



**COUNCILLOR TONY SMITH**

**CABINET**  
**3 OCTOBER 2016**

**CHILDREN'S RESIDENTIAL CARE FEE**  
**INCREASE**

**Councillor Tony Smith, Cabinet Member - Children and Family Services, said:**

“Making sure our most vulnerable young are people are safe, protected and enabled to reach their full potential is our most enduring responsibility. We have important, and rapid, improvements to make to areas of our services and we are committed to achieving them.

“We are proud of our high numbers of dedicated foster carers who do an outstanding job with some of our most vulnerable children, but we recognise that for a small number of children and young people residential care best meets their needs. We want Wirral children to be placed in Wirral. We will work with our partners and the residential care provider market to develop more locally-based places for children with more complex needs, including brothers and sisters who need to stay together, teenagers with challenging behaviour and children and young people who may be at risk of sexual exploitation. By placing these children in Wirral we will be able to wrap services around them more effectively, responding to changes and so keeping them safe. We will keep a sharp focus on these children through crisper, outcome-focused care planning, listening to children’s voices and encouraging their ambition.

This report helps us to maintain the quality of our residential care services and develop this more specialist provision in the borough. This is vitally important for those young people who are in the care of the Council.”

**REPORT SUMMARY**

Our aim is all Wirral children thrive and live safely in their own families and communities. The small number of children who cannot live at home need to live where they feel safe, secure and supported to reach their full potential. Where children and young people need to come into care we will ensure that as many as possible are placed with foster carers within Wirral, and that those carers are supported to provide the level of care we expect and require for children we are responsible for, sharing our high aspirations for their futures.

We believe that children looked after are best cared for in Wirral and our ambition is to work towards reducing the numbers of independent residential placements, except where there is a clear match to children's needs which cannot be met by our own foster carers.

For these vulnerable children and young people Wirral has a vital role to play in shaping the care market to ensure that there is choice of high quality, local provision. The rates and fees paid by the council need to reflect both the requirements for providers to be able to meet quality and safety standards, and to maintain a stable market offering high quality, affordable local provision.

## **REPORT SUMMARY**

- To report on the outcome of regional work completed by Placements North West (PNW) in relation to 2016/17 fee uplift requests arising from the National Living Wage and the Working Time Directive.
- To report on the outcome of consultation with individual Residential Care Providers undertaken by Officers of the Council

## **RECOMMENDATION/S**

- Cabinet notes the actions taken by the Director of Children's Services to increase residential care fees where necessary with effect from 1<sup>st</sup> April 2016 and the continuing pressure in future years resulting from the National Living Wage (NLW) and Working Time Directive.
- Cabinet agrees that the increased cost of £250,000 be met from the funding set aside in the Revenue Budget Contingency 2016/17.

## **SUPPORTING INFORMATION**

### **1.0 REASONS FOR RECOMMENDATIONS**

- 1.1 The Local Authority has a duty to provide or procure placements for Children Looked After (CLA) which is explicit in the Children Act 1989. This has since been strengthened by the introduction of Sufficiency Statutory Guidance (2010) and the Care Planning, Placement and Case Review Regulations (April 2011).
- 1.2 There is also a duty of 'sufficiency' that requires Local Authorities and Children's Trust partners to ensure that, through provision or commissioning, a range of placements sufficient to meet the needs of all CLA are available locally or that there is a plan in place to move towards that position.
- 1.3 Residential fees have remained static over recent years, due in part to the framework agreements negotiated and agreed by Placements North West (PNW), a regional consortium of 22 local authorities. However the implementation of the National Living Wage (NLW) has seen wages rise from £6.50 in 2016-16 to £7.20 in 2016-17 with expected increases to over £9.00 by 2020. Other factors driving fees increases include:
- The EU Working Time Directive (sleeping nights)
  - Wage increases across the sector to maintain career structures and pay differentials
  - Inflation
  - Pension costs
- 1.4 Benchmarking
- 1.4.1 Wirral's use of external placements is low compared to other local authorities .13% of Children Looked After are placed externally compared to the North West (29%) and England (34%) averages. (This measure includes residential care and independent foster carers). In addition here is a higher fostering to residential ratio in Wirral (11.1) compared to the North West (7.7), i.e. for every residential placement there are 11.1 fostering placements. This ratio has helped keep the average cost of placements lower in Wirral, at £2,682 per week compared to the North West at £2,781 per week (source: PNW census 2015).
- 1.4.2 For this exercise however it has been difficult to benchmark uplift requests across providers, because each have very different staffing models, capital costs and remuneration packages.
- 1.5 Provider Challenge
- 1.5.1 A process for regional and local challenge to providers' requests for fee uplifts was established in autumn 2015, agreed by the Local Authority members of PNW.
- 1.5.2 Wirral led the negotiations on behalf of a number of Local Authorities with a locally-based provider, who described a range of additional cost pressures the most

significant of which was the additional cost of sleep-ins (10pm to 8am) as they are classed as “working time” under the new Working Time Directive, and must be paid at the NLW rate of £7.20 per hour.

- 1.5.3 This extra cost could not possibly have been foreseen at the outset of the last PNW tendering exercise. Providers have argued that they were left with no alternative than to request uplift in fees from the local authorities. The ramifications of this have caused a ripple effect in the Residential Care sector, placing some providers at risk of financial difficulty.

## **2.0 OTHER OPTIONS CONSIDERED**

### **2.1**

<b>Option</b>	<b>Risk</b>
Do not pay the NLW uplift	<ul style="list-style-type: none"><li>• Providers would not be able to provide differentials in relation to staff and management positions</li><li>• Impact on the providers’ ability to attract quality staff</li><li>• Providers could serve notice on individual placements</li><li>• Competitor local authorities pay the increase, Wirral loses local places</li></ul>
Ask providers to absorb costs of legislative increases	<ul style="list-style-type: none"><li>• Providers are unable to absorb the increased costs</li><li>• Providers are unable to provide cost effective quality business to Wirral, and this would impact on ability to meet regulatory requirements</li><li>• Potential for providers to collapse</li></ul>

## **3.0 BACKGROUND INFORMATION**

- 3.1 Residential Care and Independent Fostering placements are procured as part of a regional framework for the period 2014 to 2018. This is run by Placements North West (PNW) on behalf of 22 LA’s in the region.
- 3.2 Prices have remained static over the past few years as part of this framework agreement but are unlikely to remain the case with increases in regulatory costs, inflationary pressures, pension auto- enrolment and more importantly National Living Wage and Working Time Directive.
- 3.3 In anticipation of these changes in autumn 2015 PNW wrote to providers to acknowledge this and to inform them that the region did not anticipate fee changes as research had indicated that most providers paid above the new rate.
- 3.4 Nevertheless a number of providers contacted PNW requesting fee uplifts as a result of the legislative changes. A process was established setting out a clear set of data including financial information that would be required from providers to evidence uplift requests. This allowed for a consistent approach to be taken with providers by local authorities across the consortium.

- 3.5 As the largest commissioner of places Wirral led the negotiations with a locally-based provider on behalf of a number of local authorities. During the meeting the provider described a range of additional cost pressures, the most significant of which was the sleeping-ins (10pm to 8am) as these are now classed as 'working time' under the new Working Time Directive, and must be paid at the NLW rate of £7.20 per hour. These cost pressures could not have been foreseen when the services were originally tendered under the tiered PNW framework agreement.
- 3.6 In the local negotiation officers brokered a reduction in the weekly uplift requested by the provider, following challenge on some of their costings. In addition, as Wirral has a number of young people on long term placement with the provider a phased introduction of the new rate for existing placements was also agreed. Taken together these actions have reduced the Council's exposure to the full impact of the fee uplift for 2016/17.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The budget for Residential Care is £5.6m. In addition there are budget pressures of £1.9m which are being dealt with through demand management. The fee increase is projected to cost £250,000 in 2016-17 and it is recommended that this be met from the Revenue Budget Contingency. Whilst 2016-17 was impacted by both the Working Time Directive and the National Living Wage future years will take into consideration the National Living Wage.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 Children Act 1989, Care Standards Act 2000, Sufficiency Statutory Guidance 2010, Care Planning, Placement and Case Review Regulations (implementation April 2011) and Children Act 2014.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 6.1 Children's Services will continue to work with PNW and local providers to further develop the residential care market. The development of the new framework agreement for residential care from 2018 will reflect the new legislative arrangements.

#### **7.0 RELEVANT RISKS**

- 7.1 See 2.0

#### **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 Engagement with individual providers has taken place at both a regional and local level. There is ongoing soft market testing with providers locally here in Wirral with the first meeting on 27<sup>th</sup> April 2016 and a follow up meeting on 25/08/2016. This is part of the sufficiency and commissioning strategy which is to develop the market and work

with local provision so that all Wirral children and young people who are looked after will remain/reside in the borough.

## 9.0 EQUALITY IMPLICATIONS

(a) Yes and impact review can be found via the following link:

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2014/families#wgSM-1>

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## APPENDICES

## REFERENCE MATERIAL

## SUBJECT HISTORY (last 3 years)

Council Meeting	Date