communication, involvement, engagement and consultation

The role and remit for the Adult Social Care Fees – Commissioning, Briefing and Instruction Group has been reviewed and discussed with Director of Finance, Deputy Director of Finance, Director of Adult Social Care and Chief Officer.

3.9 Route to the Meeting

This report has been previously considered by the following groups as part of its development. The groups have either supported the content, or their feedback has informed the development of the content presented in this report, in terms of the Adult Social Care Fees – Commissioning, Briefing and Instruction Group role and remit aspect of this report.

- Highland Health and Social Care Committee, 30 June 2021
- Highland Health and Social Care Committee, 2 November 2021

4 Recommendation

- **Decision** – members are asked to consider the recommendations as follows:

a) In respect of annual fee and contract arrangements for 2022-2023, to:

i) **agree** to a delegated mandate for a joint decision on annual fee and contract arrangements to be made by the Chief Officer and Director of Finance, aligned to the imminent Scottish Government and NCHC requirements and agreed financial plan, for 2022-2023 to ensure service continuity and sustainability, thereafter providing an assurance report to this committee. In the event of any recommended or proposed uplift **beyond and not aligned** the Scottish Government requirement, this would necessitate approval being sought from this Committee.

or

ii) to **agree** to establish a sub committee of the H&SCC, with a single item focus in relation to fee and contractual matters, in order to consider and agree annual fee rate and contract arrangements, at the appropriate time in the financial year; and if minded to agree to the establishment of such a sub committee, to consider and **agree** appropriate membership to enable the convening of this committee during March / April 2022, as required.

b) **agree** to a further and final revision to the role and remit to take account of recommendations above, where this is so agreed.

c) **agree** the recommendation contained within the attached **Appendix A** in respect of Third Sector activity.

4.1 List of appendices

The following appendices are included with this report:

- **Appendix A**, Third Sector Activity – to follow
- **Appendix B**, Adult Social Care Fees – Commissioning, Briefing and Instruction Group, Proposed Revised Role and Remit

Third Sector Activity

Appendix to follow

Adult Social Care Fees – Commissioning, Briefing and Instruction Group DRAFT Role and Remit 3 March 2022

Background

NHS Highland contracts with care providers, paying agreed fees for the care services provided. Depending on circumstances, these fees are either *standard* fees which are overseen by the National Care Home Contract, or non-standard fees which recognise a specialist service which usually manages a level of complexity.

The Adult Social Care Fees – Commissioning, Briefing and Instruction Group (Fees Group) was established in 2017 as an operational group to ensure consistency of approach across the North Highland Partnership area.

The remit of the Fees Group was agreed by the Health and Social Care Committee in March 2018 with a further update in December 2019 which consolidated the already agreed role and remit and provided further detail as to the operating procedures of the group. A revision in June 2021 was made to the membership and fee sign off process.

This further revision in February/March 2022 is to update the fee governance process to clarify assurance and oversight.

The Adult Social Care Fees – Commissioning, Briefing and Instruction Group

The required oversight will be provided by an **Adult Social Care Fees – Commissioning, Briefing and Instruction Group (Fees Group)**. Approval of this group is required to progress to any **adult social care** commissioning / procurement arrangement and this group will oversee contract performance.

Remit

The remit of this group will be to oversee, consider and agree recommendations and provide instruction on **North Highland** Adult Social Care Commissioning financial tariff, contract and activity issues to ensure compliance with current Standing Financial Instructions.

The group will:

- consider Adult Social Care Commissioning related issues;
- provide instruction to Commissioning / Procurement Teams;
- oversee the Adult Social Care contracts register;
- monitor and receive reports on Adult Social Care Commissioning activity;
- identify and report on areas of non compliance;
- prepare annual fee and contract recommendations to the Chief Officer and Director of Finance to ensure the approach represents the NHS's agreed strategic direction; meets the Board's objectives; and is affordable.

- thereafter, submit annual fee and contract recommendations for approval to the Highland Health and Social Care Committee, or delegated sub committee as appropriate;
- consider, agree and implement any mid year, or out of course, Adult Social Care fee related matters, and in doing so, ensure consistent, equitable and transparent consideration and decision making and within a mandate agreed by the Health and Social Care Committee, or delegated sub committee as appropriate.
- prepare annual (or more frequently or outwith this schedule if required) financial and contract recommendations.

The key stages and timings are as undernoted:

Adult Social Care Fees Commissioning, Briefing and Instruction Group	
Fee and Contract Proposal Sign Off - Key Stages and Timings	
When	What
July to February	Fee and contract proposals prepared by Group and provision made in the annual financial plan
February / March	Recommendations made to Chief Officer and Director of Finance for "in principle" approval
March / April	<p>Submission to and final approval of, annual fee recommendations and fees group mandate*:</p> <p>i) for a joint decision on annual fee and contract arrangements to be made by the Chief Officer and Director of Finance, aligned to the imminent Scottish Government and NCHC requirements and agreed financial plan, for 2022-2023 to ensure service continuity and sustainability, thereafter providing an assurance report to this committee. In the event of any recommended or proposed uplift beyond and not aligned the Scottish Government requirement, this would necessitate approval being sought from this Committee.</p> <p>or</p> <p>ii) to a sub committee of the H&SCC, with a single item focus in relation to fee and contractual matters, in order to consider and agree annual fee rate and contract arrangements, at the appropriate time in the financial year.</p> <p>*To be considered by H&SCC on 02/03/22</p>
March/ April	Providers notified
April	New fee and contract arrangements implemented
May	Tender waiver report to NHS Highland Board, as required
Ongoing	6 weekly meetings of the Fees Group to review, oversee and agree fee issues and address any outstanding or arising matters, within an agreed mandate, and otherwise providing such issues to the next available meeting of the Highland Health and Social Care committee, or delegated sub committee as appropriate, for approval.

Membership

The Fees Group will comprise the following membership:

Head of Commissioning (Chair)
Depute Director of Adult Social Care
Head of Service, Community Directorate
Head of Service, Community Directorate nominated deputy
Deputy Director of Finance
Finance Manager (ASC)
Head of Mental Health and Learning Disabilities and Autism
Head of Service (Learning Disabilities and Autism)
Commissioning, Contracts and Compliance Manager (Depute Chair)

In attendance will also be a representative / representatives from the Commissioning, Contracts and Compliance Team; Business Support Team; and Operational Team as required:

Declaration of Interests

- Group members must declare any interests at the commencement of each Fees Group meeting.