

Committee Name and Date of Committee Meeting

Cabinet – 11 May 2020

Report Title

Financial Support for Learning Disability Day Opportunity Providers during the Covid-19 Pandemic

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Anne Marie Lubanski, Strategic Director of Adult Care, Housing and Public Health

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

Independent and Voluntary sector provider sustainability is a key driver in ensuring that the Adult Social Care system in Rotherham continues to support people with a Learning Disability and/or Autism through the impacts of Covid-19. The impact of the Governments social distancing measures has been significant on the provision of day opportunity services for people with a Learning Disability and/or Autism, with many of the services having to close or significantly reduce their offer.

The Secretary of State for Health and Social Care, Matt Hancock wrote to all local authorities on the 19th March outlining the financial support available to support the response to Covid-19. The Council has been allocated two un-ringfenced grants totalling £16.2m to support the Council in meeting additional costs associated with its response to Covid-19. Within the grant letter were specific requirements to support Adult Social Care based on the guidance previously issued to local authority commissioners by the LGA, ADASS and the Care Provider Alliance to Adult Care commissioners.

This report has a specific focus on the Adult Care Directorate's second largest area of spend after Older People, with gross budget of circa £31.6m per annum on supporting people with a Learning Disability and/or Autism.

Recommendations

That Cabinet approves:

1. The adoption of the approach for each type of service as described in Option 1 with a total estimated cost of £970.1k
2. That the position be reviewed after 12 weeks from 1 April 2020 or sooner if the government amends its guidance and any further requirements are brought back to Cabinet for decision.
3. That the additional costs are funded from the Government grant referred to in the body of the report.

List of Appendices Included

Appendix 1 Initial Equality Screening Assessment Form

Appendix 2 Equality Analysis Form

Background Papers

Delegated Decision Record - COVID-19 - Payments and Support to Suppliers – 8 April 2020

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board – 7 May 2020

Council Approval Required

No

Exempt from the Press and Public

No

Financial Support for Learning Disability Day Opportunity Providers during the Covid-19 Pandemic

1. Background

- 1.1 The Secretary of State for Health and Social Care, Matt Hancock wrote to all local authorities on the 19th March outlining the financial support available to support the response to Covid-19. The Council has subsequently been allocated two un-ringfenced grants totalling of £16.2m. Within the grant letter were specific requirements to support Adult Social Care based on the guidance previously issued to local authority commissioners by the LGA, ADASS and the Care Provider Alliance to Adult Care commissioners entitled: Social care provider resilience during COVID-19: guidance to commissioners
- 1.2 The Secretary of State's letter specifically reminded local authorities of the need to support the Adult care provider market, though it did not specifically reference the Care Act, the inference was strong.
- 1.3 The Council continues to work to the requirements of the Care Act duty to promote:
 - "the efficient and effective operation of the market for adult care and support as a whole."
 - "a sustainable and diverse range of care and support providers, continuously improving quality and choice, and delivering better, innovative and *cost-effective outcomes that promote the wellbeing of people who need care and support.*"Care and Support Statutory Guidance Section 4.2
- 1.4 The Council therefore continues to have a legal obligation to support the adult care and support market in Rotherham to enable it to thrive, remain financially viable and most crucially deliver vital services during the period of the Covid-19 threat.
- 1.5 The Secretary of State's letter specifically highlighted that the funding should be utilised to support the following activity:
 - a. Protecting [home care] providers' cashflow by accelerating payments and paying 'on plan' where appropriate. We recognise that where the support providers are able to provide is significantly below plan, commissioners may have needed to fund support elsewhere.

Note that this element has been addressed by a previous officer delegated decision.
 - b. Helping providers deal with the costs of increased workforce pressures due to higher sickness absence caused by the outbreak, but also due to self-isolation and family caring responsibilities. Care providers will need to be able to deploy their staff flexibly. They may need to hire new staff quickly or increase use of agency staff, creating additional cost pressures. The funding could also help providers support workers on zero-hour contracts.
 - c. Facilitating arrangements for adjusting packages as required in a timely and non-bureaucratic way, especially where providers are having to operate beyond normal services in order to respond to need.
 - d. Ensuring councils can adjust care packages in accordance with guidance on prioritisation and social work ethics.

- e. Helping providers to meet costs associated with enhanced infection control and the protection of staff.
- f. Ensuring there is clear and effective transfer of information between commissioners and providers on the general market picture, including the picture around self-funders.
- g. Finding supportive and creative ways to support providers in handling wider pressures caused by Covid-19.

1.6 This report therefore focuses on the duties b.-g. with a specific focus on the Adult Care Directorate's second largest area of spend after Older People, with gross budget of circa £31.6m per annum on supporting people with a Learning Disability and/or Autism.

2. Key Issues

2.1 Following the issuing of the LGA guidance, which was co-produced with a range of national providers, including a number in Rotherham and further bolstered by the Secretary of State's announcement of government financial assistance for local authorities for Covid-19, there has been a significant increase in financial demands from providers who support people with a Learning Disability and/or Autism in the borough.

2.2 Day Opportunities and Direct Payments

The governments guidance on social distancing as a response to Covid-19 has led to all day opportunities providers ceasing to deliver any building or community based services to people with a Learning Disability and/or Autism, though some of them are continuing to provide a limited offer through telephone and Skype support to individuals. This approach has been supported by Adult Care and is in-line with the Adult Care business continuity plan arrangements.

2.3 The creation of the day opportunities offer has been a core element of the *My Front Door Strategy* to support the move away from more institutional Council day centres such as the recently closed Oaks day centre by offering a wider range of choice of provision to people with a Learning Disability and/or Autism. It is therefore vital that the organisations financial viability during the Covid-19 threat period is not stretched to the point where they will be unable to deliver a future offer. This would put significant pressure on parent carers, with an average age of 65 years old (some of whom are in the social shielding group) and would prevent the planned closure of the Addison day centre taking place in the future. It would also seriously undermine the Council's reputation and integratory.

2.4 Day opportunities providers are either directly commissioned on a spot contract basis (all not for profit organisations of varying size) or are funded through direct payments from the people using the services, including many local micro-enterprises. Consequently, once the services cease to be delivered then the payments from the Council and directly from the customers theoretically cease.

- 2.5 It is proposed that the Council would continue to fund directly commissioned providers during the period of enforced closure in order to keep them financially viable. This would be based on average payments. Staff from these organisations could, and indeed in some instances are, supporting their parent organisations with delivery of other key services in the borough such as residential care or supported living by supplementing the staff deployment depleted as a result of self-isolation, sickness or lack of agency cover.
- 2.6 The situation regarding direct payments and micro-enterprises is a little more complex in that the services are not directly commissioned by the Council. In this instance evidence of average income from direct payments and private income could be used to calculate a reasonable level of payment to support sustainability.
- 2.7 In addition to the micro-enterprises, a number of people with a Learning Disability and/or Autism are supported by Shared Lives carers during the day to access the community and to participate in family activities. The person in receipt of support does not live with the Shared Lives carer and the Shared Lives carer receives payment for a set period on a sessional basis at an agreed rate. Shared Lives carers have been unable to deliver this support since the introduction of social distancing and have therefore ceased to receive payments. It is proposed that the loss of income will be offset during the period of social distancing being imposed to support the Shared Lives carers. This will ensure that they are able to deliver services in the future when it is safe to do so. Payments would be calculated on the basis of average payments for sessional support.

2.8 **Residential Care and Supported Living**

A consequence of the closures of the day opportunities offer is significant for residential and supported living providers who have residents that normally attend day opportunities provision for up to 8 hours a day, Monday-Friday. They are currently paid a set number of hours, excluding the periods of day support and therefore will need to make a request for payment for providing additional care and support hours as a result of the closure of day opportunities services accessed by the people who they accommodate. These payments can be facilitated as part of the individuals care package under the Strategic Director of Adult Care, Housing and Public Health's delegated authority. The balance can be coded to the Covid-19 budget as a legitimate expense.

2.9 **Unpaid Carers and the Voluntary Sector**

Speak Up, the not for profit organisation providing a range of support services have been particularly active in supporting people with a Learning Disability/Autism through innovative approaches during the social distancing period. It is proposed to award a grant of £20k to them from the Covid-19 budget to continue to support people with a Learning Disability and Autism who are lonely and socially isolated as a result of social distancing measures and service closures.

2.10 Following the extension of the social distancing measures, the Council may also need to consider further investment in services to support unpaid carers because of their caring burden increasing as a result of the day opportunities closures. The specific details will need to be worked through as to what is required, but a proportion of the proposed £50k funding could be set aside to invest in this area – perhaps for additional on-line support whilst social distancing remains in force. Local organisations such as VAR, Rotherham Carers Forum and Rotherham Parents Carers Forum are continuing to support self-advocates and carers, despite the challenges posed by Covid-19, but may need to ramp up their offer considerably if social distancing measures continue for a prolonged period.

3. Options considered and recommended proposal

3.1 The issues and proposed approach highlighted in Section 2 above (Option 1 below) are estimated to have a total cost of £970k over a 12-week initial period – assuming that social distancing measures remain in place. It is proposed to back date the start of the 12-week period to 1 April 2020.

3.2 In line with commitments from the LGA guidance, the Council will continue to pay providers supporting people with a Learning Disability/Autism promptly, but now on a weekly basis. This will support their cashflow and ensure the finances are in place to maintain their workforce.

3.3 The Council is also working on a fast track recruitment and training offer that can support the independent/voluntary sector to recruit readymade applicants to supplement staff shortages as an alternative to agency staffing. This is known as the Rotherham Skills Academy.

3.4 In addition to universal commitments to the Learning Disability/Autism provider sector, the Council will also facilitate additional support. There are a number of options that can be considered.

3.5 **Option 1:** Pay the providers additional costs as per the approach outlined in Section 2 and defined by service area in the table below. This is the recommended option.

This approach would differentiate the type of service provision and would consider financial stability taking into account the nuanced funding mechanisms either through commissioned services or through the use of Direct Payments.

Cohort	Proposed Offer	Customer Numbers*	Total estimated costs (£000)**
Supported Living	To pay providers based on the contingency hours for providing additional support to people who can no longer attend day opportunities provision.	83	192.5
Residential	To pay residential providers a fixed fee of £50 for every planned session of day	27	54

	opportunities per week that people were due to attend (and where providers are now providing this support instead)		
Residential and Supported Living	Exceptional costs directly attributable to Covid-19 would also be considered on a case by case basis if supported by suitable evidence		100
Commissioned Day Opportunities Services	To provide financial support to providers who have had to close or are now providing an alternative support service. This will be agreed on a provider by provider basis and subject to the conditions below.	137	279.6
Direct Payments Day Opportunities Micro Enterprises	To provide financial support to providers who have had to close or are now providing an alternative support service. This will be agreed on a provider by provider basis and subject to the conditions below.	128	253
Shared Lives Sessional support	To provide financial support to Shared Lives Carers who provide support to people during the day on a sessional basis	29	21
Carers	To provide a range of support options when required to avoid carer breakdown including additional video conferencing support including a grant of £20k to Speak Up		70
Total			970.1

* Current service

** Based on 12 weeks. Estimates are based on data currently available and the actual costs may be lower e.g. depending on alternative financial support being accessed by providers

3.6 The request for additional funding as set out above, must be predicated on the condition that eligible organisations:

- apply for central government support e.g. payment of 80% of staff wages if staff are unable to work
- apply for business rates relief where applicable

3.7 The Council will fund cost pressure up to the contract value (or average spend) after deducting all other financial support available.

3.8 Where organisations may be eligible for central government support but the Council could request that staff are redeployed to offer alternative support e.g. as per some day opportunities providers, the Council would consider funding the 80% as well where this is agreed with Commissioners that alternative work is of significant value.

3.9 **Option 2:** The Council to pay a temporary 10% increase on all services back-dated from 1st April 2020 until 31st July 2020 for Council funded placements. This would increase the income for supported living and residential care providers as they have a continual income providing support during the social distancing period and most likely increased costs. This would have a total cost of £238k per month, a total of approximately £714k for the 12 week period. However, this option would not provide adequate financial support to any commissioned day opportunities provision or services funded through direct payments such as the micro-enterprises as they currently have no income and cannot operate during the 'lockdown' period.

3.10 **Option 3:** awarding a fixed upfront cash sum of £15k per provider to support their additional expenditure as a result of Covid-19 over the next 12 weeks. This would have a total cost of £870k. This does not preclude additional support being provided by the Council, but this will be on a case by case basis. However, this amount would mean that all providers would receive the same level of funding, regardless of the number of people they support, the level of the normal funding they would receive and the potential impact of their loss of income. This would be potentially inequitable.

3.11 For all options: additional funding is subject to an open book reconciliation at the end of the emergency period. Any additional payments to providers should be reconciled against actual expenditure and any over provision be reimbursed to the Council.

3.12 That Cabinet approves:

1. The adoption of the approach for each type of service as described in Option 1 with a total estimated cost of £970.1k.
2. That the position be reviewed after 12 weeks from 1 April 2020 or sooner if the government amends its guidance and any further requirements are brought back to Cabinet for decision.
3. That the additional costs are funded from the Government grant referred to in the body of the report.

4. Consultation on proposal

- 4.1 The report has been produced in response to the Covid-19 pandemic and the need for the Council to ensure the financial stability of the Learning Disability and Autism market. The government's social distancing measures and the enforced closure of a range of day opportunities options for people with a Learning Disability and/or Autism has had a significant financial impact on the sector within a short period of time. Consequently, there has been no opportunity to consult externally on the proposals.
- 4.2 The Council has however considered written representations received from a range of providers from the Learning Disability and Autism market operating in the Borough and the LGA guidance to inform the approach and recommended option.

5. Timetable and Accountability for Implementing this Decision

- 5.1 It is proposed that should the recommendations be taken forward, that any payments made to Learning Disability and Autism providers currently operating in the Borough are backdated to the 1 April 2020.
- 5.2 The proposed financial support would be for an initial period of 12 weeks, effective from 1 April 2020 and subject to regular review considering the impact of the Covid-19 pandemic on the Learning Disability and Autism providers currently operating in the Borough and any new guidance issued by the Government.

6. Financial and Procurement Advice and Implications

- 6.1 For Option 1 the proposed payments to Residential, Supported Living and Carers would be an additional cost of up to £416.5k over and above the existing budget. Proposed payments for day care and shared lives are budgeted (£553.6k) but the Council may not receive a service: the payments are to ensure business continuity. Actual expenditure may be lower depending on alternative funding support accessed by providers and any reduction in costs due to the temporary closure of services.
- 6.2 The recommendations detailed within this report supports the principles of Cabinet Office Guidance detailed in PPN 02/20 and the Briefing Paper approved at the Gold Emergency Planning Group regarding supplier relief, however the procurement implications associated with each of the cohorts is different and summarised below.

6.3 Council Commissioned Supported Living and Residential Care

The proposals outlined in this report to provide support to Council commissioned providers is fully in compliance with PPN 02/20. Formal written communication will need to be issued to Providers outlining the proposal including the reconciliation process and terms to be applied.

6.4 Direct Payments and Shared Lives

The providers of care in the case of direct payments and shared lives are not directly commissioned by the Council. The contractual relationship exists between the Provider and the individual who is receiving the care. These circumstances fall

outside the scope of procurement Regulations, therefore the application of PPN 02/20 is not a mandated requirement as set by Cabinet Office.

6.5 However, the Council recognises that in these circumstances the provider is delivering care to vulnerable adults in the same manner as those providers the Council directly commissions, and therefore to maintain continuity of care and ensure financial stability, the Council is seeking to adopt the principles of Supplier Relief as if they were the Council's own contracted providers.

6.6 The additional costs associated with this decision would be an appropriate use and allocation of some of the Government Grant provided to manage the costs associated with the Covid-19 pandemic.

7. Legal Advice and Implications

7.1 Under the Care Act 2014 the local authority is required to support the provision of services in its area and ensure, so far as it is possible, that those services are able to meet the needs of individuals in its area. The Covid-19 crisis has placed significant strain upon providers and the proposed financial support by the Council will ensure that they can continue to operate in an environment where, amongst other things, services have had to be cancelled due to lockdown and social distancing. The support will ensure that these services are able to survive the down-turn in demand and be available to provide support when the crisis has passed.

8. Human Resources Advice and Implications

8.1 There are no Human Resources implications for the Council as a result of the recommendations being taken forward by Cabinet as the financial support proposed is solely for sole traders, micro-enterprises, the voluntary sector and the independent sector operating within the Borough and supporting people with a Learning Disability and/or Autism.

8.2 The proposed recommendation of Option 1 should have a positive impact for the Learning Disability and Autism market in providing additional financial support with a direct aim of sustaining the businesses during the Covid-19 Pandemic and ensuring that they can retain key staff delivering care and support to 768 people.

9. Implications for Children and Young People and Vulnerable Adults

9.1 There are no implications for Children and Young People as a result of the proposed recommendations as they apply to services supporting people with a Learning Disability and/or Autism aged 18 years old or over. This group by definition falls within the category of Vulnerable Adults and the proposals offer positive support for the sector to ensure continuation of day opportunities options in the future. However, it will ensure that the sector is as robust as possible so that as children transition through to adult services the market is strong and can offer choice to these individuals.

10. Equalities and Human Rights Advice and Implications

10.1 An Equality Analysis has been produced following the completion of the Initial Equality Screening Assessment Form. Both documents are attached at Appendix 1 and 2 to this report

10.2 The implications of the recommended proposal (Option 1) are positive in terms of financially supporting the Learning Disability and Autism market to continue to discharge their care and support duties to 768 people in the Borough throughout the Covid-19 pandemic.

11. Implications for Ward Priorities

11.1 The Learning Disability and Autism market, when fully operational, is a Borough wide offer and is not limited to specific Wards.

11.2 The Council Plan has a specific vision that *Every adult is secure, responsible and empowered*. The Council want to help all adults enjoy good health and live independently for as long as possible and to support people to make choices about how best to do this. The Council want a Rotherham where vulnerable adults, such as those with disabilities and older people and their carers have the necessary support within their community. Supporting people with a Learning Disability and/or Autism within the community contributes to this aim at a local level.

12. Implications for Partners

12.1 Services for Learning Disability and/or Autism are predominantly purchased by the Council, though a range of packages are also joint funded by colleagues from the Rotherham Clinical Commissioning group (CCG). Sustaining the market is therefore vital for the wider Place. Ensuring that there is a vibrant market and a choice of provision forms part of the Rotherham Integrated Health and Social Care Plan though the adoption of the *My Front Door* approach and the requirements of the Transforming Care programme.

13. Risks and Mitigation

13.1. The primary risk of not providing additional financial support, in addition to any mutual aid (e.g. free access to PPE), to sole traders, micro-enterprises, the voluntary sector and the independent sector operating within the Borough and supporting people with a Learning Disability and/or Autism is that they become financially unsustainable and unable to effectively discharge care and support. The Covid-19 pandemic has led to increased staff absences and an upward trajectory in ancillary costs which can further exacerbate financial risk for the Learning Disability and Autism market in the Borough. Further, a range of providers have ceased to receive income due to having to close their services as a result of the governments social distancing measures.

13.2 The recommended Option 1, if accepted by Cabinet should alleviate immediate financial pressures on the Learning Disability and Autism market in the Borough by providing bespoke financial packages for a wide range of providers, This would also support the sustainability and continuation of range of options for day opportunities services for people with a Learning Disability and/or Autism when the Covid-19 pandemic has ended.

14. Accountable Officers

Nathan Atkinson, Assistant Director, Strategic Commissioning

Approvals obtained on behalf of Statutory Officers:-

	Named Officer	Date
Chief Executive	Sharon Kemp	04/05/20
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	30/04/20
Head of Legal Services (Monitoring Officer)	Bal Nahal	30/04/20

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