



Integration Joint Board

5th April 2018

This Report relates to
Item 8 on the Agenda

Scottish Living Wage Implications for Delegated Adult Social Work Budgets 2018/19

(Paper presented by Geoff Mark)

For Approval

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SECTION 1: REPORT CONTENT

Title/Subject:	Scottish Living Wage Implications for Delegated Adult Social Work Budgets 2018/19
Meeting:	Integration Joint Board
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Action:	For Approval

1. Introduction

- 1.1 The Scottish Government policy is that health and social care Partnerships ensure payment of the SLW to all adult social care workers. The Scottish Living Wage (SLW) will increase to £8.75 (3.55%) from 1 May 2018. The National Minimum Wage (NMW) increases from £7.50 per hour to £7.83 (4.4%) from 1 April 2018.
- 1.2 This paper outlines the potential budgetary impact of the increases on the delegated Adult Social Work budget and how it will impact on the rates that we pay for externally purchased care at home and the rate we pay for sleeping nights. The Adults Social Work budgets delegated to the IJB will, following the application of price and demographic increases, be required to deliver £2.2m of savings measures.

2. Recommendations

2.1 The Integration Joint Board is asked to:

- Approve the increase to all care at home rates by 36p, in line with budget assumptions, to allow for the increase to carer rates of pay by 30p to £8.75 plus employer on costs.
- Approve the increase in sleeping night's rates to £8.91 per hour, in line with budget assumptions.
- Note the review of the sleeping night's provision. Await Scottish Governments review of sleeping night's payment rate and funding.

3. Background

- 3.1 The Care at Home service was tendered in October 2016 when companies were contracted to pay the SLW (£8.25 per hour). Prices were capped at £16.50 per hour at this time. When the SLW was increased to £8.45 per hour from 1 May 2017, following a benchmarking exercise alongside consideration of some of the business intelligence previously gathered a decision was made not to increase the price cap.
- 3.2 During 2017/18 one provider has left the market citing unaffordability at current rates. There have been increasing challenges in sourcing rural provision as the year has progressed and some providers have tried to negotiate payment rates well out with the capped rate of the current tender.

4. Main Body of the Report

4.1 Care at Home Services – Scottish Living Wage £8.75

We currently pay in the region of £29m per annum for external Care at Home services. Care Providers reporting ongoing challenges in securing and retaining sufficient workforce to provide a timely response to demand at the terms and conditions that can be afforded at current prices. The external providers deliver over 80% of total Care at Home hours. Over 90% of non-specialist care providers, primarily supporting older people are smaller local organisations that operate only in Dumfries & Galloway or in surrounding areas. Previous tender exercises have not attracted larger numbers of national providers who claim our rates for a rural setting are unaffordable.

The majority of specialist care providers are large national third sector charities that have operated in the region for some time.

Most providers delivering specialist and non-specialist support are paid at the £16.50 ceiling rate, with the exception of one large provider who tendered £15.60, the lowest rate on the framework agreement. Industry pricing tools would indicate it is difficult to come up with an hourly cost below £17.00 per hour to deliver care in a rural setting, when we set our local rates we balanced rural with a level of urban provision. We are currently facing challenge from three national providers who are seeking prices of £17-£17.24 per hour.

Benchmarking process across Scotland is challenging as there are a wide range of pricing structures and commissioning arrangements. However comparing 2017/18 prices with 6 other rural areas (Aberdeenshire, Angus, Argyll & Bute, Moray, Perth & Kinross and Scottish Borders) indicate that Dumfries & Galloway's £16.50 cap is likely to be below average.

We have assumed within the budget the minimum costs required to pay the SLW increase of 30p per hour plus on-costs. The 36p is calculated as the latest 30p increase plus on costs totalling 21.5% (12.8% holiday pay, 2% pension opt in, 6.7% average NI). This increase would only enable providers to pass on the SLW to staff; it will not increase profit margins or increase the financial sustainability of the providers. Real Time Monitoring (RTM) has seen a reduction in expenditure around

10% for older people and it expanding its implementation to working age adults will also deliver benefits.

There are benefits to implement RTM to under 65's.

There are three options to consider:

4.1.1 Hold rates at current level or increase less than the budgeted assumption

- Advantages – reduces savings target from £2.2m to £1.6m.
- Disadvantages – Increases pressure on providers which would make it highly probable they would be unable to pay SLW or to recruit and retain workforce.

4.1.2 Increase rates by 36p in line with budget assumption (recommended option)

- Advantages – Would allow providers to pay their workforce SLW, increase the likelihood of providers being able to retain and recruit and would be viewed positively by providers given the financial challenges they know the Partnership faces. This would enhance the relationships we have in the development of a market facilitation strategy in 2018/19. This would be a clear statement of intent by the IJB about the value placed on the Care at Home workforce.
- Disadvantages – Offsetting savings are required and while making a positive contribution to sustaining provision is unlikely to remove all current capacity challenges, especially in very rural areas.

4.1.3 Increase rates by 55p to a level that national providers have indicated they could operate at.

- Advantages – Would increase provider profits/reduce losses as rate increase above that needed to pass onto staff.
- Disadvantages – Would further increase IJB savings target to a very challenging level.

4.2 ***Sleeping Nights – National Minimum Wage***

We currently pay £1.35m per annum for sleeping nights with care at home providers, which will be impacted by an increase to SLW and NMW rates. Traditionally sleeping nights have been a flat payment per shift rather than an hourly rate and have not been linked to NMW. There is recent case law which Her Majesty's Revenue & Customs (HMRC) have looked to enforce. This means that a worker must be paid at least the NMW over all their hours worked over the period of time for which their wage is actually paid (this is sometimes called the pay reference period). It is difficult to model into an hourly rate for local authorities and providers who historically have paid a flat shift fee, there is a significant financial risk should we need to put SLW on sleeping hours.

In 2016/17 we increased our rates from flat rates of £35-£50 to £57.60-£72 at a cost of £400k. This now equates to a provider rate of £7.20 per sleeping night hour but after on-costs equates to a staff rate of £5.93 per hour. Our argument has always been if a worker is getting paid 20 hours at £8.45 and 8 hours at £5.93 then that is an equivalent rate of £7.73 which is currently above the NMW. This calculation though is dependent on shift rotas and individual working patterns. If you had a worker who only did sleeping nights, then the cost would increase dramatically.

The Scottish Government have indicated that from 2019 all sleeping nights hours should be aligned to the SLW which would be unaffordable with the current funding provided. Indications from COSLA are that, within the funding for 2018/19, there was £330k directed towards payments for sleeping nights.

We currently have 57 sleeping nights at a cost of £1.35m. If we were to increase the hourly rate to include the £330k then this would enable payment in the region of £8.91 per hour (£7.32 to staff) which would be £71-£89 per shift. This would still be below NMW and SLW but would likely be HMRC compliant. If we were to move to every hour paid at NMW (£9.51 including on-costs) it would cost £445k and if we were to move to SLW (£10.63 including on-costs) it would cost £652k.

The Social Work review team have led on a number of reviews of sleeping nights by making greater use of newly available technologies. There are currently 8 sleeping nights either under review or being tested with just checking technology which could potentially be reduced. There is also a test of change being proposed looking at all sleeping nights within the Stewartry locality utilising technology and waking night provision.

In line with work in other areas of Scotland the sustainability of sleeping night provision as costs increase will be improved by ensuring sleeping nights are efficiently and effectively organised geographically and the potential benefits of alternative solutions using Technology are explored, evaluated and implemented.

There is no doubt that throughout Scotland, funding this service is challenging, however it is anticipated that sleeping nights will be aligned to the SLW in 2019.

Providers report that the costs of sleeping night provision are not fully covered by current prices. Increasing payment to £8.91 still requires a combination of sleeping night and day time hours in order to be HMRC compliant. Some providers may continue to argue that this means that sleeping night costs will continue to exceed income at this price.

There are four options to consider:

4.2.1 Do not increase funding or increase at a level less than that budgeted for.

- Advantages – Reduce the IJB savings target for 2018/19.
- Disadvantages – Providers may seek to withdraw from providing sleeping nights.

4.2.2 Increase to £8.91 in line with budget assumptions (recommended option).

- Advantages – Is in line with indicative funding supplied by Scottish Government in settlement. This enables providers to be HMRC compliant and reduces any reported loss for providers. Shows a clear commitment from the IJB as we look to further redesign the sleeping nights market.
- Disadvantages – Contributes towards the £2.2m savings required and some providers may feel that this level of funding is inadequate as it relies on a combination of sleeping nights and day time hours to comply with HMRC.

4.2.3 Increase to £9.51 per hour which would allow the payment of every hour at the NMW.

- Advantages – Closes the gap further in respect of need to move to SLW at some juncture in 2019. Would be welcomed by providers.
- Disadvantages – Further increases IJB budget pressures and offsetting savings required.

4.2.4 Increase to £10.63 per hour which would allow the payment of every hour at the SLW.

- Advantages – Every hour would be paid at SLW in advance of us being required to do so. Would be welcomed by providers.
- Disadvantages – Further increases IJB budget pressures and offsetting savings required, there is also no guarantee that this would be passed onto frontline workers given there is no requirement to do so.

5. Conclusions

5.1 The options above illustrate the drivers for an increase in care at home prices and sleeping night rates in terms of maintaining payment of the SLW, benefits in terms of recruitment and retention of staff and positive relationships with providers. They also need to be balanced with their impact on IJB budgets and the timing of likely future policy commitments to extend payment of SLW to sleeping night provision in 2019.

SECTION 2: COMPLIANCE WITH GOVERNANCE STANDARDS

6. Resource Implications

6.1. Delegated budgets to the IJB are forecasting increases of £4.35m with available funding to address this of £2.167m leaving offsetting savings of £2.2m required. The level of savings required for the IJB contain the following assumptions:

- Increases to SLW for care at home services of 36p for 1.76m hours = £634k.
- Increases to sleeping nights costs of £328k.

There are no staffing resources linked to this proposal.

7. Impact on Integration Joint Board Outcomes, Priorities and Policy

7.1. This proposal fits with the Strategic Plan and the delivery of the plan. In particular, it addresses:

- Local strategy commitments to work with providers to support them to pay the SLW
- Make the best use of technology and the national health and wellbeing outcome in respect of ensuring people who work in health and social care services feel engaged with the work they do and are supported to continuously improve the support, care and treatment they provide.

8. Legal & Risk Implications

8.1 There is a risk that some providers do not commit to paying the SLW.

8.2 Providers will be asked to confirm their commitment to maintaining pay at SLW from 1 May 2018. In previous years, all but two providers have entered in to voluntary agreements to pay staff at SLW. The providers that have refused have been unable to sustain services because of the associated challenges of retaining workforce. This reduces the actual risk of non-compliance to low.

8.3 There is a risk that a decision not to uplift prices may result in some providers deciding not to maintain pay rates at SLW Levels. Such a decision is likely to have an impact on the ability to recruit and retain appropriate staff. Some providers committed to maintaining pay at Living Wage levels may decide not to continue to provide services in the region.

9. Consultation

9.1. The information contained within this report has been based on consultation between Strategic Planning and Commissioning; Finance; Senior Health and Social Care Partnership Managers and operational social work colleagues. It also reflects provider feedback from contractual and provider forums. Where available national benchmarking tools have also been considered.

10. Equality and Human Rights Impact Assessment

- 10.1. If either of the options (4.7.1 and 4.9.1) not to uplift Care at Home and/or sleeping night prices is agreed, an impact assessment of this decision may be required to assess any negative impacts of possible reduced service capacity or inability for employers to meet the requirements of the SLW and care workforce.

11. **Glossary**

NMW	National Minimum Wage
SLW	Scottish Living Wage
RTM	Real Time Monitoring
HMRC	Her Majesty's Revenue and Customs
COSLA	Consortium of Scottish Local Authorities
NI	National Insurance
Sleeping Night	This refers to a nightshift where care and support staff are permitted to sleep but can be awakened if service users require support. This contrasts with a 'waking night' where staff are expected to remain awake throughout a night shift.