

Executive

15 March 2018

Report of the Corporate Director of Health, Housing and Adult Social Care
Portfolio of the Executive Member for Adult Social Care and Health

Adopting the “Ethical Care Charter”

Summary

1. Following a Council motion and amendment on the 20th July, this report reviews the implications of the Council adopting the “Ethical Care Charter”. The Charter was developed and published by UNISON after they conducted a survey of Home Care workers in 2012.
2. The motion agreed by Members on the 20th July stated “This Council notes that the UNISON Ethical Care Charter sets minimum standards to protect the dignity and quality of life for people who need homecare. It commits councils to buying homecare only from providers who give workers enough time, training and a living wage, so they can provide better quality care for thousands of service users who rely on it. This council recognises the important job that carers do and believes that the time allocated to visits should match the needs of the clients. Clients should be allocated the same homecare worker wherever possible and zero-hours contracts should not be used in place of permanent contracts. Homecare workers should be paid for their travel time, travel costs and other necessary expenses. Visits should be scheduled so that homecare workers are not forced to rush their time with clients or leave their clients early to get to the next one on time.

This Council asks the Corporate Director: Health, Housing and Adult Social Care to prepare a report for the Executive setting out the Council's current position in the different areas covered by the Charter, and the implications of signing up to it”

3. UNISON's objective behind publishing the charter was to establish a minimum baseline for the safety, quality and dignity of care. In November 2017, Hartlepool became the latest Council to adopt the Charter, however to date, approximately 25% of Council's across the UK have agreed to adopt the Charter.
4. This report highlights the implications of adopting the Charter for the City of York and evidences York's strong position and approach that already exists in this area.

Recommendations

5. The Executive is asked to:
 - a) Agree to the Council adopting stages 1 and 2 of the Charter, noting the implications and actions required.
 - b) Note the implications of adopting stage 3 and agree further work to be undertaken to clarify the impact and financial implication and to bring back a further report at a later date.

Reason: To promote high quality care services and support the recruitment and retention of care staff.

Background

6. As previously highlighted, UNISON in publishing the Charter wished to establish a minimum baseline for the safety, quality and dignity of care. This Council would be fully supportive of providers having to meet high quality thresholds in the provision of care and works closely with the Care Quality Commission (CQC) in ensuring high quality provision across the City
7. The Adults Commissioning Team work closely with CQC in the sharing of concerns and information relating to provision but the Council also adopts its own monitoring process (Quality Development Framework). The standards that it sets are high and providers are expected to achieve compliance in all aspects. Should performance fall below the level that is acceptable, a provider will be placed on enhanced monitoring or

improvement plans. This can also lead to placements being suspended, often on a mutual basis, until quality and performance improves. The team on occasions will also undertake visits jointly with colleagues from the PCU and the Vale of York Clinical Commissioning Group where it felt necessary or there are safeguarding concerns.

8. As a result, out of 38 home care settings that have been inspected in York, 35 or 92.1% are rated as good and only 3 providers as requiring improvement. The national figures published by CQC recently in their “State of Adult Social Care” report show that 80% of all providers are rated as good or outstanding which shows York as above the national average and is evidence of the quality of care provided across the City.
9. However, The Ethical Care Report not only looks at quality and dignity across the sector but other factors such as the appropriateness of 15 minute visits, zero hours contracts, and at Stage 3 payment of the Foundation Living Wage and implementing an occupational sick pay scheme. Some of these areas will have and especially the adoption of Stage 3 will have financial implications for the Council and these are detailed within this report.
10. The majority of Local Authorities who have signed up to the charter to date, have indicated that in relation to Stage 3 and the adoption of the Living Wage, they would work in partnership to support organisations and Hartlepool recently “pledged to help providers move towards paying the Foundation Living Wage to all employees”. We do understand however that Islington and Camden have set the requirement to pay the London Living Wage.
11. The Current Living Wage as set by the Resolution Foundation is £8.75 per hour for areas outside of London. The rate set by the Foundation and overseen by the Living Wage Commission is based on the best available evidence about living standards in London and the UK. The National Living Wage which is a legislative requirement is currently £7.50 per hour and will increase to £7.83 per hour from April 2018 with an expectation that this may increase to £9.00 per hour by 2020.
12. The University of Greenwich published an evaluation of the Ethical Care Charter in 2017 and found that the adoption of stage 3 to be the most challenging aspect especially the introduction of occupational sickness schemes and stated that it remained as an aspiration for the majority of case studies, due to cost and administrative implications

13. Legal advice received previously by Adult Social Care challenged if the Council could contractually insist on providers meeting the Foundation Living Wage. Further legal advice will be required as part of the evaluation of adopting Stage 3.
14. The Unison Charter proposes that Council's take a two-stage approach to adopting it's requirements, seeking an immediate commitment to stage one and the development of an action plan for adopting stages two and three commencing with a review of all visits under thirty minutes in length in conjunction with homecare workers and people in receipt of services. It is however been proposed that the Council is in a position to sign up to stages 1 & 2 as indicated within this report.
15. A full response of the Council's position against the proposals within the Charter is included within this report. Members should also note that the Council has also recently commenced a review of its Home Care delivery Model. As we have evidenced in York, providers are been asked to deliver increasingly intensive care packages to a smaller number of people with more complex needs. Consequentially the average hours per customer has increased from 10 to 10.9 over the last twelve months.
16. Fee Rates have risen in York with the average rate now approaching £17 per hour which is in line with rates proposed by the UK Home Care Association(UKHCA) Further increases in the National Minimum Wage will put further pressure on fee rates but the overwhelming challenge is the lack of people who are wishing to work in the care sector in a City that has full employment. Recruitment and retention of staff is the key challenge for all providers.
17. We are reviewing our current model to support providers to recruit a more stable workforce. We are committed to reviewing the approach and examine our model of commissioning, challenge the continued use of a time/task culture despite specifications being outcomes focused but importantly look to utilising community assets to avoid people entering long term care services so as we focus the resources on those who have the highest needs. We also need to consider how greater integration between Health and Social Care can support the delivery of a new service model and continue to focus on the following:
 - Supporting People to remain living independently at home
 - Enabling Market stability and retaining sufficient providers and capacity to meet local need.

- Prevent avoidable admissions to hospital and residential care
 - Providing a responsive and reliable service
 - Promoting choice and control
 - Develop a diverse range of services in the market that enable choice and control over a wide range of services.
 - Promote physical and mental well-being;
 - Equip the workforce with the necessary skills;
 - Provide a generic service that is not client group specific.
18. The review is also examining the use of short visits and will seek input from care staff and providers regarding models of care, staff contracts and other aspects raised within the Charter.

Consultation

19. Discussions take place on a regular basis with Providers through Business Meeting, Reviews and Performance updates where issues highlighted in the UNISON charter would be discussed. There has however been no formal consultation to date with providers, home care staff or customers regarding the Council adopting the Charter and its implications.
20. The Independent Care Group (ICG) are the representative body of the significant proportion of care organisations across York and North Yorkshire, they have advised that “We don't have a formal position on the Ethical Care Charter, but it is referred to it in several places, including the Minimum Price for Homecare that the UKHCA have developed and to which the ICG is signed up to. The aspirations are difficult to argue with, other than the complete incredulity that councils who like the idea of the Independent Sector signing up have no appetite to actually pay. There is, of course, more to the Ethical Care Charter than just the Living Wage, but similar principles apply: councils need to pay for the commitments to staff terms and conditions that they are trying to procure.”
21. They go on to state “Commissioning should be about client need and not time or task. Many providers already pay travel payments as well as an additional supplement for car drivers and also for people’s mobile

phones. Travel time between visits to allow travelling between them and not cutting other calls short is essential. All providers should pay people statutory sick pay. Providers do their best to allocate the same carer to clients as often as possible. A lot of providers have zero hour contracts as many staff like them which helps suit their partner's working patterns and child care and so quite often their hours will vary from one week to the next. Many providers provide guaranteed hours where they can. All providers should have a very robust client complaint procedure with people well trained in safeguarding. Competent providers host team meetings regularly as well as team leaders meeting up with carers in their teams for supervisions and monitoring”

22. Finally they (ICG) feel “Both of these points will require a massive injection of money into the sector in order to achieve them. One of our biggest concerns would be occupational sick pay schemes. We can definitely understand the benefit of why they are suggesting it but we need to fully understand the potential implications / impact to ensure it does not put further pressure on delivering a quality service. .
23. We will be consulting further with partners, customers, the workforce and providers as part of the on-going Home Care review process and this additional information will support any decision regarding the Council adopting the Charter.

Analysis

24. The summary below outlines the Council's current position in relation to the requirements of the Ethical Care Charter:

Stage 1

Requirement	Current Position
The starting point for commissioning of visits will be client need and not minutes or tasks. Workers will have the freedom to provide appropriate care and will be given time to talk to their clients.	Specifications are outcomes focused, however aware that there is still work to be done in terms of addressing a time/task approach across social work. Through the Future Focus Programme, the council needs to work more collaboratively with its partners to share the responsibility of developing a resilient community whereby individuals are encouraged

	<p>to explore their own resources and communities, and public sector staff supported them to maintain independence.</p> <p>Embedding a strengths-based approach to each interaction and decision within assessment and care management will be critical. There are a number of opportunities to improve both the effectiveness and efficiency of assessment and care management at CYC. This will help improve citizen experiences, outcomes, and financial sustainability for the system; as well as support staff to refocus on social care practice.</p>
<p>The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used as they undermine the dignity of the clients.</p>	<p>A review has been initiated by HH&ASC on all visits under thirty minutes in duration, this is to ensure that they are all conducted in a "dignified" manner in line with the statements of the Charter and in line with the nature of the tasks required by the customer. The review will also focus on visits where a more appropriate asset based approach could be adopted with the voluntary and community sector and other options are considered for tasks such as meal preparation and pension collection.</p> <p>Customers have not through surveys or consultation raised 15 minute visits as a significant concern and it is felt that through the review and the approach identified that the Council can meet the requirements of the charter.</p> <p>15 minute visits are often provided</p>

	<p>supporting a larger package of care and often at the request of customers who are keen to only pay for shorter visits. The review of the existing home care model and future model will look at requirements of 15 minute calls and review whether a minimum call time is more appropriate. We are aware that short visits have a detrimental effect on staff recruitment and remuneration and this will also be considered as part of the review.</p> <p>Feedback from partners suggests that in many instances a shorter visit is sufficient and that customers don't want staff to stay longer than is required. One provider has introduced a 20 minute visit call slot which allows for social interaction with a customer and this is been explored further as part of the existing review.</p> <p>Consideration also has to be given to Extra Care Housing where "visits" are often below 30 minutes in duration, in terms of the provision this would be appropriate so any amendments to minimum call times would need to reflect the need to keep a flexible approach for Extra Care support.</p>
<p>Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones.</p>	<p>The Council operates a "Framework approach" to the commissioning of home care services, as such providers when seeking inclusion on the Council's framework would submit rates that are inclusive of all elements of their business and this would include all the elements detailed.</p> <p>There are however different methods adopted and these include;</p>

	<p>Paying a fixed mileage rate per mile, this is usually based on an online maps mileage distance e.g. Google maps with some staff paid a fixed amount of time for travel.</p> <p>Some staff who are on fixed contracts have travel time included within their fixed hours.</p> <p>One Provider has a scooter loan purchase scheme for their staff so they can buy a scooter to access calls.</p>
<p>Visits will be scheduled so that homecare workers are not forced to rush their time with clients or leave their clients early to get to the next one on time.</p>	<p>In the last Home Care Customer Survey approximately 80% of customers state that they did not feel rushed when carers visit. Whilst this figure needs to increase, providers acknowledge the issue and work with all care staff and customers in ensuring staff have sufficient time to make visits.</p>
<p>Those homecare workers who are eligible must be paid statutory sick pay.</p>	<p>We are advised that all carers are provided with SSP following the applicable accrual period.</p>

Stage 2

Requirement	Current Position
<p>Clients will be allocated the same homecare worker(s) wherever possible.</p>	<p>This is a question that is asked during Customer consultations (25% of Home Care Customers are surveyed annually. In the recent survey 87% of customers said yes to the question – Do you usually have regular carers? It is not possible to ensure the same worker on all occasions but the feedback illustrates that this is not felt by customers to be a significant area</p>

	of concern.
<p>Zero hour contracts will not be used in place of permanent contracts.</p>	<p>Across the Council's Framework of Home Care providers, there are a range of employment options available to prospective employees. These range from Zero Hours contracts, Fixed Hours, Guaranteed minimum number of hours and permanent full time posts.</p> <p>This enable providers to offer a range of options to ensure they have a core staff and then flexible options for care workers.</p> <p>Feedback from the sector has always been that some carers do choose zero hours contracts because it gives them the flexibility to pick up shifts when they want to and they can fit this around other commitments such as childcare, and caring for parents etc.</p> <p>Around a third of providers across the City only offer zero hours contracts as an option whilst others often offer a broad spectrum of options and some simply focus on contracted hours. Having a range of options enables choice in the workforce and care workers are able to choose the best employment solution to meet their own requirements and this supports the capacity of service provision in an area of difficult recruitment.</p> <p>As part of the current review we are planning to undertake a survey of care workers to better understand their thoughts on this position and as to whether a choice i.e. flexible or fixed hours affords staff a flexible</p>

	<p>approach and supports employment in the sector. We are also mindful of the model that we wish to implement and how “guaranteed” hours for providers would enable them to offer set shifts and patterns of work. We will be considering all factors in the future and listening to partners, providers and staff in reviewing the options.</p> <p>Our preferred stance would be to allow zero hour contracts where the employee chooses it and ensure there is a range of options available for prospective employees.</p>
<p>Providers will have a clear and accountable procedure for following up staff concerns about their clients’ wellbeing.</p>	<p>All providers within the Council’s Framework are monitored and we are able to evidence through our Quality Development Framework records of communication with the office, resultant changes in care plans etc. Providers may need assistance to develop a clear procedural approach to this, although they work closely with our social work teams regarding client wellbeing concerns. The charter also predates the Care Act wherein providers need to ensure that all employees are aware of their safeguarding responsibilities.</p>
<p>All homecare workers will be regularly trained to the necessary standard to provide a good service (at no cost to themselves and in work time).</p>	<p>The Council offers free training to all providers in the key areas of medication, moving and handling, mental capacity and safeguarding. This compliments the Provider’s own induction and training programmes and these are reviewed and monitored through the Council’s Quality Development Framework. Key providers in York undertake training as part of the paid induction and we are not aware of staff been</p>

	<p>charged for meeting training requirement although there is evidence that some providers defer payment until the end of the training period.</p>
<p>Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation.</p>	<p>Providers offer staff the opportunity to meet and discuss practice with colleagues in a variety of ways across the sector. One of the main providers in York facilitates team meetings amongst staff from localities it operates within during the year but it is recognised that the logistics of facilitating events can be difficult for the sector.</p> <p>Some agencies facilitate a drop-in approach in their offices for care workers to get a hot drink, heat up food and catch up with other workers.</p>

Stage 3

Requirement	Current Position
<p>All homecare workers will be paid at least the Living Wage which is currently £8.75 an hour for the whole of the UK apart from London. If Council employed homecare workers paid above this rate are outsourced it should be on the basis that the provider is required, and is funded, to maintain these pay levels throughout the contract.</p>	<p>There are some organisations within the City where staff are on fixed rates of pay (inclusive of travel time), set above the level of the Foundation Living Wage. However it needs to be acknowledged that the average headline rate is approximately £8.25/hour, which is marginally below the Foundation Living Wage but higher than the National Living Wage, and that rates of “take home” pay are dependent on specific arrangements made by each employer for payment of travel time and therefore on the hours worked and how these hours are deployed. Employers use a range of approaches to ensure that take home pay exceeds National Living Wage (NLW) when calculated</p>

	<p>according to the current case law.</p> <p>An analysis of the potential financial implications of increasing rates to ensure all staff receive the Foundation Living Wage is included within the Financial section of this report, however the exact impact depends on whether this would apply to headline or take home pay.</p> <p>The Council when externalising the Reablement Service in 2012 complied with requirements of TUPE and has ensured that the provider was funded appropriately to maintain terms and conditions where applicable throughout the period of its contractual agreement.</p> <p>Legal advice received previously by Adult Social Care as highlighted above also questions whether the Council can contractually insist on providers meeting the Foundation Living Wage.</p>
<p>All homecare workers will be covered by an occupational sick pay scheme to ensure that staff do not feel pressurised to work when they are ill in order to protect the welfare of their vulnerable clients</p>	<p>As previously detailed, all carers are provided with SSP, which is a legal requirement. Discussions with Providers have highlighted that there would be a reluctance to extend this to offer an occupational sickness pay scheme. Providers often face difficulties with staff calling in “sick” on shifts that are considered “undesirable” such as weekends and evenings and feel that such a scheme which is not commonplace in the sector would have the potential to add significant costs to the provision of services which they would need to pass onto the Council in the form of further increased rate levels.</p>

Council Plan

25. The proposals to be considered within this report are in line with the three key corporate priorities as set out in the Council's Plan 2015-19, a prosperous City for all, a focus on Frontline Services and a Council that listens to residents.

Implications

Financial

26. Whilst it is not anticipated there being financial implications from adopting Phases 1 & 2 of the Charter, there are a number of areas within the proposed Charter in Phase 3 which would have a financial implication on the Council should it be adopted. Assuming that is accepted that the Council ensures that all visits of 15 minutes in duration do not "undermine the dignity of customers" the key implications would be in a requirement to pay Foundation Living Wage as a "take home" minimum pay level and the introduction of an occupational sickness pay scheme.
27. In relation to the Foundation Living Wage, if the Council were in a position to adopt this requirement, decisions would need to be taken as to whether this would apply to headline or "take home" rates. If applicable to the latter, it is projected that the additional cost would be a minimum of £335K. In relation to Occupational Sickness Pay Schemes, it is difficult to place a cost on the implications as the risk is not quantifiable at this stage. Providers have indicated that in their view both an insistence on having such a scheme and "knock on" impacts of other aspects may mean significant increases in fee levels above those they would need to add in for Living Wage.
28. It is projected that the adoption of the Charter could lead to an increases in costs for Adult Social Care as a minimum of £335K but the final costs are likely to be significantly higher than this figure once the impact of an occupational pension scheme is factored in.
29. As identified in paragraph 10, further increases in the National Living Wage by 2020 will also mean increases in the Foundation Living Wage and this may lead to additional financial implications on Adult Social Care Budgets as a result of the adoption of the Foundation Living Wage.

Legal

30. As highlighted above, further discussions with legal colleagues will be required particularly around Living Wage in order to determine an agreed position should Members agree to receive a further report considering the adopting of Stage 3 of the Ethical Care Charter.

Equalities

31. There are not felt to be any equalities issues at present although this will be kept under review.

Human Resources (HR)

32. There are no direct Human Resource implications associated with this report although there will be an impact on staff employed by external partners in the delivery of services to the Council.

Crime and Disorder

33. There are no crime and disorder implications

Information Technology (IT)

34. There are no Information Technology implications

Property

35. There are no Property implications

Other

36. There are no other known implications at this stage.

Risk Management

37. Any risks identified will be kept under review and will be pro-actively managed. There is the risk that fee levels will increase further as a consequence of the Council adopting the charter but this will be reviewed in line with the new service model and approach that is being considered for home care. The key risk is the unknown financial consequence of the

Council adopting Stage 3 of the Charter and the impact on fee rates of providers having to implement occupational sickness pay schemes.

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Report
Approved

Specialist Implications Officer(s) List information for all

None

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

None

All relevant background papers must be listed here.

Annexes – Copy of UNISON Ethical Care Charter