



**Open Report on behalf of Martin Samuels,  
Executive Director - Adult Care and Community Wellbeing**

Report to:	<b>Executive</b>
Date:	<b>05 March 2024</b>
Subject:	<b>Residential Care and Residential with Nursing Care Usual Costs</b>
Decision Reference:	<b>I030837</b>
Key decision?	<b>Yes</b>

**Summary:**

On the 1 March 2023, the Executive approved the setting of Usual Costs (also referred to as Expected Costs) for residential accommodation for a one-year period to 31 March 2024. These rates were established following a comprehensive market assessment carried out in 2021. The rates underpin the Council's framework contract for the three-year period to 31 March 2025. The framework contract incorporates an annual review to minimise the risk of the rates losing pace with the economy especially with the increases in national living wage.

The setting of the Council's Usual Cost is central to its compliance with statutory obligations. In particular, the rate that the Council establishes as its Usual Cost will contribute significantly to the viability and sustainability of the market which provides sufficient places capable of meeting need. The Usual Cost will also determine in many cases the personal budget against which the choice of accommodation provision will be assessed. As such any change to the rates paid for services will have a material impact on the effectiveness for services.

The aim of the rate setting exercise is to establish rates for residential services that are both affordable to the Council, meets the Council's legal duties, and sets a rate for the market reflecting any other necessary changes and improvements to the contract that will enable the successful operation of service over the next year.

**Recommendation(s):**

That the Executive: -

- 1) Approves the rates set out in Table 1 in paragraph 2.6 of the report as the Council's Usual Costs for both new and existing Older People service users in respect of residential, nursing and high dependency care with effect from 1 April 2024 for the year 2024/25.
- 2) Approves the rates set out in Table 2 in paragraph 2.6 of the report as the Council's Usual Costs for both new and existing Learning Disability service users in respect of Band 1, Band 2 and Band 3 with effect from 1 April 2024 for the year 2024/25.

- 3) Approves the rates set out in Table 1 in paragraph 2.6 of the report as the Council's Usual Costs for both new and existing Mental Health service users in respect of standard and nursing care with effect from 1 April 2024 for the year 2024/25.
- 4) Approve the rates set out in Table 1 in paragraph 2.6 of the report as the Council's Usual Costs for both new and existing Physical Disability service users with effect from 1 April 2024 for the year 2024/25.
- 5) Approve the rates set out in Table 1 in paragraph 2.6 of the report as the Council's Usual Costs for service users needed 1:1 care with effect from 1 April 2024 for the year 2024/25.
- 6) Approve the replacement of the Hardship Fund that operated in 2023/24 with a Hardship Process with effect from 1 April 2024 for the year 2024/25.
- 7) Delegate to the Executive Director, Adult Care and Community Wellbeing in consultation with the Executive Councillor for Adult Care and Public Health, authority to determine the detailed conditions governing the Hardship process contained in section 3 including the criteria for making of payments.

**Alternatives Considered:**

1. No increase in Usual Costs is applied in April 2024 and that usual costs remain at the current level.

This option would cost the council £9.4m less than the recommended options and would allow the authority to reinvest this funding elsewhere. However, failure to increase usual costs to reflect inflationary pressures across the sector would leave the Council open to challenge under the Care Act. It would significantly lessen providers' ability to recruit in a competitive labour market as well as increase the risk of providers going out of business and potentially lead to a fall in the quality of care provided.

2. Increase the Usual Costs by more than is set out in the report.

During the term of this contract the Council has taken steps to establish cost of delivery across Lincolnshire, has engaged with the market on its model as a result and considered the feedback. Although feedback from providers through the consultation period on the 2024-25 rates suggested that the increase in the proposed usual costs isn't sufficient to reflect the true impact of financial pressures being experienced across the sector, the Council believes that the proposed Usual Costs accord with the cost of providing care within Lincolnshire.

**Reasons for Recommendation:**

Approving the recommendations within this report will see an increase in the rates paid aligned to the level of inflation which will support providers' costs. It will provide assurance that the Council will be able to continue to meet its statutory obligation to meet assessed eligible need for service users.

## **1. Background**

- 1.1 Residential and Nursing services represent one of the Council's highest spend areas with a gross annual cost £180m. As such, any changes to the rates paid will have a material financial impact to the council.
- 1.2 The aim is to uplift the rates for Residential and Nursing services to a degree that is affordable to the Council, meets the Council's legal duties, and sets a rate to the market that will allow for the successful operation of services over the contract duration.
- 1.3 The Council undertook a comprehensive assessment of the market during 2021. This assessment was carried out working with the local market and the Lincolnshire Care Association. The Council commissioned Care Analytics Ltd to undertake an independent assessment of the residential care market. This took the form of an assessment of revenue costs for older people and working age adults. This assessment enabled a review of previous rate setting approaches and provided the ability to further develop the Council's cost model to reflect the data gathered by Care Analytics on the Council's behalf.
- 1.4 The outcome of the market assessment was shared with the market and has informed the rates model since 2022-23.

## **2. The Council's Proposed Rates**

- 2.1 The Council last set Usual Costs in March 2023 for the financial year 1 April 2023 – 31 March 2024. The 2024-25 rates proposed continue to be informed by the market assessments completed. Market assessments have been completed for residential care, homecare, and community supported living services. All assessments have followed the same principles, and the outcomes of the assessments underpin the Council's rates for all these services.
- 2.2 All proposed rates include: -
- 9.8% increase in the staffing cost elements of the model reflecting the % increase to £11.44 of the national living wage confirmed in the Autumn Statement published 22 November 2023.
  - 3.1% average inflation forecast for the financial year 2024-25 for the non-pay elements of the rates.
- 2.3 The changes in rate structure actioned most recently are listed below and have been funded through the Market Sustainability and Improvement funding (MSIF) released by the government. The 2024-25 Local Government Settlement announced a continuation of the MSIF grant funding enabling the structures introduced to continue.
- a higher than inflation increase to residential care actioned in 2023,
  - a floating support rate introduced for community supported living services actioned in 2023,
  - a four-tier homecare rate structure replacing the previous three-tier actioned in 2022,

2.4 The proposed set of Usual Costs have been shared with market as part of the market consultation exercise. This consultation closed 5 February 2024 and the questions and responses can be seen in appendix C.

2.5 Feedback from the market focussed on the following: -

- National living wage (NLW) is not sufficient to enable the sector to compete with other market sectors: -
  - *Response: The rates are constructed based on the average rates paid across the sector in 2021-22 as determined by the market assessment carried out. All these rates have been uplifted annual by the same % increase in the national living wage. LCC rate structure therefore continues to recognise that the rates paid are at least at NLW.*
- The forecast reduction in inflation is optimistic: -
  - *Response: The rates are constructed based on the average rates paid across the sector in 2021-22 as determined by the market assessment carried out. As costs increased significantly during the cost-of-living crisis, LCC operated an evidence-based hardship fund for providers to claim against as a mechanism to receive a contribution towards the cost of energy, insurance and/or fuel. For 2024-25 the Council will continue to monitor the inflationary trends. This paper proposes a move towards a Hardship Process rather than a Hardship Fund. This is detailed in section 3 of this paper.*
- The fairness of the Council's expectation that third party top up values are set by providers at the outset of the contract period and fixed for the full three year contract cycle when they do not have visibility of the Council's proposed usual costs for the full duration of the contract cycle has been questioned, with a request that a proportionate increase in third party top-ups equivalent to the council's expected cost increase be permitted.
  - Response: This seems to be based on a misunderstanding of how the contract works. Where a provider charges a price above the council's Usual Cost the provider is entitled to payment of that price as long as a third party makes up the difference between that price and the Usual Cost. The contract works to ensure that if the Usual Cost is increased the provider's price also increases by the same amount. In this way the full value of the Council's increase is passed through to the provider without increasing the value of the top up. So, although it is true to say that providers could not foresee what increases the Council would make to the Usual Cost in future years, they are protected against this in any event by the fact that the providers price automatically rises with an increase in the Usual Cost. In this way the differential is always maintained, and therefore the request for a proportionate increase is in effect already happening.*

2.6 The tables below show the proposed rates for 2024-25 compared to 2023-24.

Table 1

<b>Older Peoples, Mental Health and Physical Disabilities</b>			
<b>Care</b>	<b>Current 2023/24</b>	<b>Proposed 2024/25</b>	<b>% Uplift</b>
Older People Standard Residential	£646	£693	7.3%
Older People Higher Dependence	£712	£764	7.3%
Older People Nursing	£713	£765	7.3%
Mental Health Standard	£669	£718	7.3%
Mental Health Nursing	£710	£762	7.3%
Physical Disability	£831	£892	7.3%

Table 2

<b>Learning Disabilities</b>									
<b>Band</b>	<b>Standard</b>			<b>Smaller</b>			<b>Smallest</b>		
	<b>Current 2023/24</b>	<b>Proposed 2024/25</b>	<b>% Uplift</b>	<b>Current 2023/24</b>	<b>Proposed 2024/25</b>	<b>% Uplift</b>	<b>Current 2023/24</b>	<b>Proposed 2024/25</b>	<b>% Uplift</b>
Band 1	£757	£812	7.3%	£810	£869	7.3%	£863	£926	7.3%
Band 2	£876	£940	7.3%	£929	£997	7.3%	£982	£1,054	7.3%
Band 3	£1,110	£1,191	7.3%	£1,163	£1,248	7.3%	£1,216	£1,305	7.3%

Table 3

<b>Residential 1:1</b>		
<b>Current 2023/24</b>	<b>Proposed 2024/25</b>	<b>% Uplift</b>
£14.15	£15.18	7.3%

### 3. Financial Hardship Process

3.1 As the sector tackled the Covid-19 pandemic, providers of adult social care experienced costs far more than its business as usual and the council provided a Hardship Fund to reimburse evidenced costs incurred. Costs predominantly related to infection control measures and workforce.

- 3.2 We emerged from the pandemic into a cost-of-living crisis with businesses and families experiencing significant cost increases. The adult social care sector was impacted significantly by fuel, energy, and insurance cost increases. The Council reviewed the terms of the Hardship Fund to support providers with these evidenced costs recognising the increased financial pressure.
- 3.3 As the volatility of costs change again, the proposal is to move away from a Hardship Fund and replace with a Hardship Process. This process will be open to commissioned providers to approach the council where they are at risk of closure due to financial loss. An open book assessment will be completed between the Council and the provider, which will consider the financial viability of the provider including cashflow and reserves held as well as available capacity across Lincolnshire for the services they provide to inform a decision about whether and to what extent it would be appropriate for the council to offer financial support.
- 3.4 Any financial support provided will be time limited with a recovery plan agreed between both parties which will encourage future sustainability of the home.
- 3.5 The Council's responsibility is to ensure sufficient adult social care provision to meet demand and that the rate paid for care overall appropriately reflects the cost of its provision. The capacity review contained within the assessment may conclude that there is sufficient capacity in the market and no financial support can be provided.

#### **4. Risk**

- 4.1 There is a material risk that inflation does not fall as forecast. The finance team will continue to monitor the CPI on a quarterly basis and work with Adult Care and Community Wellbeing Directorate Leadership Team to assess the impact, consequences and actions needed should this risk materialise.
- 4.2 There is a risk that the providers will not sign up to the 2024-25 rates because of the Council's approach to top ups. As noted at paragraph 2.5, the contract works to ensure the full value of the Council's increase is passed through to the provider by maintaining the value of the top up in addition to the Council's Usual Cost fee increase. The value of the top up was fixed at the outset of the contract period to protect the families and other third parties from significant increase in costs during the contract period. So, whilst providers could not foresee what increases the Council would make to the Usual Cost in future years, they were protected against the uncertainty of the councils' rates in future years by the fact that their total price automatically rises with an increase in the Usual Cost. This appropriately balances the impact of the risk across the council, the provider and the third party.

In each relevant contract year (i.e. 2022-23, 2023-24), the Council has followed a process of review and due diligence to satisfy itself of the suitability and sufficiency of its inflationary

increases to the Usual Cost thereby mitigating the risk that an increase in the third-party top-up is necessary to meet the costs of care.

## 5. Legal Issues:

5.1 The legal framework governing Care and Support in England is provided for by the Care Act 2014 (the Act), detailed secondary legislation by means of Regulations and the Care and Support Statutory Guidance to the Care Act 2014 ("the Guidance").

5.2 Under the Care Act the Council has a primary obligation to assess the needs of those that appear to have needs for care and support and to meet those needs where they meet eligibility criteria. One of the main ways that the Council meets need is through the provision of residential care and residential care with nursing across a range of needs.

5.3 The Care and Support and After Care (Choice of Accommodation) Regulations 2014 enable a person to have the right to choose a particular provider subject to certain conditions. Where the accommodation is of the same type as specified in the adult's care and support plan, the preferred accommodation is suitable and available and where the provider agrees to provide the accommodation on the local authority's terms, the local authority must provide or arrange the accommodation. The preferred accommodation must not cost the local authority more than the amount specified in the personal budget of the adult. Where a person chooses a setting that is more expensive than the amount identified for their provision and set out in their Personal Budget, an arrangement needs to be made to meet the difference in cost. This is known as a "top up" payment or additional cost. In such cases, the local authority must arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

5.4 Annex A of the Guidance provides that: -

- The Council must have regard to the actual cost of good quality care in deciding the personal budget to ensure that the amount is one that reflects local market conditions (para 11)
- The Council should not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care (para 11)
- A person must not be asked to pay a top up because of market inadequacies or commissioning failures and must ensure there is a genuine choice (para 12)
- The Council must ensure that at least one option is available that is affordable within a person's personal budget and should ensure that there is more than one (para 12)
- If no suitable accommodation is available and no preference expressed the Council must arrange care in a more expensive home and adjust the budget accordingly (para 12)
- The Council has a duty to shape and facilitate the market including ensuring sufficient supply (para 13)
- Where choice cannot be met the individual must give the individual an explanation in writing. (para 17)

5.5 The setting of the Council's Usual Costs is central to its compliance with these obligations. In particular the rate that the Council establishes as its Usual Cost will contribute significantly to the viability and sustainability of a market which provides sufficient places capable of

meeting need. The Usual Cost will also determine in many cases the personal budget against which the choice of accommodation provisions will be assessed.

5.6 In addition, the Council has general obligations under the Care Act. The most important of these in the current context is section 5 which states: -

"s.5(1) A local authority must promote the efficient and effective operation of a market in services for meeting care and support needs with a view to ensuring that any person in its area wishing to access services in the market.

(a) has a variety of providers to choose from who (taken together) provide a variety of services

(b) has a variety of high-quality services to choose from

(c) has sufficient information to make an informed decision about how to meet the needs in question

Under section 5(2), when the council is considering the duty set out above, the Council must have regard to: -

- The need to ensure information is made available about the providers and the types of services they provide,
- The current and likely future demand and how providers might meet that demand,
- The importance of enabling, those that wish to do so, to participate in work, education, or training,
- The importance of ensuring sustainability of the market (in circumstances where it is effective as well as in circumstances where it is not)
- The importance of fostering continuous improvement in the quality, efficiency and effectiveness of the services and the encouragement of innovation
- The importance of fostering a workforce who can deliver high quality services (relevant skills and appropriate working conditions)

5.7 The Council must, when considering current and likely future demand ensure that there are sufficient services available to meet need and have regard to the importance of promoting wellbeing.

5.8 The background to the section 5 provisions includes the following statement in paragraph 5.2. of "Building Capacity and Partnership in Care: An agreement between the statutory and independent social care, health care and housing sectors" which was published by the Department of Health in October 2001: -

"Providers have become increasingly concerned that some commissioners have used their dominant position to drive down or hold down fees to a level that recognises neither the costs to the providers nor the inevitable reduction in the quality-of-service provision that follows. This is short sighted and may put individuals at risk. It conflicts with the Government's Best Value Policy. And it can destabilise the system, causing unplanned exits from the market. Fee setting must consider the legitimate and current and future costs faced by providers as well as factors that affect those costs, and the potential for improved performance and more cost-effective ways of working..."



5.9 Chapter 4 of the Guidance (Market Shaping) provides guidance on s.5 of the Act in the following paragraphs: -

"4.11 This statutory guidance describes, at a high level, the themes and Issues that local authorities should have regard to when carrying out duties to shape their local markets and commission services Market shaping, commissioning, procurement and contracting are inter-related activities and the themes of this guidance will apply to each to a greater or lesser extent depending on the specific activity..."

"4.27 Local authorities should commission services having regard to the cost effectiveness and value for money that the services offer for public funds. The Local Government Association Adult Social Care Efficiency Programme (...) has advice on these issues and may be helpful ..."

"4.31 When commissioning services local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support and allow for the service provider ability to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow retention of staff commensurate with delivering services to the agreed quality and encourage innovation and improvement. Local authorities should have regard to guidance on minimum fee levels necessary, taking account of the local economic environment. This assurance should understand that reasonable fee levels allow for a reasonable rate of return by independent providers that is sufficient to allow the overall pool of efficient providers to remain sustainable in the long term..."

5.10 The Usual Costs in this Report will continue to support a market within Lincolnshire that provides a choice of good quality care for Lincolnshire service users in a way which is sustainable both in terms of the businesses themselves but also in terms of a skilled workforce.

#### Equality Act 2010

5.11 Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- \* Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act
- \* Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- \* Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.12 The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

5.13 Having due regard to the need to advance equality of opportunity involves having due regard to the need to:

- \* Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic
- \* Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- \* Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

5.14 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

5.15 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

5.16 Compliance with the duties in section 149 may involve treating some persons more favourably than others.

5.17 The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process

If the Usual Cost is set at a level which is too low to cover costs then it is possible that there would be an adverse impact on people in residential care who are particularly vulnerable either by way of age or disability or both. This could happen because the rate paid by the Council was too low to maintain quality at current levels and as a consequence for example the number of activities available to residents could fall along with the catering standards or the amount of care hours available to individuals. In the event that rates were so low that providers could not maintain their business and homes closed residents would have to move. This could cause distress and upheaval particularly for those well settled residents with friends amongst the staff and other residents. Unless well managed it could also be injurious to health for the most vulnerable and cause confusion to dementia sufferers.

An Impact Analysis has been completed for Residential and Nursing Care rates for Adult Care which addresses the risk of adverse impact on service users which can be found as Appendix A and should be carefully considered along with the statutory duty itself as set out above. Two potential types of adverse impacts are identified. Firstly, that the quality of service may be reduced and secondly that more Homes may close. The extent of each risk depends principally on a consideration as to whether the Council's Usual Costs are at or above the actual costs of care. The work the Council has done to get data from the market and model the actual costs means that in the view of the Council the Usual Cost is at or above the actual cost of care.

The recommended proposal does increase all Usual Costs and does cover the providers' costs. The risk arising out of a fall in quality in these circumstances is therefore considered to be low. The proposed rate is above that residential care providers are currently paid and therefore there should be little economic need for providers to reduce the quality currently provided.

In any event the Council has procedures in place so that it can monitor the situation, to be able to manage both risks if they arise and thereby mitigate the risk of adverse impact arising out of either circumstance. In relation to quality the Council will specify the minimum quality requirements in its contracts which Homes will be required to sign. This will be monitored through contract management meetings with all providers to discuss performance; issues raised by the homes; workforce development; commissioning plans; operational quality assurance and other matters as appropriate. The meetings will take place in the homes and will vary in frequency, large providers will have monthly meetings with the smaller providers having less but they will take place at least annually. The Council works closely with the Care Quality Commission and has a structured approach to quality data maintaining a current history on each home. This enables any quality issues to be quickly recognised. Where Safeguarding issues are raised a multi-party investigation is undertaken and the Assistant Director or Head of Strategic Safeguarding will suspend all new placements where appropriate. In those cases, the Council will then work with the home to develop an improvement plan and will monitor the improvements. The suspension will only be lifted when satisfactory progress has been made.

As far as potential home closures are concerned, the risk of a home closing will be monitored through contract management meeting and the Contract Risk Matrix. The Council would expect that homes starting to find themselves in difficulty would raise concerns with the Council. In the unusual and unlikely event that a home was going to close, rather than be sold as a going concern, there is sufficient capacity within the market to find alternative provision for residents. The Council has in place a "Loss of Provider Process" which enables action to be taken quickly and efficiently to enable a smooth transition. The Loss of Provider Process requires that a team of practitioners is set up to be dedicated to working with the home, residents, and relatives to find suitable alternative placements. This team will work closely with NHS colleagues and the contracts, quality, and safeguarding teams in the County Council to manage the transition of arrangements.

In addition to this and as part of the Council's general market shaping work the Council continually monitors capacity in the market and addresses issues through its commissioning methodologies.

It is considered that the adoption of the recommended proposal addresses the risks and adverse effects that might arise if the alternative option was adopted. The remaining potential for adverse effects is low and can be mitigated and managed as set out above. Adoption of the recommended proposal is therefore considered to be consistent with the Council's obligations under the Equality Act 2010.

#### 5.18 Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The JSNA for Lincolnshire is an overarching needs assessment. A wide range of data and information was reviewed to identify key issues for the population to be used in planning, commissioning, and providing programmes and services to meet identified needs. This assessment underpins the JHWS which has the following themes: -

- i. Promoting healthier lifestyles
- ii. Improving the health and wellbeing of older people
- iii. Delivering high quality systematic care for major causes of ill health and disability
- iv. Improving health and social outcomes and reducing inequalities for children
- v. Tackling the social determinants of health

Under the strategic theme of improving the health and wellbeing of older people in Lincolnshire there are 3 relevant priorities; -

- Spend a greater proportion of our money on helping older people to stay safe and well at home,
- Develop a network of services to help older people lead a more healthy and active life and cope with frailty,
- Increase respect and support for older people within their communities.

The proposed increases to Residential and Nursing Care Fee Levels will contribute directly to the delivery of these priorities by helping to ensure that services for recipients of Adult's social care services are locally based, cost effective and sustainable.

#### 5.19 Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area

Section 17 matters have been considered in preparing the Report. The Proposals in this Report do not directly contribute to the furtherance of the section 17 matters and there is no risk of adverse impact identified.

## **6. Conclusion**

The 2024-25 rates detailed above further build upon the 2023-24 rates established following the market assessment carried out in 2021, uplifted to reflect the increase in national living wage and forecast inflationary increase.

For the reasons outlined in the report, the Usual Costs identified above represent an appropriate rate to enable the continued viability of the residential care market in Lincolnshire and the continued provision of choice in good quality care for the residents of Lincolnshire and it is recommended that the Usual Costs are approved.

## **7. Legal Comments:**

The Council has the power to adopt the Usual Costs and establish the Hardship Process as set out in the Report. The proposed rates are considered to have been arrived at through a

lawful process which reflects case law, the Council's obligations under the Care Act and associated Guidance and which has appropriate regard to all relevant considerations. Further detailed discussion of the legal implications of the decision are dealt with in the Report. The decision is consistent with the Policy Framework and within the remit of the Executive.

## **8. Resource Comments:**

To ensure compliance with its current and future legal obligations the Council must ensure it has a full understanding of the market provision of residential and nursing care and the cost at which such care can be made available by the market on a sustained basis. This will enable the Council to set a Usual Cost which it expects to pay for residential services in Lincolnshire to ensure a supply of service to meet identified need and to enable choice.

This report details a proposed set of rates at which it believes the Council should adopt for 2024-25. The cost to the authority of implementing the proposed rates is estimated to be £9.4m over one year. The additional funding requirement for the first year of the agreement is contained within the financial envelope identified as part of the 2024-25/ budget setting process.

## **9. Consultation**

### **a) Has Local Member Been Consulted?**

n/a

### **b) Has Executive Councillor Been Consulted?**

Yes

### **c) Scrutiny Comments**

This report will be considered by the Adults and Community Wellbeing Scrutiny Committee at its meeting on 28 February 2024 and the comments of the Committee will be reported to the Executive.

### **d) Risks and Impact Analysis**

Contained in the body of the report

## **10. Appendices**

These are listed below and attached at the back of the report:

Appendix A	Equality Impact Assessment
Appendix B	Provider responses to Consultation

## 11. Background Papers

The following background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

Background Paper	Where it can be viewed
Report to Executive dated 7 March 2023 – "Community Supported Living, Residential and Nursing Care usual Costs"	<a href="#">Agenda for Executive on Tuesday, 7th March, 2023, 10.30 am (moderngov.co.uk)</a>
Report to Executive dated 1 March 2022 – "Residential and Nursing Care Fee Levels within Adult Social Care"	<a href="#">Agenda for Executive on Tuesday, 1st March, 2022, 10.30 am (moderngov.co.uk)</a>

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