

**EXECUTIVE BOARD - COMMISSIONING SUB-COMMITTEE**  
**16 APRIL 2014**

<b>Subject:</b>	<b>PRICING OF RESIDENTIAL AND NURSING CARE – PROPOSALS AND BUDGET</b>		
<b>Corporate Director(s)/ Director(s):</b>	Candida Brudenell – Strategic Director Early Intervention		
<b>Portfolio Holder(s):</b>	Councillor Norris and Councillor Liversidge		
<b>Report author and contact details:</b>	Jo Pettifor – Strategic Procurement Manager Tel: 0115 8765026 jo.pettifor@nottinghamcity.gov.uk		
<b>Key Decision</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Subject to call-in</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Reasons:</b> <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision			<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Total value of the decision:</b> £3.443m			
<b>Wards affected:</b> all	<b>Date of consultation with Portfolio Holder(s):</b> Councillor Alex Norris, Portfolio Holder for Adults and Health – 25 February 2014 Councillor Dave Liversidge, Portfolio Holder for Commissioning and Voluntary Sector – 28 March 2014		
<b>Relevant Council Plan Strategic Priority:</b>			
Cutting unemployment by a quarter	<input type="checkbox"/>		
Cut crime and anti-social behaviour	<input type="checkbox"/>		
Ensure more school leavers get a job, training or further education than any other City	<input type="checkbox"/>		
Your neighbourhood as clean as the City Centre	<input type="checkbox"/>		
Help keep your energy bills down	<input type="checkbox"/>		
Good access to public transport	<input type="checkbox"/>		
Nottingham has a good mix of housing	<input type="checkbox"/>		
Nottingham is a good place to do business, invest and create jobs	<input checked="" type="checkbox"/>		
Nottingham offers a wide range of leisure activities, parks and sporting events	<input type="checkbox"/>		
Support early intervention activities	<input type="checkbox"/>		
Deliver effective, value for money services to our citizens	<input checked="" type="checkbox"/>		
<b>Summary of issues (including benefits to citizens/service users):</b>			
<p>This report makes recommendations for the level of fees to be paid for residential and nursing care services in the City for 2014/15 onwards. The proposed fees for each category of service are detailed at <b>Appendix A</b>. The proposed pricing is based on the findings of a 'Fair Price for Care' review undertaken on behalf of the City Council, financial modelling of the impact on budgets and the outcome of a consultation exercise undertaken on the proposals with service providers. The process undertaken and resulting proposals are intended to ensure that the Council fulfils its legal obligations to consult widely when ascertaining the actual costs of care and has due regard to these costs when setting fees.</p> <p>The report details the financial implications of moving to new pricing arrangements for residential and nursing care in accordance with these proposals and seeks approval for the additional expenditure required to implement the proposed pricing as set out in <b>Appendix A</b>.</p>			
<b>Exempt information:</b>			
<b>State 'None' or complete the following.</b>			
An appendix to the report is exempt from publication under paragraphs 3 and 5 of Schedule 12A to the Local Government Act 1972 because it contains information relating firstly to the financial			

position and/or business of the Authority and secondly to legal observations on the proposals of which a claim to legal professional privilege could be maintained in legal proceedings. Having regard to all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. It is not in the public interest to disclose this information because the financial information is held in commercial confidence and disclosure of the legal advice may prejudice the Council's position in any litigation.

**Recommendation(s):**

**1 Approve** rates set out in **Appendix A** to be paid for residential and nursing care services in the City from 2014/15 onwards, to be implemented with effect from 1<sup>st</sup> April 2014.

**2 Note** the process that has been undertaken to develop the proposals for the pricing of residential care in the City, including consultation with service providers, in order to ensure the Council has due regard to the actual costs of care, in accordance with its legal obligations. **Appendix B** provides details of the consultation process followed and a summary of the consultation responses is attached at **Appendix C**.

**3 Approve** the allocation of a 1% inflationary increase on the rates for residential and nursing care services for the year 2014/15 (applicable to all packages below £650 per week), to be implemented with effect from 1<sup>st</sup> April 2014.

**4 Approve** the expenditure of the additional funding required to cover the cost of implementing the proposed rates for residential care as detailed in exempt **Appendix E**.

**5 Delegate** the approval of appropriate contractual indices for annual inflationary increases associated with Adults Social Care to the Director of Quality and Commissioning.

**6 Approve** the inclusion of the indices agreed into the Councils 2015/16+ budget setting process.

**7 Note** that negotiations are underway with NHS Nottingham City about the potential to undertake a joint accreditation process for providers of residential and nursing care services in the City and for a joint contract to be issued to providers approved through this process. A further report will be presented to Committee with recommendations for these arrangements and the proposed commissioning model and service requirements.

## **1 REASONS FOR RECOMMENDATIONS**

- 1.1 It is essential that the Council adopts a robust and transparent process to establish a fair price for care. The overall aim of the project to review the pricing of residential and nursing care was to ensure that the Council consults widely when ascertaining the actual costs of care and has due regard to these costs when setting pricing structures, whilst managing the budget implications of moving to a fair price for residential care.
- 1.2 The value of £494 has been used as an indicative 'fair price' for a core package of care in any service, based on the 'Value for Money Rate' cited in the VCFM report for residential care for older people with dementia, which VCFM reported to be satisfied "represents a reasonable mid-point (between standard residential and nursing dementia services), on which to base a generic fee" (page 18).
- 1.3 The proposals for residential and nursing care pricing from 2014/15 detailed in **Appendix A** are based on the principle of moving towards the proposed minimum 'core' price over a planned period and financial modelling undertaken on the options to achieve this. It is proposed to implement the transition to the indicative 'fair price' through a staged approach in order to manage the financial impact to the Council and allow a number of years to identify funding options to cover the increase in costs.
- 1.4 In making these recommendations the position of Nottinghamshire County Council in relation to its recent increases in the pricing of residential and nursing care services has been considered. In such consideration regard has been given to the geographical differences faced between the two authorities and the longer term ability to maintain a significant price increase.

- 1.5 In these proposals a higher percentage increase is allocated to lower cost placements than those already paid at a higher level based on the rationale that the lower cost services are currently furthest from the indicative minimum 'core' price and therefore need to increase at a faster rate.
- 1.6 The proposal to move to a single rate of fees for all residential care services for older people (removing the previous variation in fees based on quality banding of these services) is based on the principle that a minimum price based on the actual cost of service provision should be paid equally for all services. All services will be expected to deliver to the required minimum quality standards and this will be managed robustly through a consistent contract compliance process, with sanctions applied for poor performance. This approach is expected to ensure that Nottingham City Citizens can receive the best quality of care from the Council and provide resilience in the number of providers available within the City.
- 1.7 It is proposed to review inflation on an annual basis to enable this to take account of specific factors impacting on the actual costs of care which may vary over the period covered by these proposals. The Council must be satisfied that it has adequately ascertained the actual costs of care, including setting an appropriate rate for inflation.
- 1.8 It is proposed to implement the proposed fees from 1<sup>st</sup> April 2014 as the consultation process highlighted a strong view amongst providers that the new rates should be effective from this date. 68% of respondents in the consultation did not agree with the proposal to implement the new rates on 1<sup>st</sup> July 2014.
- 1.9 The proposal to award inflation at 1% for 2014/15 has been developed through a fair and consistent process across all adult social care services aimed ensuring a stable and quality service provision and which has included consultation with service providers.
- 1.10 The proposal to work jointly with NHS Nottingham City to develop an accreditation process for providers of residential and nursing care services and to explore the potential for a joint contract to be issued will streamline the contracting arrangements for residential and nursing care, creating efficiencies for providers and commissioners.

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

- 2.1 In discharging its statutory duty to provide residential accommodation to adults with an assessed need through a contracted private care home provider the Council must consider the fees it pays in line with available guidance. In this context, it was agreed by the Portfolio Holder to commission external specialist support to undertake a review to identify a fair price for care in residential and nursing care services in the City. Valuing Care Financial Management (VCFM) were appointed to carry out this work which comprised a sample costing exercise of placements in a cross section of services and analysis with reference to a national comparator database of rates. The process included local provider engagement with VCFM where providers were willing to do so.
- 2.2 The final report of VCFM on their 'Fair Price for Care Review' findings was completed in March 2013, outlining the findings of the review and prices that are suggested to represent a reasonable minimum price for care for services in the City.
- 2.3 A project group was established to take forward the 'Fair Price for Care' Review findings in two phases. Phase 1 considered the level of fees to be paid in 2013/14

based on the indicative findings of the VCFM report and financial modelling of the budget implications. In May 2013 a consultation process was undertaken with providers on proposals for 2013/14 fees, based on the principle of moving to a minimum 'core' price over a four year period. The consultation responses received were analysed and final recommendations for the level of fees in 2013/14 were approved by the Executive Board Commissioning Sub Committee on 10<sup>th</sup> July 2013.

- 2.4 Phase 2 of the pricing review project has further considered the findings and financial implications of the 'Fair Price for Care' Review and included consultation with providers in order to determine the pricing arrangements for residential care across all categories of provision in the longer term. This work has linked with the Residential Care Review project which will determine the commissioning requirements and new contracting arrangements for these services to be implemented from 2014/15.
- 2.5 Following Portfolio Holder agreement on 18th September 2013 an engagement process was undertaken to invite residential care providers to comment on the VCFM report findings, and highlight any issues they identified should be considered alongside the report findings in taking forward the pricing review work. In total 88 service providers and others including the Nottinghamshire Care Homes Association were invited to complete an online survey. One response was received and this provider reported that they had no comments to make on the report findings.
- 2.6 Further financial modelling was undertaken on the options for moving to a minimum price for a 'core' package of care across all categories of residential and nursing care and proposals for fees to be paid from 2014/15 onwards were drawn up, based on the principle of moving to a minimum 'core' price over a further four year period. These proposals were approved for consultation with providers by the Executive Board Commissioning Sub Committee at its meeting on 13<sup>th</sup> November 2013. Details of the financial modelling undertaken were included as an appendix to this report.
- 2.7 A consultation process with providers on the proposals for fees from 2014/15 commenced on 28<sup>th</sup> November 2013 for a period of 36 days. All residential and nursing care providers in the City were invited to respond to the consultation using an online survey managed by the Council's 'Engage' Team. The survey sought to obtain providers' views on the proposals and in particular to identify any risks or negative impacts, and potential mitigating actions. The proposals comprised the following four elements:
  - to move to a minimum 'core' price of £494 per week over a four year period from 2014/15 to 2017/18
  - to consider inflation on an annual basis
  - in relation to residential and nursing care for older people, to remove the variation between fees based on quality banding from 2014/15 onwards
  - to commence implementation of the proposed rates from 1<sup>st</sup> July 2014.
- 2.8 The overall rate of responses to this consultation was low at 12 (14%) and consideration of the responses received suggested that there were some areas of misunderstanding amongst providers about the proposals and how they would be implemented. A 'Frequently Asked Questions' document was produced providing clarification in some key areas of the proposals and a provider engagement meeting was arranged to provide further details of the proposed implementation in response to the issues raised by providers. The provider meeting was held on 28<sup>th</sup> January 2014 and was attended by representatives of 25 providers. It also provided an opportunity for providers to raise any further concerns or questions.

- 2.9 In order to maximise the feedback from providers following the engagement meeting, the consultation process was extended and the online survey re-opened for a further 2 week period. All providers were encouraged to complete the questionnaire, even if they responded to the previous consultation. Throughout the consultation process efforts were made to maximise participation, including reminders to encourage providers to engage with the process. Details of the process followed to engage providers during the consultation are provided at **Appendix B**.
- 2.10 During the consultation process responses were received from the Nottinghamshire Care Homes Association (CHA) and these have been considered and made available to decision makers. Additionally a meeting was held with representatives of the CHA on 23<sup>rd</sup> January 2014 to discuss the issues raised by them. This meeting was also attended by a number of service providers.
- 2.11 A summary of the overall outcomes from both stages of the consultation process is presented at **Appendix C**. Through the extended consultation period a total of 18 responses (22.5%) were received overall. The outcomes of the entire consultation process have been analysed and impact assessed to produce the final recommendations for pricing from 2014/15 onwards.
- 2.12 In January 2014 a process was undertaken to develop proposals for inflationary increases across all Adult Social Care service areas for 2014/15, taking account of the contractual terms and market position for each service and in the light of the overall allocated budget for Adult Social Care. On 27<sup>th</sup> February 2014 a 28 day consultation process was undertaken with providers of residential care on the proposal to award a 1% inflationary increase to all packages below £650 per week with effect from 1<sup>st</sup> April 2014. A summary of the responses to this consultation is attached at **Appendix D**.
- 2.13 Briefings have been provided to the Portfolio Holders throughout this process, including full details of the responses received during the consultation process.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

- 3.1 To do nothing. This option was rejected because:
- There is a risk to the quality of services and increased risk of safeguarding issues if providers were unable to sustain investment in the delivery of services. In particular staff recruitment and retention may be impacted if providers are unable to sustain investment in pay and other staff conditions, which would impact on service quality.
  - There is a risk that providers would decide not to accept new placements from the Council or withdraw services for existing residents. This would present issues for operational teams in ensuring the needs of vulnerable citizens are met and a potential failure of the Council to meet its statutory duty to make provision for residential accommodation for vulnerable citizens.
  - The Council is under a legal obligation to ensure that it has due regard to the actual costs of care provision and other local circumstances. There needs to be a clear rationale for the funding mechanism and level of fees, based on considering the actual costs of delivering care and consultation with providers.
- 3.2 To implement the minimum core rate proposed from 2017/18 with immediate effect. This option was rejected because the financial modelling work undertaken indicates that this would have a significant impact beyond the existing provision in the budget for these services in 2014/15 and subsequent years.

- 3.3 To offer a different level of inflationary increase in 2014/15. This option was rejected because the proposed increase is based on financial modelling work undertaken across all Adult Social Care categories to ensure consistency and taking into account the overall budget available for these services.

#### **4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)**

- 4.1 Financial implications are contained in exempt **Appendix E**.

#### **5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)**

- 5.1 The overall aim of the pricing review of residential and nursing care in the City is to ensure due regard to the actual costs of care whilst managing the budget implications of moving to a fair price for residential care. The proposal to move to pricing based on the actual cost of delivering services aims to ensure that services are funded on a sustainable basis, thereby mitigating risks to the quality of services including the risk of safeguarding issues if providers were unable to sustain investment in the delivery of services.

- 5.3 The proposals for pricing aim to mitigate operational risks impacting on vulnerable citizens that would arise if providers decided not to accept new placements by the Council in residential care or to withdraw services for existing residents as a result of services not being viable due to the level of funding. The proposals aim to assist the Council in managing this market which may otherwise be influenced by market rates if providers offer services at higher rates to other customers such as self funders.

- 5.4 **Legal Observations:** contained in exempt **Appendix E**.

#### **6 SOCIAL VALUE CONSIDERATIONS**

- 6.1 The review of the pricing of residential and nursing care in the City and proposal to move to a minimum 'core' price based on the actual costs of delivering care aims to improve the economic, social and environmental well being in Nottingham in the following ways:

- Economic improvements through supporting the sustainability of the residential care provider market in the City.
- Supporting local employment and appropriate terms and conditions for care staff.
- Social improvements for citizens receiving services by funding at a level which supports the delivery of services to a minimum quality standard

- 6.2 The outcomes of the consultation process undertaken on the levels of pricing proposed have been considered with regard to economic, social and environmental impact, including impact on local providers, care workers and citizens.

#### **7 REGARD TO THE NHS CONSTITUTION**

Not applicable.

#### **8 EQUALITY IMPACT ASSESSMENT (EIA)**

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached at **Appendix F**

Due regard should be given to the equality implications identified in any attached EIA.

**9 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

None

**10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- 10.1 Valuing Care Financial Management Ltd – ‘Nottingham City Council Fair Price for Care Review – Residential and Nursing Home Services’, final report 22 March 2013
- 10.2 ‘Pricing of Residential Care 2013-14’ – Report of the Acting Director of Quality and Commissioning; Executive Board Commissioning Sub Committee 10 July 2013
- 10.3 ‘Fair Price for Residential Care – Proposals and Budget’ – Report of the Acting Director of Quality and Commissioning; Executive Board Commissioning Sub Committee 13 November 2013

**11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT**

Darren Revill – Finance Analyst, Strategic Finance  
Naomi Vass – Senior Solicitor, Legal Services