

**Executive**

**13<sup>th</sup> October 2016**

**Report of the Director of Adult Services**

**Portfolio of the Executive Member for Adult Social Care & Health**

**Actual Cost of Care – Residential and Nursing Care Fee Rates**

**Summary**

1. This report advises Members of the outcome of negotiations with the Independent Care Group to establish an agreed Actual Cost of Care for Residential and Nursing Care Homes for 2016-19. The agreement relates to fees paid by the Council for placements in private homes across the City and establishes an agreed cost of care for services, including inflationary awards. Members are asked to agree the revised rates within this report and to support the allocation of additional contingency budget to Adult Services to fund the increased financial commitment.

**Recommendations**

2. It is recommended that;
  - 1) The Executive agree to the outcome of the Actual Cost of Care Exercise in agreeing fee rates for Residential and Nursing Care placements made by the City of York Council for 2016-19.
  - 2) The Executive agree to an in-year allocation of £444k from the corporate contingency budget in 2016/17, with additional recurring funding of £720k in 2017/18 and £165k in 2018/19 to be provided for in future year budget processes.

*Reason:* To set fee rates for Residential and Nursing Care in agreement with the Independent Care Group to support provision of care and support to older people in York.

## Background

3. Following initial discussions with the Independent Care Group (ICG), it was agreed to commission an independent organisation to undertake an exercise to establish an Actual Cost of Care for Residential and Nursing Care in York.
4. Members will be aware that many local authorities have been subject to a legal challenge and/or judicial review regarding the approach they have undertaken in setting fee rates. The approach adopted by the Council in commissioning an external organisation to undertake an analysis of the sector, in partnership with the ICG, ensures the Council acts in accordance with best practice approaches. It also ensures that we work in partnership with the representative body of local providers in setting and agreeing an approach to fee levels.
5. Following a procurement exercise, Mazars were commissioned by the City of York Council, North Yorkshire County Council, the Independent Care Group (ICG) and the Partnership Commissioning Unit (Continuing Health Care) to undertake an Actual Cost of Care Exercise in July 2015 with individual reports produced for both local authorities and the Partnership Commissioning Unit. A previous exercise undertaken by Genica in 2012 set the fees for 2013-16.
6. All Independent Providers of Older Persons Homes were asked to provide detailed financial information to Mazars. The response rate for York was 33% - 8 providers out of a total of 24 Older Person's Homes which officers feel has not provided a representative sample to base fee levels against, and has affected the outcome of the cost modelling that was undertaken at the exercise stage.
7. The baseline findings from the exercise (before a return on investment figure is applied) resulted in unreasonably high projections for Nursing Care which were, in our view, significantly out of line with other financial data. It was felt that the low response levels distorted the analysis.

8. As the parties were not able to arrive at a mutually agreed Cost of Care rate prior to the beginning of the new financial year, an interim fee increase was implemented, effective from the 1<sup>st</sup> April 2016, while negotiations were taking place:

Category of Care	2015/16 Fee Levels (£/week)	Interim Fee Offer (£/week)
Residential Care	£435.45	£449.81
Residential Care - Dementia	£460.30	£483.95
Nursing Care*	£549.85	£561.81
Nursing Care* - Dementia	£571.45	£595.95

\*Nursing Care Fees are Inclusive of Funded Nursing Care.

9. It is important that we maintain fees at levels that enable providers to continue to provide quality based services for residents. If Fee levels were to remain the same or subject to a minor increases it is likely that the quality of provision would suffer as providers cut back on resources allocated to training, recruitment and quality assurance and this could lead to an increases in safeguarding and quality concerns across the City.
10. We need to ensure that services are appropriately staffed and resourced to provide the right levels of care and quality of care for residents. This will enable people in receipt of long term care to receive the right outcomes and experience quality based care maintaining their independence in accommodation that is appropriately maintained and suitable for their needs. The increase in fee levels will enable the Council to potentially access increased numbers of placements at its rates enabling more choice and availability for residents in need of residential care, and stabilise a market where approximately 70% of residents in homes self fund the support they receive.
11. As a result of York having a large number of self funding residents, we have had limited ability to manage the market for care as providers often set rates with the self funding market as a target which has in the past reduced the ability for the Council to source placements and has on occasions resulted in increased Delayed Transfer of Care figures for the City. The Executive in July 2015 agreed a programme of activity which will transform the provision of older persons" accommodation with care. The Older

Persons Accommodation Programme is an integral part of delivering the vision for Older Persons Services and as the programme progresses we will continue to support people to live independently in their own home as an alternative to nursing and residential care.

12. The proposal also needs to be seen within the context of the new operating model for Adult Social Care and our priorities in developing resilient communities, empowering individuals and providing safe support. We will be focusing on four key areas, Preventing, Reducing, Delaying and Managing Need. By applying these key principles we will be reducing the need and reliance on Long term Residential care, reducing the numbers of people requiring provision and as a result this will mitigate the long term financial impact of agreed fee increases as fewer people are placed in long term care settings.
13. Following further discussions, the Council and the ICG have now reached an agreement in principle on the Actual Cost of Care:
  - The proposed fee settlement, backdated to the 1<sup>st</sup> April 2016, covers a three year period with agreed inflationary awards and takes account of the existing cost pressures facing care providers and the implications of the increases in National Living Wage over the next two years. Providers have also faced increased costs as a result of pension auto-enrolment, increases in utility costs and agency cover, especially within nursing care, due to the shortage of nurses within the sector.
  - The increase was also agreed with a 7% figure applied to return on investment, in line with the figure agreed for the last exercise and fee increase in 2013.
  - The proposed fee increase also takes account of the recent DH announcement regards the Funded Nursing Care Contribution which is paid to eligible residents within Nursing Homes. This has increased from £112.00 per week to £156.25 and is calculated within the increased fee levels that are proposed. This sum is netted off the gross payment/fee agreed by the Council. It was agreed to set the rate for a three year period to avoid having to repeat the exercise again within the next 18 months and to provide stability for providers in relation to fee levels.

- The rates proposed below will mean that fees in York will be comparable to other areas. These include Solihull where fees for Dementia Residential are £533.76 and £693.50 for Nursing, Leeds where Residential Dementia ranges from £481-£507 per week and Nursing at £684.25 and Bedford with Residential Dementia at £567.84 and Nursing at £724.09.

14. The proposed fee offer and inflationary uplifts are detailed below;

Category of Care	2015/16 Fee Levels (£/week)	Proposed Fee Rate 2016/17 (£/week)	Increase (£/week)
Residential Care	£435.45	£467.28	£31.83
Residential Care - Dementia	£460.30	£502.74	£42.44
Nursing Care*	£549.85	£649.53	£99.68
Nursing Care* - Dementia	£571.45	£691.99	£120.54

\*Nursing Care Fees are Inclusive of Funded Nursing Care.

In summary this involves:

- Increase in 2017/18 - 5%.
- Increase in 2018/19 - 3%.
- Fee increase for 2016/17 backdated to 1<sup>st</sup> April 2016.
- No Increase in fees on placements where fee levels are already in excess of the agreed cost of care rates.

15. The proposal will lead to increased costs on Adult Social Care budgets of £1,064,870. The table below identifies the annual budget increases expected.

Financial Year	Additional Cost of Proposed Fee Increase (£)
2016/17	623,780
2017/18	275,800
2018/19	165,290
Three Year Total	1,064,870

16. All Customers are charged in line with “CRAG” Charging for Residential Accommodation Guide and as such the Council supports customers to maximise their benefits to ensure that income is collected accordingly. It should also be noted that the fee increase takes into account the increase in Funded Nursing Care Contribution and assumes that there will be no further change in this level. If the Department of Health reduces the figure, this will lead to further expenditure pressures.

### **Consultation**

17. The exercise has been undertaken in conjunction with the Independent Care Group who represent care providers in York. All providers have been consulted and engaged with by the ICG during the process and have had the opportunity to submit their costs as part of the Mazars analysis.

### **Options**

18. The proposal outlined is as a result of an independent review and extensive negotiations with the sector regarding an agreed Actual Cost of Care rate and negotiated settlement. Failure to agree a settlement is likely to lead to issues with the market / providers and impact on local residents and leave the Council at risk of a legal challenge. Therefore the Council would need to enter into further negotiations with the Independent Care Group should the proposals within this report not be acceptable.
19. The option is to accept the proposal based on the exercise and subsequent negotiations.

### **Analysis**

20. This proposal proposes a negotiated settlement so analysis of options is not applicable.

### **Council Plan**

21. The proposal is in line with the Council’s priority of focusing on frontline service to ensure all residents particularly the least advantaged can access reliable services and community facilities.

## **Implications**

**Financial** - Details of the proposed fee increases and associated costs are set out in paragraphs 13 to 15 above. In summary the proposal results in estimated additional costs of £1,065k over the three years 2016/17 to 2018/19, of which £624k would be incurred in 2016/17.

In 2016/17 the Adult Social Care base budget was allocated £480k from the corporate price inflation budget. Of this £300k has already been used to fund other contract price increases (mainly community support homecare). This means £180k is available to fund the additional £624k cost of the proposed fee increases, leaving a shortfall of £444k. As the overall adult social care budget is currently projecting a significant overspend for the year, there is no scope to fund this shortfall from elsewhere in the directorate. Therefore, if Members are minded to approve the fee increases, additional in year funding of £444k will need to be allocated from the corporate contingency budget.

In addition, as the 2016/17 contingency allocation will be one-off, further recurring price inflation funding will need to be provided in the 2017/18 and 2018/19 budget processes of £720k and £165k respectively.

**Human Resources (HR)** - There are no Human Resource implications to this report.

**Equalities** – This report promotes equal access for people to services, without an increase in fees there is an inequality in accessing services that would remain with fewer homes available, restricting choice for residents.

**Legal** - If the fee rates are not approved, negotiations will need to continue with the Independent Care Group to avoid the risk of legal challenge such as a judicial review.

**Crime and Disorder** - There are no Crime and Disorder implications to this report.

**Information Technology (IT)** - There are no Information Technology implications to this report.

**Property** - There are no Property implications to this report.

**Other** - There are no known implications

## **Risk Management**

22. The risk of not increasing our Residential and Nursing Care fees will lead to a de-stabilisation of the market and resultant provider failure. The Care Act places a responsibility on Local Authorities to ensure that care markets remain vibrant and sustainable and the Council may face a challenge from providers should it not take into account cost increases. If a provider fails then the Council would need to mind placements for residents within an area where there is currently 98% occupancy levels and maintaining fee rates at lower levels would leave the Council unable to source placements for those who require long term accommodation and care.

## **Contact Details**

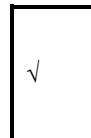
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Martin Farran  
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**Report  
Approved**



**Date** 19 September 2016

**Specialist Implications Officer(s)**

Finance: Richard Hartle, Finance Manager – Adults,  
Children & Education

**Wards Affected:** All

**For further information please contact the author of the report**

**Background Papers:**

None