

Agenda Item No.6 (p)

DERBYSHIRE COUNTY COUNCIL

CABINET

16 March 2020

Report of the Executive Director for Adult Social Care and Health

CARE HOME AND DAY CARE FEES 2020-21

ADULT CARE

1. Purpose of the Report

To seek Cabinet approval to:

- increase the rate paid to independent sector residential care homes for the financial year 2020-21 by 4.75% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2020-21 by 4.83% per week
- make an inflationary payment of up to 4.75% for specialist care home placements where evidence is provided of inflationary pressures;
- set a rate of £41.72 per session (from £39.82 per session) for a day care placement in a care home;
- increase the rates for in-house day care and residential care by 4.75%;
- increase the dementia fee rate to £46.62 per week (from £44.52)
- make an inflationary payment of up to 4.75% for well-performing block contracts in specific circumstances.

2. Information and Analysis

2.1 Background

The Council has contract arrangements in place with over 174 independent sector care homes for older people that provide support to approximately 2,469 people as detailed below:

- 909 people in nursing placements where the person needs constant involvement of, or supervision of, a qualified nurse;
- 1,784 residential placements.

A further 419 people are supported in Council run Care Homes

2.2 Fee Levels

A comprehensive review of fee levels for independent sector care services is undertaken annually. To assist with this review representatives of the Derbyshire Care Providers Association (“the Association”) were invited to meet with Councillor Jean Wharmby, Cabinet Member for Adult Care and Julie Vollar, Service Director for Adult Social Care and Health on the 21st January 2020 to set out particular business pressures affecting the care market and their costs.

The Association continue to express its view that the detailed fee analysis and consultation previously undertaken by the Council was flawed and the fee rates do not cover their actual costs. The Association have requested that the Council undertake a new study to better understand their costs.

The views shared at this meeting have assisted the Council in detailing 2020-21 fee proposals described in this paper. See Appendix 1 for a copy of the paper presented by the Care Association at this meeting. The Council has also received additional requests from other Care Home providers not represented by the Association for a fee increase to reflect inflationary pressures.

3. Financial Considerations

Care Home providers highlighted a number of additional cost pressures for 2020-21 at the meeting held on the 21 January 2020 and in the paper attached in Appendix 1 these concerns include;

Wage and pension pressures

Providers have identified that the National Living Wage is due to increase by 6.2% for staff aged 25 and over from 1 April 2020 (from £8.21 per hour to £8.72 per hour a 51p increase).

Council response:

For the increase of the National Living Wage, the Council has decided to use the 6.2% minimum wage increase for all staff costs including staff aged under 25 to assist with maintaining wage differentials.

Nursing provision

The Association has requested that the Council respond in the fee setting exercise to concerns in respect of sustainability of Care Homes with Nursing and the Council’s own Older People Accommodation and Housing Strategy

which references the need for more Nursing provision over the next 15 years. The Association has highlighted that they experience extreme difficulties with recruitment and retention of nursing staff. This directly impacts on the continuity of provision and requires Providers to cover staff vacancies with privately sourced relief staff at an unsustainable cost. They advise that people have more complex needs in nursing care and therefore require higher staffing ratios than provided for in residential care and that occupancy is potentially shorter in time spent in the home.

Council response:

The sustainability of the Nursing Care Home market is of great importance to the Council as it assists with ensuring that there are suitable places for people to live following a period of admission in hospital.

The fee contribution made by the Council towards placements in a Care Home with Nursing is currently £39.90 per week. This is paid on top of the standard fee paid by the Council to Care Homes to reflect the complexity of the service. It is paid alongside the NHS Funded Nursing Care Payment of £165.56 (2019-20 rate) per person per week.

The Council as part of its responsibility to promote a sustainable market proposes to increase the Nursing Care fee contribution (the difference between the residential and nursing rate) by 6.00% to £42.28 from £39.90 per week.

Additional Cost Pressures

Providers have highlighted that in their view the Council has undervalued a number of the costs in the fee model and have asked that the costs for food, waste, insurance and provision of agency staffing are also reconsidered.

3.1 Fee Rate Methodology

The method for identifying the proposed fee rates builds on the work previously undertaken to identify a basic care home fee rate as detailed in the paper presented to Cabinet on the 9 September 2014. As part of this work the Council asked care home providers to complete a questionnaire to evidence their costs. The Council then used standard cost headings to analyse the returns before identifying values against each cost head - see Appendix 2.

To develop fee rate proposals for 2020-21, the amount paid under each cost heading has been increased based on a set of assumptions about inflationary pressures – see Appendix 2. These proposals have taken account of the feedback received from Care Home providers. Based on this analysis, it is

proposed to increase fee rates for basic care home provision by £27.93 per week which is equivalent to a 4.75% increase on the fee rate for 2019-20.

This methodology has been consistently challenged by the Association and a request has been made in correspondence for the Council to commission an independent review of the actual costs of care. The Council is satisfied that its analysis and methodology is correct and so such a review is not necessary.

As part of their challenge the Association has also argued that the Fee Model used by the Council which assumes that there is a 90% bed utilisation rate across the market is inaccurate. Representatives of the Association have stated that homes are now operating at an occupancy level of 80%.

Council Response:

The Council has reviewed the information available on bed vacancies that are shared by the Care Homes with the Adult Care Brokerage Team. Currently it is reported that as of 14 January 2020 there were 478 vacant beds out of a total of 7600 regulated care beds as reported by the Care Quality Commission. This equates to bed utilisation of 90%. The Council will continue to monitor the referral rates into Care Homes as part of our duty to manage the market and will take this in to account alongside other factors when considering future fees.

Direct Care Provision

The Association has also expressed concern about the Council's own Care Home provision and the fees paid for the beds in the Community Care Centres. They have argued that the rates paid for Direct Care provision is greater than the Council is prepared to pay for equivalent provision in the independent sector.

Council Response:

In each of the Community Care Centres and in some of the other residential Care Homes the Council operates provision where there is substantially higher levels of staffing available to match the assessed need of the client. In some cases staff are responsible for working with clients as part of a specialist reablement programme. The Council is satisfied that these fee levels match the needs of people using the services.

3.2 Impact of the Proposals on Care Home Fees for other Client Groups and Specialist Placements

The proposals made in this report, and summarised in Appendix 2, focus on the basic fee rates for older people. It is proposed to also increase the base fee rates for Residential Care Home by 4.75% and Nursing Homes by 4.83% for other client group placements. This includes care home provision for people with a physical disability, people with learning disabilities and people with mental ill health- see Appendix 3.

The changes proposed to the basic fee rates for other client groups will not change the level of funding already paid against specialist care home placements where fee rates have been individually negotiated to ensure that the needs of people who require complex support/care arrangements are met. The fees for specialist placements are often substantially more than the standard care home fees.

The additional funding (top-up) paid for a specialist placement reflects the greater investment in staff and training to meet an individual's needs. It is proposed that up to 4.75% can be agreed with providers in receipt of specialist placements where they can evidence their increase in costs.

3.3 Dementia Fee Rate

An additional payment of £44.52 per week is currently paid towards supporting people with a diagnosis of dementia would be payable to homes that meet set criteria of dementia-friendly provision. It is proposed this payment is increased by 4.75% to give a new rate of £46.62 from April 2020.

The Dementia fee was introduced to encourage homes to demonstrate that they have the skills, experience, environment and organisational culture in place to provide high quality dementia care. The Council introduced this criterion as many providers describe their service as being able to meet the needs of people with dementia but are unable to evidence that staff have adequate training, that the culture of the service is dementia friendly or that the environment has been adapted to be suitable for someone with a diagnosis of dementia.

The process used to determine which homes can provide dementia specific provision had been developed with care home representatives. Following feedback from these same providers the paperwork application has been rationalised and remains subject to review to ensure effectiveness. A number of providers have successfully applied for this status and others are currently being assessed for their suitability. The importance of this award will continue to be promoted with care home providers to increase the take up.

3.4 Day Care Placements in Care Homes for Older People

Some people who are supported to live in their own homes are able to use day care places in care homes for older people. The care home is often situated close to where an individual lives and they frequently help with transport to and from the home and provide meals. In some cases homes will also provide a bathing service and are very flexible with places being made available at weekends and evenings, which can help Carers to get a break. The standard fee rate paid by the Council for day care placements in independent sector care homes is currently £39.82 per day. It is proposed for 2020-21 that this fee level to be paid to providers is increased by 4.75% to provide a new daily fee of £41.72 per day.

4. Block Contracts

Adult Care has a small number of block contracts with independent sector profit and not for profit organisations. A number of these agreements were established before the introduction of the National Living Wage. A small number of providers have requested an inflationary increase to assist them with meeting this additional unforeseen cost. It is proposed that payments of up to 4.75% can be agreed with providers who operate block contracts on behalf of the Council where they can provide detailed evidence of their increase in costs relating especially to the increase in minimum wage rates as well as showing that they are meeting their agreed targets for activity and performance.

5. Financial Considerations

The estimated cost of this proposal to increase fee rates from 1 April 2020 is £6.182m per annum and can be met from the budget growth allocated for Adult Care fee increases.

6. Legal Considerations

According to case law and guidance from the Department of Health, "Building Capacity and Partnership in Care" (2001) the Council should take steps to ensure that fee setting reflects the actual costs of care. The rates should also take into account the legitimate current and future costs, and the potential for improved performance and most cost effective ways of working.

In accordance with the Care Act 2014, the Council is under a duty to promote diversity and quality in the market of care and support provision. The Association has put forward an argument that the Council, in failing to increase the fee rates more, is in breach of this statutory duty. The Council is satisfied that the methodology used in calculating the proposed fee increase is equitable and properly reflects the increased cost pressures highlighted by the providers.

7. Equality and diversity Considerations

Providers are required to adhere to Derbyshire County Council's Equal Opportunities policies. The Council also encourages Providers to gain the Derbyshire Respect and Dignity award.

8. Other Considerations

In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.

9. Key Decision

Yes

10. Is it necessary to waive the call-in period?

No

11. Officer's Recommendation

That Cabinet agrees to:

- increase the rate paid to independent sector residential care homes for the financial year 2020-21 by 4.75% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2020-21 by 4.83% per week
- make an inflationary payment of up to 4.75% for specialist care home placements where evidence is provided of inflationary pressures;
- an updated fee rate of £41.72 per session (from £39.82 per session) for a day care placement in a care home;
- increase the rates for in-house day care and residential care by 4.75%;
- an updated dementia fee rate of £46.62 per week (from £44.52)
- make an inflationary payment of up to 4.75% for well-performing block contracts in specific circumstances.

Helen Jones
Executive Director – Adult Social Care and Health
County Hall
Matlock

APPENDIX 1

The following is a copy of a letter submitted to the Council by the Derbyshire Care Providers Association. Some of the layout has been lost in the transfer to this document, however all of the content remains the same.

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1RT Phone: 0800 020 9554 | Email: secretary@derbyshirecare.org.uk | Website:
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Derbyshire Care Providers Association (formerly known as Derbyshire Care Homes Association)

Colin Selby
Derbyshire County Council
County Hall Matlock DE4 3AG
Date: 11/02/2020

Dear Colin,

Re: Care Home Fees 2020/21

I'm writing to you on behalf of the DCPA in relation to the independent sector care home fee levels.

Concerns about the sustainability of the sector

Over the last few years there have been no investment into local authority funded areas by the independent sector solely because of the lack of funding by the Derbyshire County Council. On the contrary, some homes have either de-registered nursing services or closed down.

In its commissioning strategy 2019-2035, the Council highlights that (page 4):

- "the resilience and sustainability of the care home sector in Derbyshire is a concern"

At the same time statistics show that (page 4):

- "recruitment is an ongoing challenge"
- "an increase of 53% in people with dementia by 2030"
- "aged 90 and over will more than double by 2035"

The Council is also concerned about “affordable provision of nursing and residential care in some parts of the county”.

These issues are however not addressed in the commissioning strategy. There will clearly be a great need for independent sector care homes with more provision for complex needs as people stay in their own homes for longer.

To create a sustainable care home sector there must be sustainable fee levels, something the Council has a duty to have regard to under the Care Act.

Duty of the Local Authority under the Care Act

In performing its duty to promote the efficient and effective operation of the market, the Council is required to have regard to “the importance of ensuring the sustainability of the market”. The Department of Health’s guidance on this point highlights the impact that a local authority (as a significant purchaser of care) has on the sustainability of the market. Specifically, the guidance states:

“Local authorities **must not** undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term.” (paragraph 4.35 of DoH ‘Care and Support Statutory Guidance’)

The Guidance also states that:

“Local authorities should understand the business environment of the providers offering services in their area and seek to work with providers facing challenges and understand their risks.”

In areas such as Nottinghamshire where the Council fee to the independent sector is significantly higher there have been an influx of investment in new care homes in Council funded areas, which has stabilised the market and made it more future proof.

Current Fees for the independent sector:

There is overwhelming evidence that prove that the fees to the independent sector for Council funded clients is far below actual costs.

Laing & Buisson studies show that the actual costs are over £700 per week for residential care, showing underfunding by nearly £200 per week by the Council.

Equally the funding to the Council’s own care homes (£1500 per week) shows an enormous additional cost to the tax payer for a service that often provides for less complex needs (independent residential care homes have admitted clients from Council run residential care homes for years as they have too complex or too high needs for the Council).

DCC Fee Model pays below the National Living Wage

The DCC provided a fee model for the independent sector based on figures which are now 9 years out of date. Flaws of the model have been shown to Council every year with evidence showing that the fee is well below actual costs.

A new study is required to understand the costs, as per the responsibility of the Council under the Care Act.

The most obvious and concerning issue is that the Council's fee model, even in its flawed state, is asking the independent sector to pay all staff (apart from the manager) below the National Living Wage at £6.92 per hour.

This is clearly a failure to comply with the Care Act by the Council.

Staff Costs in DCC model (excl management)
--

£277.59

Divided by rota hours per resident per week (national average)
--

32.1

= Wages per Hour (excluding on costs, holiday pay etc)

£6.92

Recruitment and retention

In the Commissioning Strategy the Council has recognised that “recruitment of quality staff is an ongoing challenge and there is a high level of vacancies”. This is also evidenced in the Council's own costs which shows that they Council is spending nearly £34 per resident per week on Agency staff alone. Yet the Council does not account for Agency Costs in the fee model to the independent sector.

In effect, the Council is expecting that the independent sector:

1. receives only 1/3 of the fee that the Council pays for its new care homes;
2. pays below the National Living Wage, and;
3. have no problem with recruitment so they don't need to spend nothing on Agency Fees.

It's very concerning that the Council has recognised the issue but is still not addressing it (“resilience and sustainability of the care home sector in Derbyshire is a concern” (p4 Commissioning Strategy)).

The sector continues to face substantial cost increases, such as the 6.2% National Living Wage increase. To help address some of the recruitment and retention issues, the sector needs a fee that gives them the opportunity to pay more than the National Living Wage and to offer incentives for higher qualifications.

Nursing Fees

The sustainability of nursing services continue to be a significant issue.

The DCC is predicting an increase in the need of these services, yet the trend shows a decline in the supply in Council funded areas.

In summary the cost issues related to nursing care are (as previously highlighted):

- Manager (nurse qualified – higher salary)
- Lower occupancy due to shorter length of stay, which means higher risk and lower revenue
- Higher risk – clinically (health and safety)
- Recruitment fees – mainly recruit via recruitment agents at £4000 per candidate
- Additional care staff, well above residential care
- Additional equipment (special beds, mattresses, chairs, medical products etc)

Considering that the Council is expecting to require additional nursing beds, how is the Council going to encourage investment? The current level of funding does not allow for any new investment into council funded areas and even encouraging de-registration and closures in the independent sector.

Additional cost pressures

- Recruitment costs – only £1400 allowed for 40 bed home. Recruitment agent charge £4000 for one nurse alone.
- Agency staff to cover for recruitment difficulties in Derbyshire – half the DCC cost required.
- Food - why does the DCC ask the independent sector to pay less for food than its own homes? It's not realistic and should be adjusted.
- Trade Waste and Clinical Waste (DCC Model £1.75, actual is over £3 – invoices can be provided)
- Insurance- the DCC Model allows for £2.54 yet insurance brokers are offering deals over £4 for a no claims home (Nottingham study showed £4). Invoices can be provided.

DCC in-house care homes – to get some perspective!

- The cost of operating the in-house Community Care Centres for residential clients is above £1,500 per resident (adjusted council's cost per bed to cost per resident plus overheads and cap ex costs).
- Yet the charge to self funding clients is £986 per week. That means the public is subsidising 'self funding' clients by over £500 per week. We understand that the council is obliged to charge out the full cost under the law and wish to understand what is being done about this?
- Considering the difficulty the Council has to provide a safe and quality service, coupled with a substantial extra cost to the tax payer, how can it justify building new homes?

- The excessive cost of the in house provision could instead be used to fund:
 - Independent sector fees to incentivise new nursing provision as that is what the Council has said is required
 - A stable independent sector as per the requirement of the Care Act
 - Additional quality / contracts monitoring team
 - Provide significant savings to the tax payers.

Did you know that the Council is spending double the capital on their new care homes compared to the independent sector (£200,000 per bed compared to £100,000 per bed) with no more space or facilities for residents?

To sum up:

1. What is the Council proposing to do in order to comply with the Care Act? In other words, what does it propose to do with fee levels for 2020/21, and in the future, to address the concern about sustainability of the independent care home which it has recognised in the commissioning strategy paper? We kindly request a detailed response to deal with all of the above cost issues.
2. How will the Council address the issue that the tax payer is still subsidising private fee payers in the Council's own homes? We understand that full cost recovery (including overheads etc) is required by law, but also by tax payers.

We look forward to hearing from you.

Yours sincerely,

P.Falleth

On behalf of the Derbyshire Care Providers Association Committee

Summary of Costs

APPENDIX 2

PERSONAL CARE ONLY FOR FRAIL OLDER PEOPLE	Fee (£) 19/20	2020/21 Inflation	Fee (£) 20/21
A) STAFF, INCLUDING EMPLOYERS' ON-COSTS			
TOTAL CARE ASSISTANTS (inc senior) STAFF	222.57	6.2%	236.37
Catering, cleaning and laundry staff cost per resident	50.17	6.2%	53.28
Other Staff Costs (excluding management and admin)	4.82	6.2%	5.12
Management, administration, reception staff cost per resident	69.33	6.2%	73.63
Pension Cost (3% of above)	10.41	6.2%	11.06
TOTAL STAFF	357.30		379.46
B) REPAIRS AND MAINTENANCE			
Maintenance capital expenditure	17.50	1.7%	17.80
Repairs and maintenance (revenue costs)	9.93	1.2%	10.05
Contract maintenance of equipment	1.96	1.2%	1.98
TOTAL REPAIRS AND MAINTENANCE	29.39		29.83

C) OTHER NON-STAFF
CURRENT COSTS AT HOME

Food	24.00	1.8%	24.43
Utilities (gas, oil, electricity, water, telephone)	22.43	3.1%	23.13
Handyman and gardening (on contract)	9.17	1.5%	9.31
Insurance	2.54	4.4%	2.65
Total medical supplies and continence products	2.60	1.5%	2.64
Trade and clinical waste	1.75	1.5%	1.78
Registration fees (including DBS checks)	3.49	1.5%	3.54
Recruitment	0.75	1.5%	0.76
Direct training expenses (fees, facilities, travel and materials) net of grants and subsidies	10.31	3.0%	10.62
Other non-staff current expenses	21.35	1.5%	21.67
Equipment Costs	3.74	1.5 %	3.80
TOTAL NON-STAFF CURRENT EXPENSES	102.13		104.33
TOTAL EXCLUDING CAPITAL	488.82		513.62
Return on capital	49.30	1.5%	50.04
Summary Weekly Fee	538.12		563.66
Divisible by 7	538.09		563.64

Percentage Increase **4.75%**

NURSING HOME	2019-20		2020-21
Residential rate	538.09		563.64
Nursing Top-Up	39.90	6.0%	42.28
Nursing Rate	577.79		605.92
Percentage Increase 4.83%			

Inflation Assumptions used by Derbyshire County Council to Identify Fee Rates for 2020-21

In considering the budget lines in the fee cost model in Appendix 1 the Council took account of the Office of National Statistics' Consumer Price Inflation (CPI) report for November 2019 as a proxy for understanding the costs in care industry.

Some of the budget lines used in appendix 1 do not have a direct corresponding goods or services division in the CPI report in such cases individual judgements have been made about how inflation may contribute to the costs of running a care home. The CPI report noted that standard inflation across all activity was 1.5% which is used as default in this fee modelling tool.

Staffing

From April 2020 Providers will be required to pay all staff over 25 at least the national living wage of £8.72 which is equivalent to a 6.2% increase on the national living wage rate of £8.21 set in April 2019.

The Council has decided to use the 6.2% minimum wage increase for all staff costs including staff aged under 25.

Auto-enrolment pension scheme has been subject to a national introduction over the past few years, where providers have to offer to sign all staff into a pension scheme. From 1 April 2020 it has been nationally accepted that the costs to a provider should be in the region of an additional 3% on their staffing bill.

Repairs and Maintenance

There are no direct comparisons with CPI available for these areas of cost. The closest comparable areas show inflationary costs of 1.7% for services and maintenance and 1.2% maintenance and repairs. These two inflationary levels have been used in the Council's calculation.

Other Non-Staff Costs

Food is shown across most food types as 1.8% inflation.

For utilities the Council has used the average overall value of 3.1% increase.

There is no direct comparison for Insurance Costs in the CPI tables; the closest comparable cost is an increase of 4.4%.

Registration Fees:

The CQC are continuing with a fee policy that moves them to a full chargeable cost recovery position, so that providers ultimately bear all the chargeable costs, reducing CQC reliance on Grant Aid from Central Government. CQC have not yet shared their increase Care Home registration fees for 20120-2119 so it is proposed to use standard inflation rate of 1.5%.

The Council has decided to use a general increase of between 1.5% for other cost items

APPENDIX 3

Standard Fee Rates – From 1 April 2020

NURSING PLACEMENT	Weekly Standard Rate	Quality Premium per week - £22.75
	£	£
Older People Mental Health/Drug & Alcohol	605.92	628.67
Physical Disability (>65)	639.73	662.48
Learning Disability	576.94	599.69
These Nursing fees do not include funded nursing care contribution which at the time of writing is £155.05p/w		
RESIDENTIAL PLACEMENT	Weekly Standard Rate	Quality Premium per week £22.75
	£	£
Older People/Mental Health/Drug & Alcohol	563.64	586.39
Physical Disability (>65)	643.51	666.26
Learning Disability	581.14	603.89
DEMENTIA CARE PAYMENT	£	
Residential & Nursing	46.62	n/a
DAY CARE	£	
Residential & Nursing	41.72 per day	n/a
IN HOUSE PROVISION	£	
Homes for Older People	587.44	n/a
Community Support Beds	1,082.83	n/a
Community Care Centres	1,082.83	n/a
LD Residential	1,272.32	n/a
Day Care		
Older People	40.80 per day	n/a
Learning Disability	53.56 per day	n/a