Report to the Cabinet Member for Adult and Community Services
Report submitted by: Head of Service, Policy, Information and Commissioning (Age Well)
Date: 11 May 2016

Part I

Electoral Divisions affected: All

Residential and Nursing Homes for Older People: Fees for 2016/17
(Appendix 'A' refers)

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Executive Summary

The County Council commissions residential and nursing home places for older people from 340 Care Quality Commission (CQC) registered establishments based in Lancashire.

The County Council's older peoples' nursing and residential fee structure contains 50 individual rates. Some rates are based on the date of admission to residential care whilst some relate to the standard of accommodation.

This report sets out the rationale, financial context and analysis underpinning the award of uplifts to these rates with effect from 1st April 2016 for the 2016/17 financial year. It recommends an increase across all fee levels and, in acknowledgement of comments made by the Health and Social Care Partnership, recommends simplifying the fee structure so that the fee payable is independent of the date of admission to residential care.

This is deemed to be a Key Decision and the provisions of Standing Order No. 25 have been complied with.

Recommendation

The Cabinet Member for Adult and Community Services is recommended to approve:

(i) The proposed rate increase with effect from 1st April 2016,

(ii) Simplifying the existing pricing structure by removing rates dependent on date of admission, and paying a fee that reflects current rates.

(iii) An inflationary uplift of up to 6.3% for providers paid a negotiated room rate

Background and Advice

The County Council commissions residential and nursing home places for older people from 340 Care Quality Commission (CQC) registered establishments based in Lancashire. Of these, Lancashire County Council operates 17 residential homes and a number are run by regional/national organisations. The majority, however, are run as independent companies which tend to be smaller homes and often family run. The sector itself employs many thousands of staff, mostly part time with most care staff being paid at or just above the current National Minimum Wage.

The introduction of the National Living Wage represents a significant challenge for providers and commissioners during 2016/17 and continued cost pressure could negatively impact on the resilience of the market: in March 2016 a national provider reduced the value of their care home business by £300 million citing living wage as a significant factor behind this decision. Many smaller operators do not have the benefit of large corporate backing to assist with increased cost pressures and may be left with no other choice than to close their business.

The issue is further complicated by a change in the CQC inspection regime that is more rigorous than before. The new inspection regime moves away from a Compliant/Not Compliant rating to an Ofsted style rating. Providers are now rated as Outstanding, Good, Requires Improvement or Inadequate. Not all establishments in Lancashire have received a new style rating but of those that have, none are rated as Outstanding, 61% are rated as Good and 39% are rated as Inadequate or Needs Improvement. Providers receiving an Inadequate or Needs Improvement rating must invest in their business to improve the rating but may struggle to do so due to funding pressure, potentially leading to their business closing.

Local Authority fees represent just one element of the residential and nursing care home market funding source. Income is also generated via self-funders, health-funded placements and in some instances charging top-up fees over and above local authority standard rates and sustainability of the market depends on the profitability achieved from this mix of funding sources.

Analysis completed on behalf of the County Council Network during 2015 indicates the mix of funding is changing significantly. There is strong evidence of a growing 'polarisation' within the social care market, with many providers focusing almost exclusively on the more profitable self-funder market, resulting in a shortage of places for council placements and fee levels that councils cannot afford.

In order to boost the sustainability of providers it is vital that local authorities try to address funding issues. In the absence of national rates, each council must make its own choice in the context of its own financial position and priorities, and this report addresses the issue in that context.

2016/17 Fees

Funding Context
The County Council is faced with a significant shortfall in overall funding during the next five years as demand and cost pressures are forecast to continue to increase.

The demand pressures will be addressed through the Adults Transformation work and may be alleviated to an extent by changing models of service delivery. However this report focuses on ensuring rates for the existing service models are set at a level which is affordable for the County Council, but are also commensurate with meeting the real costs to providers of delivering their services.

In April 2015 the County Council moved away from a banded fee structure for new placements to a fee basis that reflects capital investment in residential homes with further work to be completed to link quality to fees. Existing placements at 1st April 2015 remained at banded rates subject to an inflationary increase. As a result of this change the County Council operated 50 rates for residential and nursing care during 2015/16.

Approach to 2016/17 fee uplift

In April 2014 LaingBuisson (LB) provided the County Council with Lancashire specific information detailing actual cost floor and ceiling rates for older people's nursing and residential homes. The information provided has been inflated to 2016/17 levels using factors such as the National Living Wage, CQC fee changes and other relevant inflationary factors and used as a benchmark in determining an appropriate fee from April 2016.

The Local Government Association highlights a historical care funding gap, however, the County Council must also consider the affordability of any fee uplift. As a result, the County Council has benchmarked its fee uplift against LB's floor rate, which allows for a 7% return on capital within the fees paid, but does not allow for a return on activity. This translates to a fee that covers operational costs plus an additional allowance of 7% on the capital invested in the business.

Benchmarking against LB's actual cost of care, described above, indicates fees for admissions from 1st April 2015 should increase by 8.5% overall with a higher level of investment in the dementia market.

In addition to the above benchmarking, the County Council acknowledges that the costs of care relates to the person and not their date of admission and therefore recommends reducing the number of fee levels to five plus a room premium as introduced from April 2015. Any provider paid at a legacy fee rate will be migrated to the proposed new fee level.

Proposed 2016/17 Fees

Proposed weekly fees for older people's residential and nursing care, to be effective from 1st April 2016 are as follows:

Net Fee	Existing Fee (Exc RNCC*)	Proposed Rate	Actual Increase	Gross Fee Inc RNCC*
Nursing Standard	£455.00	£475.66	4.54%	£587.66*
Nursing Dementia	£483.50	£561.04	16.04%	£673.04*
Residential Standard	£384.00	£416.72	8.52%	£416.72
Residential Higher	£433.00	£470.15	8.58%	£470.15
Residential Dementia	£460.50	£504.35	9.52%	£504.35

Compliant Room Premium:	£10
*RNCC (Registered Nursing Care Contribution):	£112

Providers paid a negotiated room rate (i.e. other than one of the published banding rates) will receive an inflationary increase of up to 6.3% as long as it does not exceed the proposed new rate. Any provider paid in excess of the proposed rates will not receive an uplift.

Consultations

In April 2016 the Lancashire Care Association (LCA) provided feedback on 2016/17 fee levels (Appendix 'A'). They raised a number of points including:

1) A flat rate fee is inherently unfair.
2) LB's fair price for care is the most transparent and fair model.
3) The County Council should return to a banded fee structure.
4) The standard rate for residential care should be abolished as it is an irrelevant category.
5) The dementia premium falls short of what is required, and a greater shortfall exists in the nursing market.
6) The £10 room premium is not adequate.
7) Date of admission should have no impact on fee levels.

The LCA have stated they wish to continue to work with the County Council to shape and inform future fee levels.

The County Council has tried to address many of these points in this fee uplift. Some points, such as a return to the banding structure (abandoned from April 2015) require further work and consultation with the market, and will be addressed by further partnership working during 2016/17.

Implications:

This item has the following implications, as indicated:

Risk management

- Legal

There remains a risk associated with the relevant provisions of the Care Act 2014 in that the County Council's rates may not be considered by certain providers to be in line with the requirements of the statute. This is a risk facing all local authorities and is not specific to the County Council. However, to mitigate the risk of potential challenge under the Care Act 2014, the County Council has benchmarked its fees against market analysis completed by LB and will be undertaking further work to review all fee levels in 2016/17, the results of which may be to rebase some rates as requested by the Health and Social Care Partnership.

- Financial

Full Council agreed a council-wide budget that requires reserve funding of £64.1 million which is not sustainable beyond April 2018.

The total financial impact of this increase is approximately £9 million and represents an additional investment in the sector of £2 million over and above the County Council's approved older people's residential budget. An element of the increased cost pressure will be offset by client contributions and it is anticipated the net cost to the County Council will be £1.7 million in 2016/17.

The recurrent pressure resulting from this proposal will be built into the medium term financial strategy from 2017/18. The impact in 2016/17, of no more than £1.7 million, will be funded from the transition reserve. This value includes growth forecasts of 2.86% (although continued efforts to reduce the number of admissions to residential care may result in actual growth being lower, as evidenced in 2015/16) and assumes an element of the additional pressure will be offset by resident contributions.

The County Council believes the proposed increase would allow providers to meet their obligations associated with implementation of the National Living Wage and pension increases.

The County Council is working with Newton Europe to redesign pathways and menu of service. The direction of its work with Newton Europe may result in a future reduced demand for residential based services.

List of Background Papers

Paper	Date	Contact/Tel
Appendix A: Lancashire Care Association response to consultation	April 2016	John Sleightholme / 07824081657
County Care Markets: Market Sustainability & the Care Act	July 2015	
CQC Care Directory – with ratings (1 April 2016) http://www.cqc.org.uk/content/how-get-and-re-use-cqc-information-and-data#directory	1st April 2016	