

**Report of** Mark Phillott, Head of Commissioning (Contracts and Business Development),

**Report to** Director of Adults and Health

**Date:** 18<sup>th</sup> April 2018

**Subject:** Report to request that a fee uplift be applied to Independent Sector Care Homes for Older People.

Are specific electoral wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, name(s) of ward(s):		
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

## Summary of main issues

1. The short term interim framework arrangement with the independent sector care homes for older people is due to expire on 30<sup>th</sup> June 2018 and this report proposes a fee uplift to be applied from 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 to take account of the increase in the National Living Wage and other inflationary related costs.
2. This report also identifies the proposed fees for the new long term arrangement which will be effective from the 1<sup>st</sup> July 2018 until 31<sup>st</sup> March 2023 with a move away from different enhanced fee levels to a flat rate payment.
3. Consultation has taken place with a range of stakeholders to agree the fees for older people's residential and nursing care homes for the new framework arrangement.

## Recommendations

4. The Director of Adults and Health is recommended to agree a fee uplift (as stated in Table 1, section 3.11) for older peoples residential and nursing care homes for the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 for the interim framework arrangement extension period.
5. The Director of Adults and Health is recommended to agree a fee level (as stated in Table 2, section 3.13) for older people's residential and nursing care homes for the

new overarching framework arrangement which will commence 1<sup>st</sup> July 2018 and expire 31<sup>st</sup> March 2023.

6. The Director of Adults and Health agree that the fee level for the initial 9 month period shall be as stated in section 3.11 of the report and that this shall be reviewed on an annual basis with any adjustments to be implemented from the 1<sup>st</sup> April 2019 and in each subsequent year in accordance with the terms and conditions of the framework arrangement.
7. The Commissioning Manager (Adults and Health) will liaise with the Contracts Team and Finance Team to oversee the implementation of the uplift of the fees.

## **1. Purpose of this report**

- 1.1 The purpose of this report is to seek approval from the Director of Adults and Health to implement a fee uplift for older people's residential and nursing care homes for the period 1<sup>st</sup> April 2018 to 30th June 2018 during the extension to the interim arrangement and agree to the introduction of a flat rate for the enhanced standards at the commencement of the new overarching framework arrangement which will commence 1<sup>st</sup> July 2018 and expire 31<sup>st</sup> March 2023.

## **2. Background information**

- 2.1 In August 2016, Adults and Health commenced a project to re-commission its older people's residential and nursing care contracts with independent sector providers in the city. The initial framework contract that was put in place in 2012 was due to expire December 2017 therefore it was necessary to put in place new contracts and agree a new fee structure from this point forward.
- 2.2 The independent sector care home provision, currently consists of approximately 4,300 beds across 88 residential and nursing homes of which Leeds City Council commission approximately 1,700 placements across the sector. During the last contract period 85 of the 88 care homes in the city were part of the council's framework contract.
- 2.3 Adults and Health currently spends approximately £60m (gross) per annum on Older People's residential and nursing care home placements with independent care home providers who have homes within the city.
- 2.4 As part of the project governance, a Strategic Advisory Group was established which is chaired by the Executive Member for Adults and Health, Cllr Charlwood, and has representation from members of each of the main political parties on the council, the independent sector care home providers including Leeds Care Association, third sector representation through Age UK Leeds, Service User Representation through Healthwatch Leeds and representation from the Leeds CCG partnership.
- 2.5 In addition to the Strategic Advisory Group, a Project Board chaired by the Deputy Director of Integrated Commissioning, was established to oversee the project and delivery of the objectives along with a project team with various workstreams and a Reference Group of care home managers to assist with the development of the various contract documents.
- 2.6 During the period of the current contract, the Care Act 2014 was introduced which set out clearer guidance on what local authorities should consider when setting fees for care homes. This resulted in a challenge from the Leeds Care Association (LCA), through their solicitors, to the validity of the price review formula contained in the contract. In order to avoid any further legal challenge, it was agreed that the fee review for the new contract in 2018 would be used to review the price for the final year of the existing contract, rather than use the previously agreed review formula contained in the contract, and this was agreed by the LCA.
- 2.7 The main aim of the fee review process was to:
- Determine a fee that is fair and supports the cost of care;

- Determine a fee that is affordable within the confines of the Authority's budget;
- To offer stability to the market for the future contract period (up to 5 years);
- To offer financial incentives to enhance quality;
- To provide transparency for the public.

2.8 In November 2017, a final fee structure for the current contract was agreed and a delegated decision to implement this fee was taken by the Director of Adults and Health (Ref D45006).

2.9 On 20<sup>th</sup> December 2017 a short term interim arrangement was put into place with the independent sector care homes for older people for the period 20<sup>th</sup> December 2017 to 31<sup>st</sup> March 2018 with one option to extend for a period of three months.

2.10 A report to request that the option to extend for the three month period 1<sup>st</sup> April to 30<sup>th</sup> June 2018 was agreed at the DDP panel meeting on 21<sup>st</sup> March 2018.

### **3. Main issues**

3.1 Through a procurement exercise early in 2017, Adults and Health commissioned a firm of accountants, Mazars, to undertake the cost of care exercise with providers and produce a cost of care report which would provide the necessary information in order that council could determine the new fees for the final year of the current contract and the fee structure for the new contract in 2018. Mazars were very experienced in the sector having undertaken work of a similar nature for other local authorities and had recently completed work for the Department of Health on the Funded Nursing Care contribution to the care home fee.

3.2 Mazars issued a cost of care template for completion by all care homes in the city and by the closing date for submission, 56% of homes had submitted the completed template which was a valid statistical sample for their model. Following analysis of all submissions, Mazars produced a cost of care report which would form the basis of negotiations with the sector and which ensured the council was complying with its legal obligations to take into account the providers cost of care when setting care home fees.

3.3 Over the course of the next few months, a series of meetings took place with provider members of the Strategic Advisory Group and Adults and Health commissioning and finance officers to agree the fee structure for the final year of the contract which would then form the basis of the fee structure for the new contract in 2018.

3.4 As part of these negotiations the council's finance officers analysed the figures provided in the Mazars cost of care report, which took into account factors such as the provider's management overheads and the current state of the care home market in the city and had due regard of the annual local government finance settlement made to the Council.

3.5 In November 2017, a final fee structure for the current contract was agreed and a delegated decision to implement this fee was taken by the Director of Adults and Health (Ref D45006).

- 3.6 Productive discussions have taken place with the providers in respect of the fee setting process for the new contract. As one of the aims of the fee structure is to incentivise the provision of quality services, it has been agreed that the fee structure will remain as it is currently set, with 3 parts, a non-framework fee, a Core Fee and an Enhanced Quality Fee.
- 3.7 The non-framework fee will apply to those care homes who choose not to be part of the new contract in 2018, the core fee will apply to all homes who are part of the framework contract and the Enhanced Quality fee will apply to those homes on the framework contract who meet the enhanced quality standards set out in the new contract.
- 3.8 Discussions took place with the Care Home Reference Group about the retention of the enhanced quality standards, and after further discussion with internal stakeholders as well, it was agreed that some of these enhanced quality standards would be retained but that others should be part of the core standards which all homes must be able to demonstrate that they are meeting. All agreed that the enhanced quality standards were an incentive to the sector to continuously strive to improve their practice within the care home setting in order to achieve better outcomes for the residents.
- 3.9 Further discussion and consultation is now taking place with the sector about the standards prior to the new long term arrangement commencing. The proposed enhanced standards are:
- Good in all areas as assessed by CQC and meeting all LCC core standards.
  - Evidence that clear scrutiny and governance arrangements are in place for quality assurance and for implementing quality improvements. E.g. two way communication between managers and senior management/owners, escalation processes etc.
  - Annual quality assurance audits undertaken by senior officers of the organisation and shared with Leeds City Council.
  - Care homes are proactive in seeking customer and staff feedback in a range of ways (e.g. focus groups, questionnaires), this feedback should be; consistently positive and we would want to see any negative feedback is used to improve quality.
  - Clear evidence of providing staff with development opportunities to further develop their careers e.g. specialist training above the minimum required within the specification. – Dementia awareness training, Parkinson's training etc.
  - Manager has gone through the LCC Leadership academy (where appropriate)
  - Registered managers network engagement
  - Evidence of involvement in/support to the local community (contributing to the Leeds pound)
  - A Safeguarding lead within the home who has specialist knowledge, researches best practice and provides advice and support to other staff.
  - Be proactive in the sourcing and promotion of assistive living technologies and / or adaptive equipment to help people retain or develop their independence. (Equipment that cannot be sourced through Assisted Living Leeds.)

- 3.10 Discussions have also taken place about the enhanced quality standards being the same for the different types of service provision thus it was determined that a flat rate fee should be introduced. The Leeds Care Association have been consulted about the proposal and are supportive of the change.
- 3.11 A new fee level has been proposed for the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 during the extension to the interim arrangement (approved at DDP panel meeting 21<sup>st</sup> March 2018) and the fees for the overarching framework arrangement which will commence 1<sup>st</sup> July 2018 and expire 31<sup>st</sup> March 2023. The proposed fees for the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 are given below in Table 1:

	Non-QF	Core	Enhanced
Residential	£460	£523	£543
Residential Dementia	£492	£560	£589
Nursing	£475	£550	£572
Nursing Dementia	£494	£573	£597

**Table 1.** Proposed Fee's for the period 1<sup>st</sup> April 2018 – 30<sup>th</sup> June 2018

- 3.12 As can be observed from Table 1 above the fee differential between the core fee rate and the enhanced fee rate will remain in place during the extension to the interim arrangement.
- 3.13 Table 2 below identifies the proposed fees for the new overarching framework arrangement for the period 1<sup>st</sup> July 2018 to 31<sup>st</sup> March 2019.

	Non-QF	Core	Enhanced
Residential	£460	£523	£545
Residential Dementia	£492	£560	£582
Nursing	£475	£550	£572
Nursing Dementia	£494	£573	£595

**Table 2.** Proposed Fee's for the period 1<sup>st</sup> July 2018 to 31<sup>st</sup> March 2019

- 3.14 As can be observed from Tables 1 and 2 there is a small reduction in the enhanced quality standard payment that will be payable from 1<sup>st</sup> July 2018 for residential dementia and nursing dementia. This is because we are seeking to level out the payment so that the same amount is awarded to providers regardless of the type of service provision as each service type needs to meet the same enhanced quality standards criteria to receive the quality premium payment therefore there is no justification for the differential in the fee level for the quality premium payment.
- 3.15 In order to ensure that the sector can provide good quality care and further improve their practice a Care Quality Team are being recruited to provide guidance, advice and assistance to help them improve the quality of services and ensure such improvements are sustained.
- 3.16 Additionally a Leadership Academy and Registered Managers Network will also commence in 2018 and this will provide development opportunities to registered care managers and opportunities for peer support.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The Strategic Advisory Group Provider representatives have been consulted about the fee proposals, as have the membership of the LCA and their comments were invited to ensure that the proposed fee's reflected a fair affordable fee. The LCA membership were supportive of the fee proposal.
- 4.1.2 The Executive Member for Adults and Health has been consulted about the proposed fee increases.
- 4.1.3 The wider older people's care home market are being consulted about these proposals and feedback to Officers so far has been positive.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 An Equality Impact Assessment has been undertaken in relation to the proposal that equality and diversity had been considered and this is attached as Appendix 1.
- 4.2.2 The EIA demonstrates that Care Homes are ideally placed to develop community cohesion through strengthening connections with local community group and schools and through employment opportunities within the care home setting.
- 4.2.3 The importance of emphasising diversity and inclusion in contracts is recognised and a number of quality standards have been co-produced with providers to ensure that this area has been included within the quality standards framework. This would then provide the information for the service provider to address any inequalities or under representation.
- 4.2.4 Equality characteristics will be rigorously monitored as part of the ongoing monitoring of the new long term agreement.

### **4.3 Council policies and best council plan**

- 4.3.1 The framework arrangement will contribute to the Council's policies and the Best Council Plan including delivery of the better lives programme by contributing to: people living longer and healthier lives; helping people to live full, active and independent lives; ensuring that people's quality of life is improved by access to quality services; involving people in decisions made about them, and; helping people to live in healthy and sustainable communities.

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

- 4.4.1 It is important to note that there are several variables that influence the financial cost associated with care home placements. These include the fee, the number of service users funded by the Local Authority, the length of stay, the mix of service users e.g. residential, nursing, the number of providers who will deliver services at the fee mix.

- 4.4.2 Subject to the cost of the contract being influenced by both demand and the mix of demand, the proposed fees will be contained within the budgetary provisions set for 2018/19. The financial spend of the contract will be circa £320m during the period of both arrangements (1st April 2018 – 30th June 2018 and 1st July 2018 to 31<sup>st</sup> March 2023). Included within the Mazars cost of care report is a formula which has provided estimates of future increases for the lifetime of the contract which includes inflationary increases (including wages) and this formula will be utilised as part of the annual fee review.
- 4.4.3 Over the life of the contract there will be the provision to review the service specification in order to accommodate and respond to any changes in legislation and/or service requirements, and also the terms of the contract, including fee levels.
- 4.4.4 Whilst the overall value of the overarching framework is as above the average annual value of each individual CHISA is £28k per annum.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The decisions highlighted in this report will be taken by the Director of Adults and Health in line with the officer delegation scheme as detailed in Part 3 of the Council's Constitution.
- 4.5.2 There are no specific legal implications as part of this report because the existing terms and conditions allow for financial uplifts throughout the life of the contract.
- 4.5.3 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 A risk management plan was developed as part of the One City Approach and incorporated risks associated with all elements of the work associated with the re-commissioning of older people's residential and nursing care contracts with independent sector providers in the city.
- 4.6.2 The risk and issue register is overseen by the One City Project Board and all risks are being actively managed
- 4.6.3 For those homes already in receipt of the enhanced quality fee automatic transfer to the new enhanced fee will take place at the commencement of the new framework arrangement. However there are currently 10 care homes (based wholly on the CQC rating) who may be negatively affected by the introduction of the new enhanced quality standards and officers will work with these homes to ensure immediate improvements required by CQC are put into place in a timely manner.
- 4.6.4 Implementation of the Quality Team should lead to better care being provided within the Care Homes thus reducing the number of safeguarding referrals and complaints about Care Homes which will lead to less time being spent undertaking investigations and lead to better outcomes for care home residents.

#### **5. Conclusions**



- 5.1 A new overarching contract is required to be put into place for the 1<sup>st</sup> July 2018 and is the subject of a separate report which will be submitted to the panel meeting on the 18<sup>th</sup> April 2018.
- 5.2 The services these fee uplifts relate to are for statutory residential and nursing care home services for older people.
- 5.3 The proposals in this report relate to an uplift for the interim agreement for the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 and the introduction of a flat rate quality premium payment for the enhanced quality standards for the period 1<sup>st</sup> July 2018 to 31<sup>st</sup> March 2019. A further report will be brought in relation to any increases to be applied to the fees in subsequent years between April 2019 and March 2023.
- 5.4 The basis of a new fee structure has been agreed with the sector which will enable the council to enter into a procurement exercise to formalise new contracts with the independent sector for a period of 4 years and nine months.
- 5.5 Implementation of the Quality Team will ensure that care homes get the support that they require which will lead to better CQC ratings within the sector.
- 5.6 The development of the Leadership Academy will lead to Registered Managers of Care Homes developing further skills and knowledge which are then enhanced by peer to peer support.

## **6. Recommendations**

- 6.1 The Director of Adults and Health is recommended to agree a fee uplift (as stated in Table 1, section 3.11) for older peoples residential and nursing care homes for the period 1<sup>st</sup> April 2018 to 30<sup>th</sup> June 2018 for the interim framework arrangement extension period.
- 6.2 The Director of Adults and Health is recommended to agree a fee level (as stated in Table 2, section 3.13) for older people's residential and nursing care homes for the new overarching framework arrangement which will commence 1<sup>st</sup> July 2018 and expire 31<sup>st</sup> March 2023.
- 6.3 The Director of Adults and Health agree that the fee level for the initial 9 month period shall be as stated in section 3.11 of the report and that this shall be reviewed on an annual basis with any adjustments to be implemented from the 1<sup>st</sup> April 2019 and in each subsequent year in accordance with the terms and conditions of the framework arrangement.
- 6.4 The Commissioning Manager (Adults and Health) will liaise with the Contracts Team to oversee the implementation of the uplift of the fees.

## **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.

