

# Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated April 2023)

## Inflation Award 23/24

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যদি আপনি এই ডকুমেন্ট অন্য ভাষায় বা ফরমেটে চান, তাহলে দয়া করে আমাদেরকে বলুন।

如欲索取以另一語文印製或另一格式製作的資料，請與我們聯絡。

اگر آپ کو معلومات کسی دیگر زبان یا دیگر شکل میں درکار ہوں تو برائے مہربانی ہم سے پوچھیے۔

Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to NYC Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.

Name of Directorate and Service Area	Health & Adult Services, Service Development
Lead Officer and contact details	Jo Waldmeyer, Head of Service Development, <a href="mailto:joanne.waldmeyer@northyorks.gov.uk">joanne.waldmeyer@northyorks.gov.uk</a>
Names and roles of other people involved in carrying out the EIA	Steven Crutchley, Strategic Service Development Manager, <a href="mailto:steven.crutchley@northyorks.gov.uk">steven.crutchley@northyorks.gov.uk</a>
How will you pay due regard? For example, working group, individual officer	The EIA will be undertaken by lead officers with input from other colleagues via discussions at the Market Development Board including the Independent Care Group. Wider engagement with providers was undertaken by an independent body.  The consultation/engagement by the independent body was completed via an actual cost of care exercise. The council

	also consulted with the care market via the procurement of the Approved Provider Lists (2023-2027).
When did the due regard process start?	Actual Cost of Care Exercise = April 2022  Procurement of Approved Provider Lists = June 2023

**Section 1. Please describe briefly what this EIA is about.** (for example, are you starting a new service, changing how you do something, stopping doing something?)

Assess the impact of introducing revised fee levels for care providers who are supporting vulnerable people on behalf of North Yorkshire Council for financial year 2023/2024.

**Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it?** (for example, to save money, meet increased demand, do things in a better way.)

The council has a duty to take “due regard” to the fees it pays care providers. On 16 December 2021 the Department of Health and Social Care (DHSC) announced details of the Market Sustainability and Fair Cost of Care Fund. The primary purpose of the fund was to support local authorities to prepare their care market for reform, and to support local authorities to move towards paying providers a fair cost of care.

The award of an inflationary increase to care providers who are supporting vulnerable people will have a significant effect on those organisations and in turn on the people they support. This effect could be positive or negative dependent on the award and the additional costs being faced by care providers, including the current cost of living ‘crisis’.

**Section 3. What will change? What will be different for customers and/or staff?**

The inflationary uplift for 2023/24 is being applied to providers of:

- residential and nursing care
- home based support (for example, domiciliary care and practical support)
- community based support (for example, day services)
- supported living

The amount that providers are paid can directly impact on the quality, availability and sustainability of care, which in turn impacts on people with care and support needs. Fees also impact on the social care workforce, many of whom are female and are being paid National Living Wage. The uplift has taken into account the national increase to NLW and the need to address significant workforce pressures within the sector.

As well as considering market pressures, the uplifts have taken into account the need to move towards paying Actual Cost of Care for residential and nursing care for over 65's. For domiciliary care, the uplift has factored in Fair Cost of Care; average APL rates and the UKHCA recommended rates for 2023/24.

The uplift varies across providers to ensure it is targeted at those being paid the lowest rates. Often the lowest rates are paid for our longest standing contracts – these tend to be for people with functional conditions, such as learning disabilities, autism or mental health conditions, who have been receiving a stable package of care for many years. The uplift will therefore help providers to continue providing care and support for these vulnerable people.

In 2022/23 the inflationary award was not applied to specialist provision for adults over 65 years, due to the particularly high cost of packages. However, for 23/24 all specialist providers will receive an uplift to ensure continuity of high quality care for people with the most complex needs and behaviours that challenge.

To further support provider sustainability, and at the request of the ICG, the council has agreed to review the timescale for moving all residential placements to ACOC, and will review of the cost of care in Rural Areas. The council is also aiming to apply the uplifts by the end of quarter one. This process will require significant resource and providers will be kept up to date on progress via the ICG and Care Connected.

It is important to note that Local Authority fee levels have a financial impact on individuals who pay the full cost or contribute towards their care. For those who contribute towards their care, the increase will only affect those who are not already paying their maximum contribution. Local Authority rates may also indirectly impact on people who fund their own care and support through a private arrangement with the provider. This is because some providers may increase their private fees to help offset financial pressures. However, self-funders benefit where providers are on the council's Approved Provider List, as they have the assurance that the provider will need to evidence good quality provision through the council's new Quality Pathway.

**Section 4. Involvement and consultation** (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

The proposed uplift builds on work undertaken to calculate the Actual Cost Care in 2021 and the Fair Cost of Care exercise in 2022. Both the Actual Cost of Care and Fair Cost of Care exercises collated data from a broad range of care providers. It has also considered the average cost of care submitted by providers on the new Approved Provider Lists.

The uplift was negotiated with the Independent Care Group, who consulted their members before reaching agreement. The Independent Care Group represents over 50% of the providers that are on the council's APLs. Membership includes large corporate organisations as well as a small, medium and not-for profit enterprises.

ICG reported that key member concerns related to ongoing inflationary pressures due primarily to food, fuel, energy and inflation. They were also concerned about the National Living Wage increase, and their ability to recruit and retain a skilled workforce when there is so much competition from other sectors.

**Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?**

Uplift is based on 45/55 split of minimum wage and CPI = 9.2%

Residential and Nursing over 65s: Revised inflation 8.9% to 9.4% for ACOC rate. 3% above, up to £1,200 per week.

Residential and Nursing over 65s – specialist placements: Revised inflation 9.2% up to £1,000 and 3% for all above.

Residential and Nursing under 65s: Revised inflation 9.2% up to £1,000 and 3% for all above.

ACOC to be fully implemented over 3 years (by April 2024).

This table also shows the increase over 2022/23 rates:

	2022/23	2023/24	change	
Residential	742	812	70	9.4%
Residential/Dementia	784	854	70	8.9%
Nursing	819	896	77	9.4%
Nursing/Dementia	826	903	77	9.3%

For those above the ACOC rate, inflation will be paid at 3% up to £1,200 per week, with no inflation above that.

For placements of people in care homes outside of North Yorkshire Council we will honour an uplift agreed by the host authority where they have undertaken an Actual Cost of Care exercise and will consider individual business cases where there is no Actual Cost of Care exercise in place.

Non-residential services and learning disability residential services (including day opportunities): 9.2%.

Domiciliary Care: All rates below £26 per hour will be paid 9.2% inflation. All rates between £26 and £33 per hour will be paid 3% inflation. No inflation will be paid above this rate.

Supported Living: offer of 9.2%.

The overall financial impact of the annual uplift is always difficult to predict with great accuracy and this year costs will also depend on how quickly providers move towards their new APL rates. However it is possible that the financial strain of this revised offer does mean, as discussed with the ICG, that there be less funding available for individual support to providers through the sustainability and hardship process.

It should also be noted that the possibility of exceeding resources this year may impact on funding available next year and/or the starting point for discussions for future years.

<b>Section 6. How will this proposal affect people with protected characteristics?</b>	<b>No impact</b>	<b>Make things better</b>	<b>Make things worse</b>	<b>Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.</b>
Age		X		Most people accessing social care are elderly. People access this service through an “assessment” which takes account of needs linked to protected characteristics. There is potential for an improved service to older people via increased quality.
Disability		X		Providers of specialist services will be offered an inflationary increase in line with other care providers delivering other types of services.

				This decision reverses the inflation decisions taken in 22/23.
Sex		X		More women than men access social care. This is likely due to the gender profile of people aged 65+. This means that the positive impact of improved quality standards will affect more women than men.
Race	X			The impact of the proposal should be neutral. However, improved quality standards should positively impact as for other groups.  Only 2.7% of people receiving care in 2022 identified themselves as being from a minority group.
Gender reassignment	X			The impact of the proposal should be neutral. However, improved quality standards should positively impact as for other groups. The collection of data for this group of people is not routinely collected.
Sexual orientation		X		Research indicates that older LGB people are less likely to have informal support from family and so are more likely to receive social care support. Improved quality standards should positively impact as for other groups. The collection of data for this group of people is not routinely collected.
Religion or belief	X			No evidence for impact. Improved quality standards should positively impact as for other groups.
Pregnancy or maternity	X			No evidence for impact
Marriage or civil partnership	X			No evidence for impact

<b>Section 7. How will this proposal affect people who...</b>	<b>No impact</b>	<b>Make things better</b>	<b>Make things worse</b>	<b>Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.</b>
..live in a rural area?	X			The setting of fee levels has no direct impact on where an individual resides, however, it is acknowledged that for those living in more rural areas, the choice of support may be more limited and that family may encounter travel difficulties when visiting their family members in a care home. The setting of fee levels does not directly affect the location of providers, but it may encourage some

				market development due to the increased fee levels.
...have a low income?	X			Income plays no factor in assessing for social care support. Maximum client contributions fixed by national regulations.
...are carers (unpaid family or friend)?	X			It is hoped that by improving fee levels and having improved quality standards this should positively impact carers due to the person they support receiving good quality care.

<b>Section 8. Geographic impact – Please detail where the impact will be (please tick all that apply)</b>	
North Yorkshire wide	X
Craven district	
Hambleton district	
Harrogate district	
Richmondshire district	
Ryedale district	
Scarborough district	
Selby district	
<b>If you have ticked one or more districts, will specific town(s)/village(s) be particularly impacted? If so, please specify below.</b>	
The proposal will have a North Yorkshire wide impact, due to the location and spread of care providers across North Yorkshire.	

<p><b>Section 9. Will the proposal affect anyone more because of a combination of protected characteristics? (for example, older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.</b></p> <p>The award of an inflationary increase to care providers who are supporting vulnerable people will have a significant effect on those organisations and in turn on the people they support. This effect could be positive or negative dependent on the award and the additional costs being faced by care providers, including the current cost of living 'crisis'. However, negotiation with the ICG (Independent Care Group) as care market representative should negate any such concerns with the offer to the care market increased as a direct result of these negotiations.</p> <p>The inflation award in 22/23 had the potential to negatively affect disabled people 65+. As a result, this decision has been reversed and the providers of specialist services will be offered an inflationary increase in line with other care providers delivering other types of services.</p>
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<b>Section 10. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)</b>	<b>Tick option chosen</b>
<b>1. No adverse impact - no major change needed to the proposal.</b> There is no potential for discrimination or adverse impact identified.	<b>X</b>
<b>2. Adverse impact - adjust the proposal</b> - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
<b>3. Adverse impact - continue the proposal</b> - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	
<b>4. Actual or potential unlawful discrimination - stop and remove the proposal</b> – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<b>Explanation of why option has been chosen.</b> (Include any advice given by Legal Services.)	
No negative impact identified with the inflation award for 23/24, and this has rectified the previous decision made in 22/23 in relation to specialist placements.	

<b>Section 11. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)</b>
Cost of Care Exercises are completed at three yearly intervals to ensure the council takes “due regard” to the fees it pays care providers.

<b>Section 12. Action plan.</b> List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.				
<b>Action</b>	<b>Lead</b>	<b>By when</b>	<b>Progress</b>	<b>Monitoring arrangements</b>
Review the number of Sustainability Applications submitted during financial year 23/24	Service Development Team	March 24		By reviewing the number of sustainability applications and particularly by those providers who accept ACOC rates, we can monitor the effectiveness of ACOC.
Review the implementation of ACOC	Service Development Team	March 24		Engagement with the wider care market on the implementation of ACOC, including the take up rate of ACOC.
Review of the cost of care in Rural Areas	Service Development Team	March 24		This was agreed in consultation with the ICG. Further discussions are required with the ICG on how this will be completed during the financial year.

**Section 13. Summary** Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

No negative impact identified with the inflation award for 23/24, as this has rectified the previous decision in relation to specialist placements regarding the inflation award for 22/23.

Review the number of Sustainability Applications submitted during financial year 23/24. By reviewing the number of sustainability applications and particularly by those providers who accept ACOC rates, we can monitor the effectiveness of ACOC.

Review the implementation of ACOC. Engagement is required with the wider care market on the implementation of ACOC, this will include a review of the take up rate of ACOC. Further discussions needed with Providers regarding why they didn't accept the ACOC rate.

The council has published its Market Sustainability Plan - <https://www.northyorks.gov.uk/adult-care/contracting-adult-social-care-and-health-services/northyorkshire-market-sustainability-plan-2023-2024>

The MSP identifies how the council will address sustainability issues, including fee rate issues, where identified within the Care Market.

Provider Sustainability Policy & Procedure. The council introduced this Policy in response to its duties within The Care Act 2014. With the introduction of the Subsidy Control Act 2022, the current Policy & Procedure requires updating to ensure it meets the council's objectives but also its responsibilities within the Subsidy Control Act 2022. By having a robust sustainability policy and procedure, will ensure that any providers who are facing financial difficulty have an avenue to discuss these concerns with the council and the council can consider what assistance may be provided or brokered to help the provider return to viability.

#### **Section 14. Sign off section**

This full EIA was completed by:

**Name: Steven Crutchley**

**Job title: Strategic Service Development Manager**

**Directorate: Health & Adult Services**

**Signature:**

**Completion date: 24 April 2023**

**Authorised by relevant Assistant Director (signature):**

**Date: 25.04.23**