

**Report of: Head of Commissioning**

**Report to: Director of Adult Social Services (Interim)**

**Date: 19<sup>th</sup> March 2015**

**Subject: Adult Social Care Residential and Nursing Care Homes Fee Review 2014**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. The report seeks the Director of Adult Social Services (Interim) to approve the outcome and recommend payment of the residential and nursing care fee review for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014 which has been undertaken in accordance with the care home framework contract.

### Recommendations

2. The Director of Adult Social Services (Interim) is recommended to approve the outcome of the 2014 residential and nursing fee review and recommend payment of new fee structure shown in Appendix 1 for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014.
3. The Commissioning Manager and Finance Manager Adult Social Care will implement this decision directly after it has been taken, subject to the necessary clearance process being completed, by issuing relevant letters to the organisations informing them of the increase and making the backdated payments for the new fees to all relevant care homes within the Leeds City boundary.

## **1 Purpose of this report**

- 1.1 The report seeks the Director of Adult Social Services (Interim) to approve the outcome and recommend payment of the residential and nursing care fee review for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014 which has been undertaken in accordance with the care home framework contract.

## **2 Background information**

- 2.1 The Director of Adult Social Services submitted a report to the Executive Board on the 7<sup>th</sup> September 2011 recommending the establishment of an Advisory Board to include representatives of all groups with a direct interest in commissioning, providing and receiving sustainable high quality care for older people. The primary remit of this Board was to bring forward a long term sustainable fee settlement linked to quality, along with proposals to deal with the issue of sector inflation. The Board had representation from councillors of all political parties represented on the Council, independent sector providers of care homes in the city including the Leeds Care Association, a service user representative and a voluntary sector representative.
- 2.2 In 2011 and 2012 there had been a number of judicial reviews challenging local authorities instigated by care home proprietors where Councils have been deemed to be acting unlawfully by setting a fee to be paid without undertaking proper consultation with the care homes on the actual cost of providing that care. To address this, the Council went through a significant fee review process to agree a fair cost of care for care homes in the city taking into account the actual cost of care and to link this to quality provision provided within the care homes. A considerable amount of consultation was undertaken with the care home providers in the city and the outcome of which was the agreement of a standard fee structure linked to a quality framework.
- 2.3 During 2012, the council undertook a full procurement exercise to enable care homes to become part of the framework contract and the Director of Adult Social Services took a decision on the 12<sup>th</sup> December 2012 to award the first phase of care homes onto the framework contract. During this and the subsequent procurements, the majority of care homes in the city became part of the Residential and Nursing Framework Contract.
- 2.4 The fees linked to the framework contract is structured in three parts, these are Non-QF which are the fees paid to homes who are not part of the framework contract, Core which are fees paid to those homes who are part of the framework contract and have achieved the core standards contained in the quality framework and Enhanced, which are homes who are part of the framework contract and have achieved the enhanced standards contained in the quality framework. The core standards and fees reflect good quality provision whereas the enhanced standards were set to be able to reward those homes providing an enhanced quality service to residents. The fees were constructed using direct costs which consisted of the salaries of nursing and care staff, indirect costs which contained elements such as utility bills, maintenance, food etc, and capital costs which includes profit.

- 2.5 A major outcome of the judicial reviews which had been brought by care home providers concerning the setting of fees by local authorities was that council's had to take the actual cost of care into account when setting the fees for care home placements. To ensure this the council did not fall foul of this requirement, a major cost of care exercise was undertaken when the initial fees were set which involved providers submitting a cost of care template as part of the fee setting process. Also, within the terms of the framework contract, provision was made for the annual review of fees to ensure the cost of care would be taken into account when setting any new fees for the proceeding years. The legislation governing the setting of fees for care home was contained in the guidance (LAC (2004)20) to the National Assistance Act 1948 (Choice of Accommodation) Directions 1992. This guidance stated that local authorities should set their fees at the start of a financial or other planning period or in response to significant changes to the cost of providing care.
- 2.6 The process for setting new fees is contained in the framework contract and states that the annual review would take due regard of the percentage change in 'actual cost' experienced by Providers. This process involved the providers submitting an annual return which would show variations on each of their cost elements which made up the direct and indirect costs. The cost of capital used in the calculation of the fee was excluded from the review process and this would remain fixed throughout the life of the framework contract.
- 2.7 A cost of care template was developed which allowed providers to submit their actual costs variations as part of the review process. The contract stated that where a provider failed to submit their return during the review period, then it would be presumed that that provider had sustained no increase in their cost base.
- 2.8 The contract also stated that after reviewing all the evidence and taking due regard of the annual local government finance settlement made to the Council, the Council would inform Providers of any decision taken to amend the Price and this would apply to all providers from the anniversary of the framework contract.

### **3 Main issues**

- 3.1 In order to allow the providers to submit an annual return as part of the fee review process, a cost of care template was developed. This initial fee review period covers the second year of the contract during 2014. The cost of care template was sent to all providers on the framework contract in October 2013, requesting that providers submit their return by mid-November 2013 which would allow the council sufficient time to complete the analysis and review the price by the contract anniversary. Given that this was the first time the review process had been undertaken, the council offered providers a number of drop-in sessions with officers, to explain the document and the process involved. However, by the deadline for submission of the returns, only a very small number of providers had

submitted the document. As this was the first time some providers had been through this process adult Social Care allowed a further extension to the submission period in an attempt to increase the number of returns. By the extended deadline for submission Adult Social Care had received 27 returns out of a possible 87 homes on the framework contract.

- 3.2 At the start of 2014, Adult Social Care Financial Management carried out an analysis of the initial information contained in the provider returns and the outcome of this was submitted to the Advisory Board in April 2014. Following discussion of the information from Financial Management, the Advisory Board expressed their disappointment at the very low number of returns submitted and it was agreed that the review exercise should be re-run to allow further submissions to be included in the review. A further request for submission of the cost of care template was made to providers with a submission deadline by the end of July 2014. By the submission deadline date, an additional 25 returns had been submitted.
- 3.3 A financial analysis of the returns was undertaken and the results were discussed at the Advisory Board in January 2015. The financial analysis consisted of:
- Examining the provider Direct and Indirect cost of care returns in comparison to those returns submitted in the original tender exercise.
  - Calculating an average percentage variation to the original price for each care type, i.e. Residential, Residential EMI, Nursing and Nursing EMI.
  - Weighting that average. This meant that those providers who did submit a return were deemed to have a Cost of Care increase as calculated in the above bullet point, but those who did not return the cost of care template were assumed to have a 0% increase. An overall average for all providers was then calculated based on this weighting. This assumption is as per the terms of the contract.
  - Taking into account the council's financial settlement for the financial year, again, as stated within the terms of the framework contract
- 3.4 The outcome of the review applied to the residential and nursing fee is shown in Appendix 1. These new fees will apply to all placements from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The report will be discussed with the Executive Member for Adult Social Care prior to the decision being implemented. The review process has been discussed at the Residential and Nursing Advisory Board.

## **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality Impact Assessment Screening Tool has been completed for this report and is included as Appendix 2.

## **4.3 Council policies and City Priorities**

- 4.3.1 The residential and nursing services will contribute to the Council's Health and Wellbeing City Priority Plan.

## **4.4 Resources and value for money**

- 4.4.1 The increase in the residential and nursing fees for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014 has been accounted for in the community care budget. The increase in fees of 1% is expected to cost £337,000 during 2014/15 financial year.

## **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 There are no specific legal implications as part of this report.
- 4.5.2 This decision has been placed on the list of forthcoming key decisions and is subject to call-in. The report does not contain any exempt or confidential information.

## **4.6 Risk Management**

- 4.6.1 There are no significant risks identified in making the decision recommended by this report.

## **5 Conclusions**

- 5.1 The review of fees has been conducted in accordance with the terms of the framework contract. The outcome of the review has indicated a 1% increase in the standard fees for 2014 and this is shown in Appendix 1.

## **6 Recommendations**

- 6.1 The Director of Adult Social Services (Interim) is recommended to approve the outcome of the 2014 residential and nursing fee review and recommend payment of new fee structure shown in Appendix 1 for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014.
- 6.2 The Commissioning Manager and Finance Manager Adult Social Care will implement this decision directly after it has been taken, subject to the necessary clearance process being completed, by issuing relevant letters to the organisations informing them of the increase and making the backdated payments for the new fees to all relevant care homes within the Leeds City boundary.

## **7 Background documents<sup>1</sup>**

7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

**APPENDIX 1 – Residential and Nursing Fees for the period from the 20<sup>th</sup> December 2013 to the 19<sup>th</sup> December 2014**

	Non-QF Fee	Core Fee	Enhanced Fee
Residential	£380	£433	£450
Residential Dementia	£389	£446	£469
Nursing	£408	£464	£484
Nursing Dementia	£411	£468	£489