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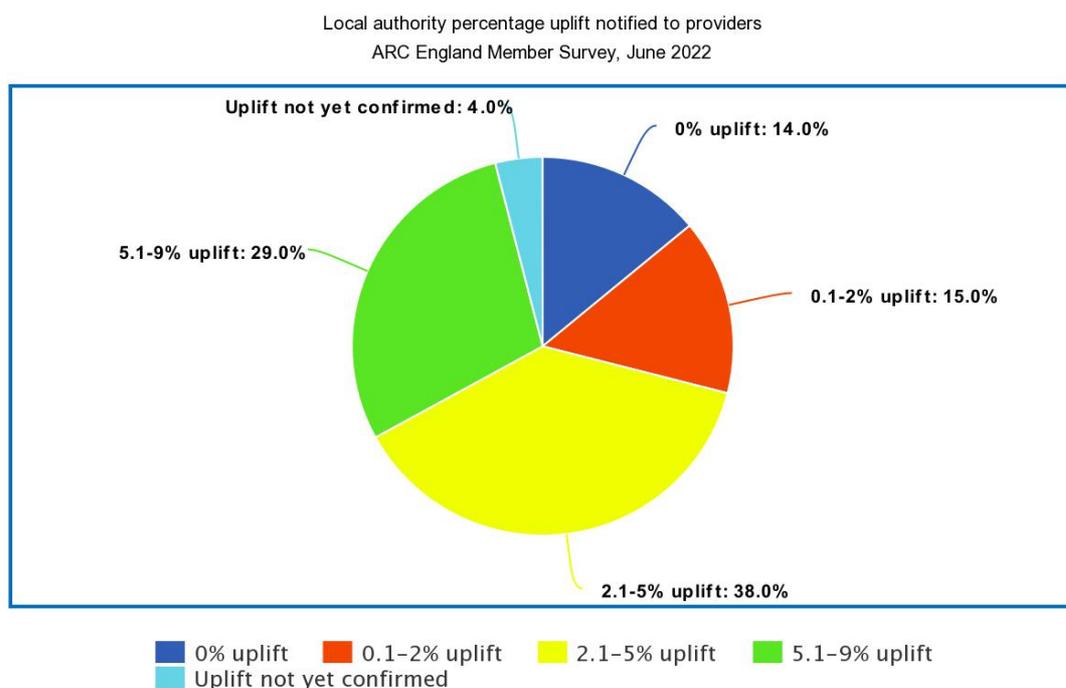
21st July 2022

To Gillian Keegan, Minister for Care,

The Association for Real Change (England) has 100 members who provide services for people with learning disabilities, autism or both. At the end of Quarter One, we asked them to tell us about the 2022/23 fee rate uplifts that have been offered by their Local Authorities.

We did this because members have been reporting that their Commissioners were telling them that the **fee-rate increase this year will be nil** and we wanted to understand whether these were individual cases or whether this was a more widespread issue.

The survey results, illustrating 70 (non-unique) connections with Local Authorities, shocked even us and they are presented below.



meta-chart.com

As the chart above shows, 18% of respondents said that either that the fee rate they have been offered is zero or that the Local Authority has not communicated with them at all about an uplift.

15% of respondents told us that the uplift they have been offered is less than 2% and an astonishing 71% of respondents have been offered a fee-rate uplift of 5% or less.

This is a snapshot taken in June 2022, at the end of the first quarter of a year in which **inflation is expected to exceed 11%.**

As well as the current financial environment, it is crucial that we understand these data in the context of the impact on the sustainability of learning disability and autism service providers of **year upon year of below-inflation fee uplifts** (in some cases, uplifts prior to the current year were also zero percent and we are able to evidence this should that be helpful).

To be clear about what this means, some of our members are **using reserves to fund operational delivery** and some have been doing this for some time because **the fee rates they receive don't cover the costs of providing care and support.**

Even those providers that are just about breaking even are unable to invest in existing services or develop new ones. I suggest that this is not a fair, reasonable or sustainable situation regardless of whether returns are categorised as the profit that independent providers should sensibly be making or the surpluses that third sector organisations should also be making.

Another aspect for providers that are breaking even is that they are often doing so because those Local Authorities that are paying an appropriate and fair rate for the services they commission are subsidising those that don't. This cannot be right and it should not be possible for this to be the basis on which the survival of the provider is dependent.

One member told us that their Commissioner has said to them that a service which has the capacity to support four people cannot be funded other than on the basis that it supports eight individuals. When we asked this provider to explain this to us, they said that the Commissioner had told them, "We don't like the hotel costs when the denominator is four; please make this eight". The provider pointed out that the service only has capacity to support four people but the Commissioner remained adamant – hotel costs will be based on eight people.

This service will now be closed. Many of our members are also telling us about services that they are either closing or packages of support that they declining to provide / handing back to the LA (NB - we would welcome a conversation with the CQC about how the particular commissioner behaviour above fits with Right Support, Right Care, Right Culture, hence this letter is copied to Patrick Wilkinson).

In relation to support worker pay rates, we know that it is the recently stated position of the DHSC that **it is for independent providers to decide the rates of pay they offer their staff and it is not for the Department to intervene or to seek to influence these.**

We don't disagree with this position in principle but treating it as though the matter of staff pay were entirely separate from the principles which govern how the learning disability market operates is flawed at best. My estimation is that the thinking behind this laissez-faire approach assumes that this is a self-correcting market like any other and should be allowed to undergo provider consolidation in the same way as would happen in a commercial market.

If this is the case, I suggest that this thinking is flawed both ideologically and technically, and to illustrate this I would like to discuss one principle that underpins markets. This is the notion of consumer sovereignty (there are other well-documented market principles that have less or no applicability in publicly funded services but this is the one I want to focus on).

This principle, with which I am sure you are familiar Minister, advances the idea that when consumers (parties with spending power) have choice, they will favour products and services that they want and which, in comparison with alternatives, offer value for money.

The consumer's assessment will be based on the desirability to them of the product or service on offer and will perhaps include a balanced view of the three elements of cost, quality and delivery (there are, of course, other ways of measuring value for money).

As a result of the choices made by consumers, consistent with the essentially Darwinian / evolutionary survival-of-the-fittest model, the providers of goods and services that are selected by the consumer survive and prosper, whilst the poorer ones that either cannot or choose not to compete are less successful and simply disappear from the market.

However, the consumer in our market is not, as many might assume, the person with a learning disability and neither is it the family of that person.

This remains the case for people with personal budgets and direct payments, albeit that these payment models were developed in an effort to address the issue of consumer sovereignty and to increase choice and control.

Additionally, because personal budgets generate many more invoices than historical ways in which services were purchased, and because Local Authorities are not paying these promptly, one of our members has had to recruit a full-time Credit Controller. There is no income to cover the cost of this post but despite this, they and we remain supportive of the planned expansion of personal budgets for the very reason that they can, as they were intended, increase choice and control for supported people and their families.

In relation to choice and control, our members have expressed serious concerns about the loss of progress in relation to personalisation that the funding crisis in learning disability

services is creating. This is because when the fees paid to providers don't cover the cost of the support that is being provided, it is obvious that they will be less and less able to provide the person-centred support that people with learning disabilities have become accustomed to and which they have a right to expect.

In addition to the impact of low fee rates, excessive Local Authority scrutiny (which is inconsistent with the choice and control that personal budgets are intended to create) plus the administrative burdens generated when invoices are not paid can make personal budgets and direct payments unsustainable for providers to manage.

Returning to the question of the consumer, it is, I suggest, obvious that the consumer is also not the provider of care and support because the consumer in our market is the Local Authority. This is because it is the Commissioner who has the spending power from which consumer sovereignty derives and therefore supported people, their families and providers of services have no real sovereignty in this market.

Over a decade of unprecedented cuts to Local Authority budgets mean that many Commissioners are unable to commission services because they just don't have the money so they don't have the spending power that would afford them the consumer sovereignty on which success of the market is predicated.

Local Authority budget cuts have also resulted in the loss of talent, experience and knowledge in relation to the Commissioner role which will surely be a contributory factor in many of the cases of poor commissioning practice that our members are reporting, such as the one I referred to above.

Applying a hands-off market ideology to the products and services that people need for their survival was always a questionable approach. In relation to the internal market that was artificially installed in the NHS, we have, thankfully, realised it is both inappropriate, dysfunctional and wasteful in this particular range of health-related public services and we are pleased that the new ICSs will be tasked with driving efficiencies and quality from collaboration, not competition.

Welcome though this recognition of the failure of the internal market to deliver in and for the NHS undoubtedly is, for learning disability and autism services, the people who need them, their families and the providers themselves, we continue to be subject to market forces over which they have little or no control. These market forces in no way reflect the quality of care and support being delivered by learning disability service providers, the value for money being offered or the importance to individuals, their families and wider society of the work these providers do every day.

If the Government continues to adopt a hands-off approach, the consolidation I mention above is going to have a highly visible impact that I doubt can have been factored in to the thinking of the Department. This includes the potential for an increase in the demand for other services such as safeguarding when, for example, supported people are no longer able to access Day Services and spend more and more time at home with families that are unable to support them to live lives in which they have choice and control.

There are many reasons that the ideology of the free and unregulated market (I'm not talking here about the regulation of services but rather the regulation of the market in which they operate) might not be the best way to manage and oversee the complex web of connections between the various parties with an interest in seeing great-quality, person-centred learning disability services. In this letter, I have discussed just one - the issue of who has the spending power - and whether, under present circumstances, even the Commissioners are able to bring to bear the benefits of consumer sovereignty that they are presumed to be able to.

For clarity, I would like to stress that our members, who have demonstrated incredible resilience and creativity in the last few years, are subject to many rigorous quality and delivery monitoring mechanisms and we are fully supportive of anything that genuinely increases choice and control in the lives of the people we support and increases the quality of services they use. On that basis, we have no particular issue with services being embedded within a market model provided it is functional, sustainable and configured to drive up standards and quality.

This is not what the current model is doing because fundamental flaws are causing it to distort the way in which the market might otherwise be expected to operate, leaving people who need services, their families and providers with nothing that even approximates control let alone sovereignty.

Increasingly, supported people are being placed in a position where the services they depend on are at risk of being withdrawn. When both the White Paper of last year and the Building the Right Support Action Plan of this week state that Local Authorities are not complying with their duties under the Care Act 2014, whilst there are many ways in which they are not complying, it should be no surprise that the one that I mention here is the role of the LA in relation to market oversight. There is only one Local Authority that I am aware of that is demonstrating its full commitment to ensuring that the local market for which it is responsible will meet the needs of its citizens.

We think that it is now imperative that the Government accepts its responsibility and intervenes with the necessary measures that are sufficient to ensure that the wider system within which local learning disability service markets operate is functional and allows for some degree of sustainability. In relation to the adult social care funding reforms announced last September, these are aimed primarily at the care and support older people who are funders of their own care receive and do not ascribe the priority to people with a learning disability that we (and we believe wider society) would expect to see - this needs to change.

You will no doubt want and expect me to acknowledge the Fair Cost of Care exercise which is slowly making its way through residential and homecare services, and which is further evidence, were it needed, of the prioritisation of the services which older people receive.

It is by no means clear that this exercise will be applied in the supported living settings in which many learning disabled people are supported (some Commissioners have told our

members that these will be excluded despite that at least one has said, somewhat disingenuously in our view, that the reason they are offering a zero percent fee uplift this year is because they are awaiting the outcome of the Fair Cost of Care exercise).

We know that the exercise definitely won't include the Day Opportunities services on which so many supported people and their loved ones depend. We cannot understate the value that these services bring to the lives of people with a learning disability, autism or both and their loved ones, or the level of concern we have that these services could be lost if we don't act to prevent that from happening.

Ensuring that a Fair Cost of Care is calculated in partnership with providers and covers all the services our members will provide this year is essential for the wellbeing of supported people and their families and for the survival of the providers that deliver them.

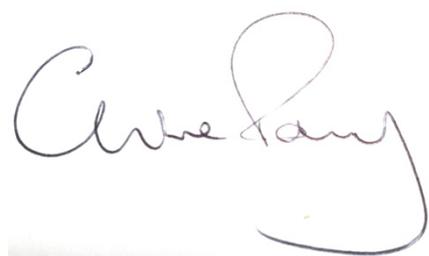
We cannot afford to cross our fingers and hope that the incomprehensible fee rate uplifts being offered to learning disability and autism service providers will be fixed through the usual operation of the market.

It won't because it is configured poorly and this does not seem to be well understood and / or accepted by the people who are responsible for making decisions about it.

We need Treasury, DHSC, Local Government and the organisations that can make change happen to do something differently at a system level. It seems clear to me that many Local Authorities either can't or won't pay for them, so the future for the services in which people with a learning disability are supported to live well and with choice and control seems bleak.

The LGA, in its otherwise comprehensive [review and analysis of the 2021 Spending Review](#), makes no mention at all of learning disability and autism services so I have copied in Mark Lloyd and also copied in Cathie Williams at ADASS.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Clive Parry', with a long horizontal line extending from the end of the signature.

Clive Parry, England Director, ARC (the Association for Real Change)

cc

Cathie Williams, Chief Executive, ADASS

Mark Lloyd, Chief Executive, LGA

Patrick Wilkinson, Registration Manager, CQC

Debbie Ivanova, Director for People with a Learning Disability and Autistic People, CQC