

WIRRAL COUNCIL

CABINET

12 MARCH 2015

SUBJECT:	<i>RESIDENTIAL / NURSING FEE SETTING PROPOSAL</i>
WARD/S AFFECTED:	<i>ALL</i>
REPORT OF:	<i>GRAHAM HODKINSON, DIRECTOR OF ADULT SOCIAL SERVICES</i>
RESPONSIBLE PORTFOLIO HOLDER:	<i>COUNCILLOR CHRISTINE JONES</i>
KEY DECISION?	<i>YES</i>

1.0 EXECUTIVE SUMMARY

- 1.1 To report the outcome of consultation with care home providers with regard to 2015-16 residential and nursing home fees.
- 1.2 To recommend the fees for 2015-16.

2.0 BACKGROUND

- 2.1 Wirral care homes are a mix of purpose built homes and adapted large private houses. The Council's strategy remains as having to focus on setting fees that maintain capacity and ensure that a range of provision is available, including suitable provision for people with dementia. The Council is not seeking to encourage growth in general residential provision as there is currently overcapacity in the residential market. The Council has invested in the development of viable alternatives such as extra care housing and community services, such as Intermediate care to delay the need for long term care. Care home fees are set with due regard to providers' actual costs, the Council's duty to achieve best value and reflect a fair cost of care in addition to other local factors.
- 2.2 The proposal is calculated using the Efficient Wirral Care Home model, as used in the last two years and further refined based on provider feedback. The model aims to make due allowance for actual costs and market returns. It is intended to calculate a fair and reasonable weekly rate for the four different categories of care home placement.
- 2.3 The consultation process used to arrive at the proposal has built upon the comprehensive work of recent years rather than seeking a new approach. The model agreed in 2014 has been revisited taking account of new factors. Engagement with providers has taken place as follows:
 - 21st January 2015: Initial meeting with Wirral Care Homes Association (WCA) to discuss process, time frames and approach.
 - 30th January 2015: Provider Forum at Hulme Hall, Port Sunlight, to outline the proposed fee rates and time frame for consultation.

- 30th January 2015: Circulation of proposed fee rate to all providers.
- 30th January 2015 – 20th February 2015: Consultation period for providers to comment on model.
- 4th March 2015: Proposed fees and considerations of comments shared back with providers.

2.4 The rates offered in the proposal are summarised in the table below. It should be noted the 2015-16 proposals are based on forecasts of future costs. Wherever possible authoritative and independent sources have been relied on including HM Treasury, Office of National Statistics (ONS), and the Royal Institute of Chartered Surveyors (RICS).

Summary of 2015-16 Care Home Fee Proposal	Residential	Residential EMI	Nursing*	Nursing EMI*
2013-14	£397.00	£430.00	£433.00	£451.00
2014-15	£402.00	£444.00	£436.00	£456.00
2015 -16 Proposed	£412.00	£449.00	£453.00	£469.00
Change 2014-15 v 2013-14	+£10.00	+£5.00	+£17.00	+£13.00

2.5 The rates offered in the proposal are rates for older people's provision. Mental Health and Learning Disabilities residential fees are dealt with separately. An additional £3 per resident week has been added to the Residential EMI rate, in order to incentivise growth in this area.

2.6 Appendix 2 shows how rates paid to care homes by Wirral in 2014-15 compare to other North West social services authorities. Comparisons are not available for 2015-16 because other authorities have not yet set rates.

2.7

3.0 RELEVANT RISKS

3.1 The Council has shared the fee model and actual cost comparisons with providers. It has responded to the issues raised during the consultation period reflecting on the proposed changes and stating the reasons for its decisions. Accordingly the final proposal is reasonable and well considered.

3.2 The Council has maintained a considered balance between fair cost of care and local factors, quality and meeting need. It seeks to ensure quality standards are maintained whilst at the same time working to achieve best value.

4.0 OTHER OPTIONS CONSIDERED

4.1 Not applicable.

5.0 CONSULTATION

5.1 Of the 78 homes consulted with, feedback was received from 13 homes. The sources of comments were:

Comment	No. of responses	Response
The difficulty and cost of recruiting registered general nurses (RGN's) is a major concern for providers, who feel they are not being adequately compensated for this.	3/13	Providers' concerns have been noted and raised with colleagues in Wirral Clinical Commissioning Group (CCG); notification of the new (2015/16) Funded Nursing Care (FNC) rates will be released shortly, by the Department of Health.
The allowance for training costs is insufficient.	1/13	Inflation has been applied to the training allowance in the model. The Council believes that the allowance of £188 per candidate per year is appropriate. Adults Social Care and the CCG also fund and support training events in statutory areas such as safeguarding and Deprivation of Liberty (DoLS).
Repairs/maintenance/materials costs have all increased in the last 12 months.	3/13	The council has used the latest Build Cost Information Service (BCIS) lifecycle costs (2014/15 Q3) to inform its setting of the fabric/services/decoration elements of the fee, and therefore believes that the amount provided for in the model is appropriate.
There is a greater use of agency staff than is allowed for in the model.	1/13	The Council's model currently provides for an agency usage allowance of 2.0% of care assistant shifts and an agency premium of 100% on the hourly rate, to cover the costs of agency.
Providers have expressed concern that the model fails to adequately cover their potential future costs, post-October 2015, when the new National Minimum Wage becomes effective.	7/13	The model currently allows for a 1% increase on all salaries and wages, in line with inflation, effective from 1 st April. The Council will consider any potential detrimental impact on homes, when final confirmation of National Minimum Wage is received.
Care hours per client have increased, due to health & cognitive degeneration.	4/13	Care hours per client have been kept the same as in the 2014/15 model, as no evidence has been received to suggest that this is unrepresentative of the levels of support being provided in the market.
Only increasing Domestic's Salaries & Wages in line with the NWM fails to account for the requirement to maintain a differential between domestic's pay and the pay of other staff.	3/13	1% has been added to all salaries and wages, in line with inflation.

Why does the Council use Consumer Price Index (Y) (CPIY), rather than Consumer Price Index (CPI), as the indicator of inflationary price increases?	2/13	CPIY uses the same basis as CPI, but strips away the distorting effect of indirect taxes, such as VAT. As there has been no change to the VAT rate over the last 12 months, CPI and CPIY increases over the last year have both been the same (1%).
The 1% allowance for insurance costs in the model is insufficient, as insurance costs have risen sharply (over 40%) in the last 12 months, as a result of increased CQC scrutiny.	10/13	The Council's proposed model, based on a typical 37 bed care home operating at 95% occupancy, provides for a reduced figure of £6.5k per year for insurance costs, which the Council consider to be adequate compensation for any increase in a home's insurance premiums.
Registered General Nursing rates have increased from ~£12/hr to ~£14/hr.	5/13	Providers' concerns have been noted and raised with colleagues in Wirral Clinical Commissioning Group (CCG); notification of the new (2015/16) Funded Nursing Care (FNC) rates will be released shortly, by the Department of Health.
Stationery and office supplies have increased in cost.	3/13	The Council has applied an inflationary uplift of 1% to all other non-staff expenditure, which is consistent with the increase in CPIY from Nov '13 to Nov '14.
The average rate paid by councils for residential care is £512 per resident.	1/13	£512 rate has been taken from a national statistics report for all England, and is not representative of the regional market. Wirral Council has also made investment in Extra Care Housing as an alternative to residential care provision.
The LaingBuisson model indicates a floor rate of £554/wk and £591/wk for Resi and Resi EMI respectively.	1/13	The LaingBuisson Model, on which the 'floor' rates are based, is based on a 'Fair Fee' model, rather than the 'Actual Cost of Care', which is what the Council is required to reimburse. The LaingBuisson model is based on increasing capacity in the market and creating new builds by corporate providers. This is not the intention of the Council.
Care Quality Commission (CQC) Registration fees are between £1,300 and £1,900 per year.	4/13	The Council's model provides over £6.5k per year to a typical-sized care home, to cover registration costs and the cost of Disclosure & Barring Service (formerly Criminal Records Bureau) checks. The Council therefore believes that care homes are appropriately compensated in this

		area.
Providers have requested that the Council assess the financial viability of paying staff at the Living Wage, rather than the lower rate currently in the model.	1/13	Working towards the Living Wage remains an aspiration of the Council. Increasing the fee to accommodate the Living Wage in 2015/16 would increase expenditure by £3m.
Waste disposal costs are £4.07 per resident week.	1/13	The Council's model currently provides for waste disposal at £3.45 per resident week. Although this is lower than example provided by the responder, there is no indication of whether these costs are reflective of the market costs in general, or an isolated outlier.
Food prices have risen by 17% since 2008	3/13	The Council's proposed model allows £26.34/resident week for food. This is considered to be an appropriate allowance.
Numerous claims that the Council is " <i>obliged to cover all our costs if you wish us to provide our beds to you.</i> "	3/13	The Council is obliged to cover care homes' costs of care ; depending on how each particular home operates, this may be different to a care home's total costs.
Claims that " <i>...fees have not been increased by Wirral... for many years now.</i> "	1/13	The Council has increased its fees each year, to reflect the increasing cost of care to providers. The Council has a duty to consider Actual Cost of Care, local factors and Value for Money when setting its fee rates.
Claims that fees " <i>...have remained the same since 97/98.</i> "	2/13	
Various requests for a specific increase in rate in the range of £50-£70, per week.	6/13	
The Council didn't increase its fees in 2014/15 to cover the points from Alison Castrey's letter from February 2014.	6/13	The Council has already responded to the points made in Alison Castrey's letter, explaining how we differ from her opinion on the fee rate.
It is wrong of the Council to remove the £7.09/wk incentive from EMI providers.	1/13	The Council did not incentivise its EMI providers, as claimed, therefore the responder is misguided to think that such an incentive has been removed in the proposed model. The general residential model was decreased by £7.09 in 2014/15, but this has been reinstated in 2015/16 proposed model, which is why general residential receives a greater increase in this year's model than residential EMI.
There is no differential between non-staff general expenditure on general care and EMI provision.	1/13	The Council has followed the approach taken by LaingBuisson in their Fair Price for Care Model (6 th Edition), which also draws no such differentiation between general care and EMI care.

The percentage pension costs figure is too low.	2/13	The 1% figure in the model for pension costs represents the minimum employer's contribution to comply with their statutory requirement to offer a workplace pension scheme. This will rise to 3% by 2018, therefore this figure may, potentially, increase in future years.
3% increase to Return on Business Activity for nursing care does not cover the cost of the renovations required to meet new CQC requirements.	1/13	The Return on Business Activity is £109k for residential care and £144k for nursing care, which the Council believes is sufficient to cover any additional renovations required to properties. These calculations are based on figures provided by the Office of National Statistics (ONS)'s Annual Business Survey. CQC requirements haven't changed in the last 12 months.
Utility costs have increased significantly since 2008.	5/13	Fees are reviewed on an annual basis. The allowances for utilities in the proposed model are based on the latest available Build Cost Information Service (BCIS) figures (2014 Q3).
Handymen aren't paid at the National Minimum Wage; they cost at least £10/hr.	1/13	Handymen are covered within the 'Weekly gardening cost' allowance in the model, which allocates 10 hours of service per week, at £15.45/hr.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no direct implications for voluntary, community and faith organisations.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 The cost of additional provider payments in implementing the proposal is £0.7m in 2015-16. This can be contained within the inflation growth allocated to Adults for 2015-16 in the proposed 2015-16 budget

7.2 The fees paid by Adults are used to determine client financial contributions in accordance with CRAG (Charging for Residential Accommodation Guide) issued by the Department of Health and local CRAG discretions as approved by the Cabinet. It will be necessary to revise the financial assessments of all clients in care home placements. Some clients' financial assessments will not increase in line with the fee increase. It is not expected there will be any significant variation in assessed client contributions.

8.0 LEGAL IMPLICATIONS

- 8.1 There have been a number of high profile judicial review cases where it has been held that local authorities have made unlawful decisions on care home fees e.g. because they have failed to conduct appropriate consultation, or have set arbitrary costs or costs to meet budget targets.
- 8.2 Under section 21 of the National Assistance Act 1948 (“the Act”) and the Directions made under it and LAC 93 (10), the Council has a duty to arrange accommodation for adults who by reason of age, illness or disability or any other circumstance are in need of care and attention. The Care Act 2014 creates a free standing duty to promote wellbeing when the Council is carrying out care and support functions. The council has had regard to the wellbeing principle during the formulation of the residential nursing fee proposal.
- 8.3 The National Assistance Act (Choice of Accommodation) Directions 1992 allows the Council to fix a maximum amount or “usual cost” that it is prepared to pay for particular types of residential care. Paragraph 3(b) states that the individual should be accommodated at a place of their choice (known as preferred accommodation) provided making arrangements at the individual’s preferred accommodation would not require the Council to pay more than they would expect to pay having regard to the individual’s assessed needs.
- 8.4 Statutory guidance given by the Department of Health in Circular LAC (2004) 20 provides that ‘in setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999. Such requirements include the discharge of the Council’s functions having regard to efficiency and economy. The Care Act 2014 places a duty on the Council to promote effective care home provision and in accordance with that duty the Council has had regard to the actual cost of good quality care.
- 8.5 The Council is required to pay the amount it costs to meet the individual’s objectives set out in the needs assessment and care/support plan [less any means tested contribution]. The Council is not required to pay more than it would expect to pay, having due regard to assessed needs. More than one cost should be set where the cost of meeting specific needs is different. In accordance with the Care Act 2014 the Council has had regard to the actual cost of good quality care and has ensured that particular types of accommodation reflect a fair cost of care.
- 8.6 In setting its fees the Council must comply with its duty under Section 149 of the Equality Act 2010 to have due regard to the need to eliminate discrimination, and advance equality of opportunity amongst elderly and disabled persons. The Council’s Equality Impact Assessment should therefore focus on the likely impact of its proposed fees on the quality of care for the elderly and disabled differentiating where appropriate between different groups and defining any steps that mitigate any possible adverse consequences e.g. closures of homes.

9.0 EQUALITIES IMPLICATIONS

9.1 The potential implication of the proposal has been reviewed with regard to equality and the Equality Impact Assessments are included.

10.0 CARBON REDUCTION IMPLICATIONS

10.1 None.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no planning implications arising directly from this report.

12.0 RECOMMENDATIONS

12.1 It is recommended that cabinet support the new fee rates as set out in this paper in section 2.5.

13.0 REASONS FOR RECOMMENDATIONS

13.1 Annual fee setting for the residential sector is critical to ensuring appropriate levels of provision are available at an acceptable standard for the people of Wirral.

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A1 – Fee Comparisons
Appendix 2 – Equality Impact Assessment

REFERENCE MATERIAL

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SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet - Fees for Residential and Nursing Home Care	March 2014
Cabinet - Fees for Residential and Nursing Home Care	November 2013
Cabinet - Fees for Residential and Nursing Home Care	20 December 2012
Cabinet - Fees for Residential and Nursing Home Care	18 October 2012
Cabinet - Fees for Residential and Nursing Home Care	2 February 2012
Cabinet - Fees for Residential and Nursing Home Care	11 March 2011