

**30 November 2015****Agenda Item: 12****REPORT OF THE SERVICE DIRECTOR, STRATEGIC COMMISSIONING,  
ACCESS AND SAFEGUARDING****THE SOCIAL CARE MARKET: PROVIDER COST PRESSURES AND  
SUSTAINABILITY****Purpose of the Report**

1. To advise Members of the various cost pressures facing community based care and support providers.
2. To recommend the application of an in-year fee increase for the core providers of the home care and supported living services, to be applied from 1 December 2015.

**Information and Advice**

3. Some information relating to this report is not for publication by virtue of Schedule 12A of the Local Government Act 1972 and is therefore included in an Exempt Appendix. Having regard to all the circumstances, on balance the public interest in disclosing this information does not outweigh the reason for exemption because of commercial sensitivity relating to the County Council's contracts with care providers.

**The budget**

4. The Council's net budget for adult social care is £202.7m for 2015/16 with a gross budget of £313.7m. The vast majority (67%) of this is spent on care and support services are commissioned externally from both private and voluntary sector external providers through contractual arrangements. The Council's gross budget allocations for externally provided care and support services for 2015/16 are broken down as follows:

<b>Area of service</b>	<b>Budget</b>
Care Home placements - Older Adults	£73.9m
Care Home placements - Younger Adults	£36.7m
Home care services	£15.7m
Supported Living services	£36.1m
Direct Payments*	£42.8m

\*Direct Payments are used by service users and carers to purchase all types of community based services including home care, supported living, day time activities and carers' breaks. This includes one-off Direct Payments.

5. A total of 1,567 service users currently receive home care services and 1,214 service users receive supported living services, all of which are arranged and managed by the Department. In addition to this, there are approximately 3,300 people who receive an on-going Direct Payment, the majority of whom will be using their funding allocation to purchase home care, outreach support or supported living services.

### **Home care services**

6. In September 2013 Council approved the commencement of the tender for home based care and support services and for the new contracts to be awarded for commencement in April 2014. Contracts were awarded to four core providers for home based care and support services (home care), each covering a large geographical area based on district council boundaries.
7. The transition to the new home care services was complicated and protracted as the model of provision was to move from 30 different providers, each covering various parts of the county, to four providers, one in each geographical area. This resulted in a large number of service users experiencing a change in their care provider. However, a significant number of service users chose to take a Direct Payment and remain with their existing home care provider.

### **Supported Living services**

8. In November 2013 the Adult Social Care and Health Committee approved the commencement of a tender for Care, Support and Enablement Services (Supported Living) for adults with learning disabilities for the new services to commence in October 2014 and contracts were awarded to four core providers for the care, support and enablement services. Tenders were evaluated on the basis of 80% of the score for quality and 20% relating to price. There was a cap of £13 so only 5% was attributed to the hourly rate and 15% to the direct staff costs as a % of the hourly rate to encourage providers with the best terms and conditions.
9. In order to ensure continuity of care for adults with learning disabilities and mental health needs, the contracts awarded to four core providers for the Supported Living services was specifically for newly commissioned packages of care and support required from October 2014. All existing packages of care and support were to be retained by the legacy providers.
10. When the tender process was undertaken for the supported living services, it was on the basis that all service users already receiving supported living services would be able to retain their existing care and support provider. This was in order to ensure continuity of care, given the specific needs of people receiving supported living services. This enabled the Council to award contracts to four core providers for all new packages of care whilst retaining existing arrangements with the legacy providers. The service specification and the terms of the contract with the legacy providers was the same as

that of the core providers. In addition, the Council has retained contracts with a small number of providers who deliver an enhanced supported living service for people who require more specialist services due to complex health and social care needs and challenging behaviour.

11. As part of the tender processes, providers were required to submit hourly rates which included all their costs including staffing, overheads and profit margins. Contracts were only awarded to those providers who were able to evidence that they paid their staff the National Minimum Wage or above, inclusive of travel time.

### **Implementation of the new home care and supported living contracts**

12. Since the start of the new contracts, both the home care providers and the supported living providers have reported difficulties in recruiting and retaining staff. Consequently, the providers have not been able to deliver services at the capacity required to meet demand. In order to address this, the Council has had to enter into spot contracting arrangements with a number of other home care agencies and has to increasingly use Direct Payments as a means of securing services for individuals in a more timely way, but at higher costs.

### **National context**

13. The continued increase in demand for health and social care services arising from demographic pressures and an increase in life expectancy of people with multiple and complex health conditions is well documented. Both nationally and at the local level, the focus continues to be on supporting people to live independently in their own homes for as long as possible. Demographic changes, together with a fundamental shift in policy away from long stay hospital to community based services for younger adults with complex needs and/or challenging behaviour, has resulted in increasing demand pressures at a time when the overall funding for adult social care services continues to reduce.
14. Significantly greater numbers of skilled, well-trained and motivated care workers are required across the range of care services in order to meet increasing demand for care and support services. However, there is recognition at a national level that there is a lack of sufficient workforce capacity across the health and social care sector, and this is particularly the case in relation to the private and voluntary sector care workers as a consequence of relatively poor conditions of employment and low status. Over the past couple of years, issues such as zero-hours contracts, 15 minute visits, national minimum wage rates, payment for travel time for care workers, and other terms and conditions of employment have been subject to much national debate.
15. The high turnover of care workers and poor staff retention rates also impacts on the ability of care providers to invest in training and career development for their workforce and this in turn impacts on their ability to deliver sustained high quality care services (see *The Key to Care – Report of the Burstow Commission on the future of the home care workforce*, LGiU December 2014).
16. During late 2014, the United Kingdom Home Care Association (UKHCA) through the Freedom of Information Act, 2000, sought information from all local authorities with

responsibilities for commissioning social care on the average price paid to independent and voluntary sector home care providers, and the numbers of hours of homecare commissioned, during a sample week in September 2014. In their report, '*The Homecare Deficit - A report on the funding of older people's homecare across the United Kingdom (March 2015)*', the UKHCA published the comparative data broken down into regions. In the report, the UKHCA cited its own 'minimum price for homecare' of £15.74 per hour, to enable providers to meet their legal obligation and the ability to run a sustainable business. It is important to note that the rate of £15.74 per hour is broken down as 70% for staffing costs, 27% attributed to running the business, and an operating surplus or profit of 3%. The report showed that the average rate paid by councils to home care agencies was £13.66 per hour.

17. In its 2015 budget survey, the Association of Directors of Adult Social Services (ADASS) estimated that the cost of bringing local authority contracted rates up to the UKHCA's cost of care benchmark based on the current minimum wage alone would be £278m. However, this was prior to the government's announcement on the introduction of the new National Living Wage.

## **Pressures arising from new and changing statutory duties and responsibilities**

### **The Care Act, 2014**

18. Whilst the benefits of the Care Act mean a more comprehensive, accessible and equitable service for local authority funded service users, carers and self-funders, with improved outcomes for individuals, it is recognised that the new and extended duties bring increasing pressures on adult social care services at a time when there continue to be significant reductions in resources and funding allocations. The national eligibility criteria, the wellbeing principle and the continued emphasis on personalised care, extending access to preventative services, and new statutory duties in relation to carers and self-funders place further responsibilities on local authorities not only to ensure there are sufficient care and support services to meet current and future demand but also to ensure there is sufficient diversity to enable service users and carers to have a choice of services.
19. In response to the major failure of the country's largest residential and nursing care home provider, Southern Cross Healthcare, in 2011, the Care Act also places new duties on local authorities to ensure provider sustainability and viability (Sect. 5 (2) (d)). The Care Act requires local authorities to ensure that there is continuity of care for service users and carers, including people who fund their own care, during times of business failure. Additionally, local authorities now have legislative duties around market shaping which require them to know what capacity there is in the local area and to know where there are gaps in provision so that they are able to plan for and address service disruptions as a result of provider failure.

### **Transforming Care**

20. Following publication of the Department of Health's report *Transforming care: A national response to Winterbourne View Hospital* in December 2012, and *Transforming Care for People with Learning Disabilities – Next Steps*, in January 2015, a significant amount of work has been undertaken to transfer people out of long stay hospital provision into

community settings. However, nationally and locally the numbers of people being placed in the NHS long stay facilities and in independent hospitals continues to remain high.

21. In June 2015, Simon Stevens, Chief Executive of NHS England (NHSE), gave a commitment to the closure of long stay hospital beds and subsequently NHSE announced that there were to be five 'fast track' areas that would be the forerunners of transformation of services for people with a learning disability and/or autism and challenging behaviours, or a mental health condition. Nottinghamshire, including Nottingham City, is one of the fast track sites required to reduce long term hospital bed provision and to develop a range of enhanced community based services.
22. Work is underway to identify the potential cost implications of the re-provisioned services to the CCGs and to both Councils. As well as the direct financial impact, the Transforming Care programme requires local authorities and CCGs to commission a wide range of community based support services for people with complex needs and challenging behaviour. As with the initial Winterbourne cohort of long stay patients, the aim is to seek new supported living accommodation and support services rather than placing the individuals into long term residential or nursing care homes. This will require a significant increase in capacity from the supported living providers. These individuals require highly skilled and experienced care staff that are able to manage challenging behaviour.

## **Local Considerations**

23. The core providers under both the home care and the supported living services have identified on-going difficulties in the recruitment and retention of care workers. As is the case nationally, the difficulties are compounded by the difference in pay and conditions between care workers employed to undertake health related care on behalf of NHS organisations and those employed to undertake social care. The report by the County All Party Parliamentary Group, *The State of Care in Counties, LGiU, February 2015*, emphasises the need for local authorities to work with the NHS and private and voluntary sector organisations to address the workforce issues. The report states:

'Workforce gaps in key areas such as domiciliary care are having an impact on the whole health and social care system. The issue of the pay imbalance between health and social care needs to be considered as part of a local strategy', (p.51, *The State of Care in Counties - County All Party Parliamentary Group*).

24. Currently in Nottinghamshire, the hourly rate of the four core providers for the home care service ranges from £12.70 to £13.20 per hour. This is based on the prices submitted by the providers as part of the tender processes during 2013/14. However, to date, the core providers have not been able to provide the volume of services required, especially in the more rural parts of the county and also in the areas bordering Nottingham City. As a result, the Council has had to commission services from other agencies or through the allocation of Direct Payments and these have in the main been at higher hourly rates. Therefore, the average cost of these services is significantly higher than the tendered rates of the core providers. For the home care services, this has impacted on the ability to realise the levels of savings previously anticipated.

25. For the supported living services, different mechanisms were used to set the hourly rate at £13 per hour for the four core providers and the 16 legacy providers and work is being undertaken with the providers to reduce the cost of packages of care by delivering the services in the most cost effective ways for example through the use of assistive technology, better use of shared hours, access to community resources and other creative measures and initiatives wherever feasible.
26. The Council did not award an inflationary increase to community based care and support providers for 2015/16 and there are no provisions within the Medium Term Financial Strategy for inflationary increases to be applied on an annual basis to any adult social care services other than older persons' residential and nursing care home provision.
27. During July and August an open book exercise was undertaken with the four core home care providers and the four supported living providers. The exercise was extended to include three of the home care agencies where a spot contract had been put in place in order to meet high levels of demand directly as a result of discharges from hospital.
28. The purpose of the exercise was to understand providers' costs and to identify how their hourly rate is broken down compared to that detailed in the pricing breakdown in UKHCA's report. The breakdown of costs also showed the providers' profit margins and their longer term financial viability.

### **Open book exercise**

29. The open book exercise showed that the core providers of the home care and the supported living services pay their care staff above the current National Minimum Wage. The average pay rates include travel time as well as direct contact time with service users. Despite this, they are all experiencing difficulties in recruiting and retaining sufficient numbers of staff. As anticipated, all of the providers have stated that they will need to increase their pay rates for care staff in advance of or by April 2016. The core providers state that whilst the pay rate is not the only factor affecting recruitment and retention, it is nonetheless critical and they will need to ensure that there is a significant differential between the new NLW and the hourly rate that they pay to their care staff. Maintaining the existing differentials between the NMW and current pay levels may help the providers to sustain current staffing levels however this is not likely to be sufficient to enable them to recruit to the levels required to meet the levels of demand.

### **Issues being raised by care providers**

30. Another significant cost pressure identified particularly by the home care core providers was a higher than anticipated cost for staff travel time. In their tender submissions, the providers had accounted for payment of travel time but the actual cost has been higher because the volume of services that were transferred to them during the transition was significantly less than anticipated. This was because a large number of service users chose to remain with their existing care provider and to manage their own care and support through the use of Direct Payments. The impact of this is that the care staff are spending from 8% to 25% of their time travelling depending on the area they are required to cover and the amount of work the provider has in that area.

31. The supported living service providers also raise concerns about their ability to deliver the required volumes of outreach support compared to the services they deliver in the accommodation based services. Outreach support, like home care, entails shorter visits and it requires significantly more travel time from one home visit to another. As such, this type of provision is a less attractive option for the care workers and turnover of staff is higher in this part of the service. Since the contracts commenced in 2014, there has been an increase in the commissioning of outreach support especially for people with mental health needs to help them to remain living independently in their own home.
32. As part of the Transforming Care programme there is an increased need for enhanced supported living services to meet the needs of people with the most complex needs and challenging behaviours. This requires staff who are highly skilled and experienced and who will command higher rates of pay.
33. Other cost pressures identified by providers have included higher than anticipated recruitment costs, initial training, and costs of the Disclosure and Barring Service (DBS). These costs are higher due to the high turnover, with particularly high numbers of staff leaving within a few days or weeks of commencing the job.
34. Interviews with the providers as part of the open book exercise highlighted a range of other issues which was impacting on their ability to recruit and retain sufficient good quality staff. Most of these relate to the nature of the work and job status, including:
  - Split shift patterns, especially for home care resulting in care staff having one or two breaks in their working day with unpaid hours in between
  - Staff feeling that they have to rush to complete tasks, not having long enough time to spend with individual service users and having to rush from one visit to another
  - Staff pay calculated on the basis of contact time and travel time, rather than on a weekly salary
  - job isolation and level of support
  - general status of care work

### **Risks in the ability to meet statutory duties and mitigating actions**

35. As outlined above, there continues to be an increase in the demand for home care and supported living services as more people are being supported in their own homes. Plans are being put in place to ensure that there are the required levels of health and social care services to meet demand over the winter period in order to prevent unnecessary delays in hospital discharges for people who require care and support services. However allocations of short term Winter Pressures or System Resilience funding has been reduced, impacting on the amount of interim home care provision that can be commissioned. Also there are currently increasing funding pressures on the local acute trusts to reduce overspends, thereby making it more difficult for the CCGs to release funding from the hospitals to invest in community based care and support services.
36. The home care and the supported living core providers continue to report difficulties in being able to deliver the required volumes of services. Frequently, providers have not been able to accept new packages of care due to recruitment and retention issues.

37. Work continues to be undertaken to support the providers with their recruitment processes and by offering support such as access to relevant training courses for care staff.
38. In order to ensure there is sufficient home care provision to meet needs, the Council continues to rely on the use of other home care agencies under spot contract arrangements but these are at significantly higher cost than the hourly rates of the core providers. Also, due to limited home care capacity, increasing numbers of service users are opting to take a Direct Payment and to arrange their care and support services through other home care agencies but again this is at a higher cost than the hourly rate paid to the core providers.

### **Consideration of applying an in-year fee increase for home care and supported living services**

39. As outlined above, there has not been an increase in the fee rates applied during 2015/16 for the home care or supported living services and there is no provision in the Medium Term Financial Strategy to fund any fee increases for these services. This places financial risks to the Council given that the costs to the care providers continue to increase. As identified in the open book exercise, the cost to providers for the delivery of these services has increased since the award of the contracts in 2014. The main cost pressures to the providers relate directly to increasing staffing costs.
40. The contracts between the Council and the home care and supported living providers contain provisions for the Council to apply fee increases up to 10% of the total contract value, over the life of the contract.
41. The open book exercise showed that the current average cost of the home care contracts with the four core providers is significantly above their average tendered price. An increase of 10% will take the rate paid to providers to approximately £14.30 per hour.
42. For the supported living services, the providers have stated that the cost pressures are greater for the outreach services than the accommodation based services which, like home care, entail a large number of shorter visits and also incur higher travel costs. It is therefore proposed that the increase is weighted towards the outreach support and the enhanced supported living services. This targeted approach would enable providers to recruit staff where they are required most, and would help with the retention of highly experienced and skilled staff. The fee increase would need to be applied to the legacy providers as well as the core providers of the supported living services.
43. The current circumstances where the core providers are not able to deliver sufficient services to meet needs, and the analysis of provider costs as set out in this report, have led to the conclusion that a 10% price increase is necessary and that this should be applied in-year. The in-year cost implications of an increase of 10% from 1 December 2015 to 31 March 2016 would be £716,000 for services delivered by the core home care providers and the supported living providers.

### **Other Options Considered**



44. The purpose of this report is to highlight the cost pressures being experienced by the core providers of home based care and support services and care, support and enablement services and the impact of these on their future sustainability and viability.

### **Reason/s for Recommendation/s**

45. The Council has a statutory duty to have in place a range of care and support services for people who meet national eligibility criteria, either directly through its internal services or through commissioned services from external providers. This statutory duty extends to ensuring that there is a viable and sustainable market of social care providers who are able to deliver the required services.
46. Consideration has been given to the current fee levels paid to the core providers within the context of the increasing cost pressures directly impacting on the providers. The open book exercise has highlighted concerns about provider viability and the sustainability of these services in terms of meeting increasing demand. This is especially the case because of rising costs relating to staff pay and terms and conditions of employment. It is already evident that the providers are not able to recruit and retain sufficient levels of well trained, motivated and committed care staff to deliver the required volume of services.
47. Given the cost pressures outlined above, there is a need to review the hourly rates paid to the core providers and to consider opportunities for applying an in-year fee increase. There has not been an inflationary increase applied to the core providers in the current year and there is no provision within the MTFS for this.
48. The Council has been working with the home care providers to help move away from the delivery of time and task based services to more flexible services based around each individual service user's identified outcomes. The service is also based on reablement principles with an emphasis on supporting people to retain their independence. This requires providers to ensure that care workers are helping people to undertake their care and support tasks themselves rather than completing the tasks on behalf of the service users.
49. The providers are required to ensure their care workers are trained to deliver services in a way which is enabling and which helps to promote people's independence. The services should also be tailored around each individual's specific needs as identified and agreed in their support plan. Providers acknowledge that this model of service delivery is much more rewarding for the care staff as it means that they are better able to meet service users' needs in ways which promote their dignity as well as their independence. However, due to difficulties experienced by the core providers in retaining staff and the unprecedented levels of staff turnover, the providers are not able to train adequate numbers of care staff and then to have this learning embedded into everyday practice.
50. The proposed fee increase should enable providers to retain higher numbers of care staff who, once trained, are able to deliver more personalised services which are centred around each service user's specific needs. This model of service will have the added benefit of driving cost effectiveness as care staff help to reduce the size of packages over time as people are assisted to regain their independence. Discussions are already underway with the core providers on the delivery of outcomes and on ways in which

packages of care may be reduced over time with better use of assistive technology and through direct access to occupational therapy staff. In applying a 10% fee increase, providers will be required to implement an outcomes focussed service based on reablement principles and officers from the Council will work proactively with the providers to embed this model of service.

51. Currently, the Council is having to commission home care services from other agencies on a spot contract basis at significantly higher hourly rates. The lack of capacity from the core providers has also resulted in the Council having to pay much higher rates for Direct Payments where service users and carers choose to purchase their services from other home care agencies. Out of the total 1,567 service users who are currently receiving home care services, 1,159 service users receive the service from one of the core providers. The remaining 408 service users receive services from other home care agencies. These agencies are paid at various different hourly rates but they are all higher than the core providers. Therefore increased capacity amongst the core providers will enable the Council to realise significant savings.
52. The proposed fee increase would help to break this cycle as the fee increase would be targeted at staff terms and conditions and pay rates so that the core providers are able to recruit and retain care workers and to deliver the volume of services required. Increased stability within the market would enable the Council to apply a ceiling rate on Direct Payment rates across the county thereby reducing the cost of those services. This would also enable delivery of existing savings targets within the department which are predicated on reducing the costs of Direct Payments.

## **Statutory and Policy Implications**

53. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Implications for Service Users**

54. The Council has a statutory duty to ensure there is sufficient provision of a diverse range of services to meet people's social care and support needs. A review of the fees paid by the Council to the core providers of home care and supported living services will help to ensure that there are sufficient and viable services within the local market to meet current and future needs.

## **Financial Implications**

55. The full year cost implications of a 10% increase for home care services delivered by the four core providers and a 10% increase for services delivered by the four core providers and the legacy providers of supported living services would be approximately £2.15m. A 10% increase from 1 December 2015 would amount to approximately £716,000 in-year, with an annual cost pressure thereafter of £2.15m.

56. This price increase will be funded in year from departmental resources. Any permanent increase to the Department's base budget will be subject to the County Council's formal budget setting process, which is currently underway, and will conclude with a revised Medium Term Financial Strategy being proposed for consideration at the County Council annual budget meeting in February 2016.

### **Human Resources Implications**

57. The information and proposals contained in this report relate to externally provided care and support services and do not have a direct impact on internal staffing. Any increases in staff pay across the social care sector will help to ensure that the Council is able to commission appropriate levels of care and support services from external providers.

### **RECOMMENDATION/S**

- 1) That the Committee approves the application of an in-year fee increase of 10% for the core providers of the home care and supported living services, to be applied from 1 December 2015.

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### **Constitutional Comments (SMG 10/11/15)**

58. The Committee has responsibility for adult social care matters. The proposals in this report fall within the remit of this Committee.

### **Financial Comments (KAS 17/11/15)**

59. The financial implications are contained within paragraphs 55 and 56 of the report.

### **Background Papers and Published Documents**

None.

### **Electoral Division(s) and Member(s) Affected**

All.

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