

Item: 7

Orkney Health and Care Committee: 4 April 2019.

Self Directed Support Direct Payments Hourly Rate.

Report by Chief Finance Officer.

1. Purpose of Report

To consider the hourly rates paid in respect of Direct Payments.

2. Recommendations

The Committee is invited to note:

2.1.

That hourly rates paid in respect of Direct Payments are dependent on the assessment within the Indicator of Relative Need with existing rates being as follows:

- Low £10.85.
- Medium £11.95.
- High £13.03.

2.2.

That the rates referred to at paragraph 2.1 above were agreed prior to the introduction of the Living Wage and Workplace Pensions.

2.3.

That an independent consultant has stated that the Indicator of Relative Need provides a framework to recognize different needs, however it does not provide a measure of the skills and competencies of Personal Assistants required to work with those needs, as detailed in section 3.5 of this report.

2.4.

That, at its meeting in January 2019, the Self-Directed Support Group noted that a single hourly rate in respect of Direct Payments was the most appropriate way forward, as detailed in section 3.6 of this report.

2.5.

That any single hourly rate agreed should take into consideration the living wage and pension contribution, as detailed in section 7.3 of this report.

It is recommended:

2.6.

That, with effect from 1 April 2019, a single rate of £12.48 per hour in respect of Direct Payments be adopted.

2.7.

That Service Users currently on the higher rate should receive preserved rights until such times as the hourly rate increases to that amount, namely £13.03.

2.8.

That one-off payments be made to facilitate the setting-up of pension schemes, to those who implement the scheme.

2.9.

That the additional payment regarding the annual cost of employer's insurance in respect of public liability, currently £135 per year, should continue.

2.10.

That authority be delegated to the Allocation of Resources Committee in respect of one-off costs associated with Service Users who have additional requirements, where the Local Authority has a duty to cover such costs.

2.11.

That the annual uplift be linked in accordance with the Living Wage, which is agreed nationally.

3. Background

3.1.

The Social Care (Self-Directed Support) (Scotland) Act 2013, which was implemented on 1 April 2014, created new duties for local authorities.

3.2.

The Self-Directed Support Act (SDS) requires that Local Authorities must offer one of four options to individuals to pay for their care:

- Direct Payments whereby the service user receives funds to purchase their own support.
- Individual Service Fund Payment whereby the service user decides on the provider while the Council holds the money and arranges chosen support on their behalf.
- Local Authority arranged service whereby services are either provided "in house" by the Local Authority or commissioned by the Local Authority to be provided by an external organisation.

- A mix of options 1,2 and 3 for specific aspects of your support.

3.3.

At its meeting held on 24 March 2009, the Orkney Health and Care Committee agreed that, with effect from 1 April 2009, a three-tier hourly rate of £10, £11 and £12, linked to the IoRN, be introduced and applied to all existing Direct Payment care packages. It was further agreed that this rate should be increased in line with the Council's approved percentage uplift in grants to voluntary sector agencies.

3.4.

The rates applied were based on the Service Users' assessed level of need as specified by the IoRN. The rates for 2018 to 2019 are £10.85 (Low), £11.95 (Medium) and £13.03 (High) per hour.

3.5.

In April 2016 Alex Davidson, an independent consultant appointed by the Council, undertook a comprehensive review of the local Self-Directed Support strategy, service delivery and associated activities. Regarding direct payments rates it was stated:

“the use of the IoRN to provide a base for Personal Assistant financial rates is in effect unhelpful. The Indicator does provide a framework to recognize different needs, but what it does not do is provide a measure of the skills and competencies of Personal Assistants required to work with those needs, which will only be developed if Service Users make choices as employers based on such individual employment experience. The rate for Personal Assistants should therefore be revised to reflect that the current IoRN rates do not guarantee skill and competency levels in the PA market, and which may require a different response to upskill P.A.s.”

3.6.

At the Self-Directed Support Group meeting in January 2019 it was agreed that a single rate was the most appropriate way forward. The main reasons for this proposal were that a single rate reflected the issues with recruiting and retaining personal assistants, and that a single rate was the fairest method to all people who would like to opt for a direct payment.

3.7.

In October 2015, the Scottish Ministers published statutory guidance under Section 29 of the Procurement Reform (Scotland) Act 2014 on “Addressing fair work practices, including the Living Wage, in Procurement”. This statutory guidance is also referred to directly in the Council's Procurement Strategy 2016 to 2018.

3.8.

Any Service User who choose to opt for a direct payment must submit income and expenditure accounts between three, six and twelve month intervals to evidence that

the funds are being spent in accordance with the detailed outcomes within their assessed care plan.

3.9.

Consistent instances of underspend which cannot be utilised to meet outcomes are referred to Social Workers to investigate if there are any issues in respect of the service user accessing the care they require, whether this be a change in need for care or difficulty in sourcing the care required.

3.10.

Although the introduction of the Self Directed Support (Scotland) Act 2013 has presented real challenges to local authorities and their social work services, there is no additional workforce resource to drive this agenda forward, and it is included within the remit of existing posts.

4. Equalities Impact

An Equality Impact Assessment has been undertaken and is attached as Appendix 1 to this report.

5. Links to Council Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Council Plan strategic priority theme of Caring Communities.

6. Links to Local Outcomes Improvement Plan

The proposals in this report support and contribute to improved outcomes for communities as outlined in the Local Outcomes Improvement Plan priority of Living Well.

7. Financial Implications

7.1.

The current rates paid in regards to direct payments are £10.85 (Low), £11.95 (Medium) and £13.03 (High) per hour.

7.2.

The current breakdown of costs as at February 2019 are as follows:

No of Service Users.	Current Hourly Rate (£).	No of Hours Per Year.	Total Cost (£).
6	10.85	3,337	36,206
30	11.95	20,960	250,475
66	13.03	55,373	721,506
			1,008,187

7.3.

To ensure that direct payment users receive sufficient funding to pay the Living Wage the proposed rate would be £12.48 per hour. The breakdown of this payment is as follows:

		£
Living Wage		9.00
NI	13.8%	1.24
Sickness	3.8%	0.34
Pension	3.0%	0.27
Contingency	15.0%	1.63
		12.48

7.4.

The contingency cover will cover additional costs such as training, membership fees to agencies, holiday cover and disclosures if required.

7.5.

There is no uplift in regard to the voluntary sector for 2019 to 2020 and therefore if the current process remains those in receipt of direct payments will not receive any uplift and the current payments referred to at section 7.1 above will apply.

7.6.

Service Users already on the higher rate will have arranged their package of care in accordance with the funding received.

7.7.

If the decision is made not to reduce those currently in receipt of the high rate (preserved rights), it will take approximately 2 years (based on a 3% increase), on a "frozen" rate, before any increase is received. The alternative would be to give a time limit, i.e. six months to implement the new rate.

7.8.

If Service Users currently on the higher rate have preserved rights the additional costs of implementing a single hourly rate will be £16,548 for financial year 2019 to 2020.

7.9.

If all Service Users went onto the single rate of £12.48, this would save £13,907 for financial year 2019 to 2020.

7.10.

If the higher rate was preserved for six months for those on higher rate (£13.03) to move to the single hourly rate, this would save £1,321.

7.11.

There has been £430,000 additional investment received in Orkney from Scottish Government for social care in recognition of a range of pressures local authorities are facing, including support for the implementation of the Carers (Scotland) Act 2016, maintaining the joint commitment to the Living Wage and an increase in Free Personal and Nursing Care payments.

7.12.

There is a projected overall overspend of £149,150 in respect of direct payments for financial year 2018 to 2019. This is due to the rising demand and the inability to release resources from in-house services.

8. Legal Aspects

This proposal results from duties placed on local authorities by the Self-Directed Support (Scotland) Act 2013, the Procurement Reform (Scotland) Act 2014 and Scottish Government Guidance issued in association with the Acts.

9. Contact Officers

Lynda Bradford, Interim Head of Health and Community Care extension 2601, Email lynda.bradford@nhs.net

Anne Mathison, Principal Social Worker, Adult Services extension 2665, Email anne.mathison@orkney.gov.uk

Pat Robinson, Chief Finance Officer, extension 2603, Email pat.robinson@orkney.gov.uk



Equality Impact Assessment

The purpose of an Equality Impact Assessment (EqIA) is to improve the work of Orkney Islands Council by making sure it promotes equality and does not discriminate. This assessment records the likely impact of any changes to a function, policy or plan by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

1. Identification of Function, Policy or Plan	
Name of function / policy / plan to be assessed.	Self-directed Supported (SDS) – Direct Payments Hourly Rate
Service / service area responsible.	Orkney Health & Care
Name of person carrying out the assessment and contact details.	Pat Robinson – pat.robinson@orkney.gov.uk
Date of assessment.	20 March 2019
Is the function / policy / plan new or existing? (Please indicate also if the service is to be deleted, reduced or changed significantly).	This is an existing service.

2. Initial Screening	
What are the intended outcomes of the function / policy / plan?	To revise the hourly rates paid in respect of Direct Payments, one of the 4 options under The Social Care (Self-Directed Support) (Scotland) Act 2013.
State who is, or may be, affected by this function / policy / plan, and how.	All recipients of Direct Payments
How have stakeholders been involved in the development of this function / policy / plan?	Service users have not been involved in the development of this proposal. The proposal relates to the hourly rate paid to a service user in respect of the costs associated with their care. It is not anticipated service delivery will be affected by the proposed amendments to the rates paid.

<p>Is there any existing data and / or research relating to equalities issues in this policy area? Please summarise.</p> <p>E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking (see equalities resources on OIC information portal).</p>	<p>We are not aware of any specific data or research in this area.</p>
<p>Could the function / policy have a differential impact on any of the following equality strands?</p>	<p>(Please provide any evidence – positive impacts / benefits, negative impacts and reasons).</p>
<p>1. Race: this includes ethnic or national groups, colour and nationality.</p>	<p>No.</p>
<p>2. Sex: a man or a woman.</p>	<p>No.</p>
<p>3. Sexual Orientation: whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.</p>	<p>No.</p>
<p>4. Gender Reassignment: the process of transitioning from one gender to another.</p>	<p>No.</p>
<p>5. Pregnancy and maternity.</p>	<p>No.</p>
<p>6. Age: people of different ages.</p>	<p>No. It should be noted, however, that a significant proportion of Direct Payments recipients are older people.</p>
<p>7. Religion or beliefs or none (atheists).</p>	<p>No.</p>
<p>8. Caring responsibilities.</p>	<p>No. It should be noted, however, that following enactment of the Carers (Scotland) Act 2016, carers will have the option to request an assessment of their needs and, should they meet the Eligibility Criteria, they may be entitled to receipt of Direct Payments, as one of the four SDS options.</p>
<p>9. Marriage and Civil Partnerships.</p>	<p>No.</p>
<p>10. Disability: people with disabilities (whether registered or not).</p>	<p>No. It should be noted, however, that a significant proportion of Direct Payments recipients are people with disabilities.</p>

3. Impact Assessment

Does the analysis above identify any differential impacts which need to be addressed?	No.
How could you minimise or remove any potential negative impacts?	Delivery of a single Hourly Rate in respect of Direct Payments will not have a negative impact on service users' outcomes.
Do you have enough information to make a judgement? If no, what information do you require?	Yes.

4. Conclusions and Planned Action

Is further work required?	No.
What action is to be taken?	N/A
Who will undertake it?	N/A
When will it be done?	N/A
How will it be monitored? (e.g. through service plans).	Each service user's care plan will ensure that an amendment to the Hourly Rate does not adversely impact upon their care outcomes.

Signature:



Date: 27.03.19

Name: P ROBINSON

(BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to HR and Performance. A Word version should also be emailed to HR and Performance at hrsupport@orkney.gov.uk