

REPORT OF THE CHAIRMAN OF THE ADULT SOCIAL CARE AND HEALTH COMMITTEE**ADDENDUM TO THE REPORT ON 'FAIR PRICE FOR CARE – OLDER PERSONS' CARE HOME FEES'****Purpose of the addendum**

- 1 Following publication of the report to Adult Social Care and Health Committee on the Fair Price for Care – Older Persons' Care Home Fees, the Nottinghamshire Care Association (NCA) has submitted a written response to the Corporate Director, Adult Social Care and Health and Public Protection, raising a number of concerns about the fee proposals.
- 2 As stated in the report to Policy Committee, the Council has conducted a thorough process to identify actual costs including two stages of consultation, but in order to ensure that Members have full information this addendum includes the latest correspondence from the NCA and a response to the issues raised. Reference is made to the report dated 4 February 2013 to the Adult Social Care and Health Committee (background paper) which contains more detailed responses to the issues which the NCA had raised during the consultation process.
- 3 Although the NCA expresses concerns about aspects of the fee proposals the advice is that the proposals are reasonable, based on the actual costs of care derived from the survey and taking into account other relevant factors.

Issues for Consideration

- 4 The NCA's concerns are summarised as follows:
The proposal for 2013/14 is a welcome first step in "closing the gap" between the current underfunding and a viable "Fair Price for Care", and the proposals are welcomed in that they continue to recognise the need to incentivise better quality. They also welcome the inclusion of a proposal for an indexation mechanism. However they state that the proposed fee levels do not take full account of all of their costs and that therefore the decisions taken by Members could be viewed as "unsound".

The Council's response to the above summary:

The Council has undertaken a comprehensive review of the current fee structure and fee levels and this has included a detailed analysis and consideration of providers' actual costs. The actual costs identified in the

provide survey have been aggregated in order to identify average costs of providing residential and nursing care home provision in Nottinghamshire and this data has formed the basis of the future fee proposals.

The methodology used in calculating base fee from the information received from the provider survey was clearly set out in the consultation document and the NCA has previously provided feedback on this. As stated in the background papers, the proposed fee is based on averages of information returned by providers. The Council has adjusted staffing figures based on the Laing and Buisson 2012 survey and has made an assumption on average occupancy levels – the rationale for these adjustments has been fully detailed in the background papers and is summarised in Sections 5 and 6 below. Otherwise the Council has used all the data submitted in the survey questionnaire by providers without adjustment or exclusion.

The report to Adult Social Care and Health Committee and its appendices provide full details of the information used by the Council in determining and proposing future fee levels.

Detailed comments from the NCA and the Council's response to these

5 Staffing

The NCA states the Council's fee proposals do not reflect actual staffing levels. The NCA refers to the survey data which shows an actual average for residential care to be 28.7 hours per week and the actual average for nursing care to be 39.6 hours per week. The NCA states that the Council's fee proposals are based on staffing levels of 26.5 per week for residential care and 35.6 hours per week for nursing care resulting in a funding shortfall.

The Council's response:

In setting its fee proposals, the Council has taken in to account and given due consideration to the information submitted by providers about their staffing costs and following their feedback to the consultation, the Council has revised the proposed fee levels to allow for higher staffing levels at 28.1 hours per week for residential care and 37.4 hours per week in nursing care, as detailed in Table 5 in the background papers.

6 Occupancy

The NCA states that the proposal under estimates the occupancy level that is being and can be achieved for the average Nottinghamshire home with the actual reported occupancy being 83%.

The Council's response:

The Council currently funds placements in approximately 34% of the total number of beds in care homes across the County. Placements are also purchased by health, by other local authorities and by people who fund their own care.

The Council has noted that many homes are currently operating at average occupancy levels that are below 92%. However, the Council is not under any obligation to maintain placements at any particular level and equally, it is not reasonable for the Council to fund provider overheads for high levels of voids. The Council has based its fee proposals on providers operating at 92% occupancy and there are no systematic reasons why care homes in Nottinghamshire should not be able to operate at 92% occupancy or above.

7 Capital costs

The NCA states that the Council's proposals take the capital costs are based on 36K per bed where as £45K to £80K+ is the reality in the market. They state that this understates capital costs to the order of 100-200%.

The Council's response:

The fee proposals are based on the information that was returned from providers through the survey. As part of their analysis of provider survey data KPMG calculated the valuation per occupied bed would amount to approximately £36K (£35,743) based on an average home size of 39.7.

As detailed in background papers, there has been an increase in the number of older persons' care home beds in Nottinghamshire over the past five years. In the past two years alone, there have been 8 new purpose built older persons care home in Nottinghamshire. Also, existing providers are investing in upgrading or extending their care home provision. Providers have commented that the improvements have been made to the fabric of their buildings as a direct result of the local Fair Price for Care initiative. There is clear evidence that the fees paid by the Council have enabled providers to invest in their care home provision.

8 Inflation

The NCA states:

'The inflation indexing mechanism is welcomed but there are concerns:

- a. Because the base costs (reduced staffing, occupancy, training, admin etc) omits certain costs then the increase each year will not cover the real increases in cost so will lead over time to an increasing serious risk that residents will not have their needs met.

The Council's response:

The fee proposals are based on average costs derived from the provider survey, with some small adjustments to the staffing levels identified and with an average occupancy of 92% as outlined in sections 5 and 6 above.

- b. The indexing calculation performed in April each year will be based on the previous October's inflation (6 months in arrears at the start of the year and 18 months at the end of the year), so over the year the inflation

will be on average one year behind the actual costs. Historically care home inflation has run at levels up to 4 or 5% a year.

The Council's response:

The inflation index will be based on the previous October's indexing as noted by the NCA. However the risk works both ways - in a period of rising inflation fees based on a previous year's level of inflation will be increased by less than the current year's inflation but conversely in a period of falling inflation the increase will be set at a higher level. The purpose of using the previous year's data is that it provides a degree of objectivity and certainty compared to a purely estimated figure. It is recognised that there will always be some element of risk in setting fees in April for the forthcoming year as it is not possible to know for certain what the level of inflation will be in the future.

- c. The NCA are not clear whether the AWE accurately reflects the wage pressures on providers where the majority of staff are on the National Minimum wage which has historically increased at a faster rate than wages generally. This will need further discussions to fully understand the proposed mechanism.

The Council's response:

As in point (b) above, there are risks that actual inflation experienced by providers may be different to what is included in the fee uplift but again these risks could equally be to the benefit of providers. It is important to note that not all staff in care homes will be subject to National Minimum Wage increases. Analysis of the relevant index in relation to staff costs indicates that the National Minimum Wage is likely to apply to about two thirds of all care home staff i.e. to care assistants, catering, cleaning, maintenance staff, (this includes senior carers, nurses and managers). EARN03 provides a single, composite reference point for determining an inflationary increase. The alternative would be to develop individual indices for each staff group to be applied in different proportions which would significantly increase the complexity of any inflation index calculation.

- d. In future there will be incremental cost increases, eg statutory pension contributions, working time legislation changes, statutory tax changes and others yet unknown that the proposed mechanism will not cover. Unless the mechanism includes these factors will lead over time to an increasing serious risk that residents will not have their needs met.

The Council's response:

The Council acknowledges that there may be some impact on providers' costs arising from possible future changes listed by the NCA in point (d), however, it is important to stress that the inflation indices that are proposed are the most relevant to the sector and should in the main reflect actual costs pressures.

9 Summaries of provider responses

The NCA state that of their NCA responses to the consultation were omitted from the background papers. They refer specifically to the following:

- a. the estimate of fair price appears to underestimate the training that would be required, 5 days is too little to ensure correct standards are maintained.
- b. the estimate of fair price appear to omit some admin cost that would either be admin costs for smaller providers or central costs for larger providers.
- c. the proposal under estimates the level of overhead required. For example if providers follow your proposal this will lead to serious risk that residents will not have their needs met. For example £3.03 per day for food is insufficient.
- d. the proposals should be based on estimate costs at least at the 80th percentile rather than the average level where 50% of residents as the fees will not to cover the costs for all residents

The Council's response to points (a) to (d):

As previously stated, the Council has aggregated all of the responses received from the provider survey and has calculated the average costs of each of these elements. The use of averages means that the resulting proposals are based upon data reflecting a wide variety of providers and individual care homes across Nottinghamshire.

The data from the provider survey showed that the actual costs identified by homes did not correlate with the banding of the home. Given the average quality banding of the respondents to the survey was 3.2, the average cost of operating a care home in Nottinghamshire was re-calculated using the survey data, and then inserted at the mid-point of the banding. This reflects the fact that the cost data is an average and representative of all bands.

- e. The table of average cost by quality band require further understanding as it appears illogical that nursing care and care-only costs are so similar.

The Council's response:

As stated in the background papers, the actual costs identified by homes did not demonstrate significant differences either between residential care and nursing care or in relation to the banding of the home. Various other factors, such as the size of the home, do however have a significant impact on actual costs.

- f. The proposal under estimates the capital cost. NCA proposal that you obtain independent valuations of the costs of replacing current providers' buildings and plant

The Council's response to this is addressed in Section 8, above.

- g. The report makes no mention of the costs of fitting out, including carpets, furniture, soft furnishings and start up costs.

The Council's response:

The provider survey did seek provider costs in relation to 'repairs and maintenance', 'renewals of furnishings and equipment' and 'any other non-staff costs'. These were included in the non-staff costs element of the fee calculations and have been used to create an average cost of operating a care home in Nottinghamshire. In the background paper the Council has also stated that CPI will be used in the inflation calculation for non-staff running costs and 'repairs and maintenance' and 'other running costs' are index based, ensuring the non-staff element of the fee structure is kept in line with current operating costs.

- h. Because the return on operations is based on an artificially reduced level of care and overhead then the real return on operations is much lower than claimed

The Council's response:

The fee proposals include a return on operations of 18% based on the average costs that were identified by providers in their survey responses. The only exception to this was in relation to staffing costs and assumed average occupancy. These two adjustments have been made because there is an expectation that providers should operate their business efficiently. Within the current economic climate, the Council is of the view that it is reasonable to make these adjustments and then incorporate an 18% return on operations, based on the average costs.

10 Further information

The NCA states:

More detailed analysis of the proposed fee structure may identify further actual cost omissions. The NCA would also ask for a copy of the impact, equality and disability assessments.

The Council's response:

The survey questionnaire included collated information on all costs related to care home provision. When the survey questionnaire was complied, representatives of the NCA were asked to consider whether the questionnaire was clear, comprehensive and fair. The NCA also assisted the Council in piloting the questionnaire to ensure that it was comprehensive and easy to understand and to complete. As indicated, all the costs derived from the survey responses have been included in the fee proposals. There have been no omissions and where adjustments have been made (staffing levels and

assumed average occupancy) these have been clearly identified and reasons for the adjustments given.

The Council has completed an Equality Impact Assessment and this is a public document and a copy will be provided to the NCA.

11 Market Distortion

The NCA states that the current system is unfair as it supports self funders inconsistently with self funders being subsidised.

The Council's response:

The NCA's reference to the Council subsidising some self funders relates specifically to a small number of self funders that are living in a Council owned care home where the charge levied to the self funders is lower than the cost of the provision. Over a number of years, the Council been moving away from providing care services directly and has increased the number and range of services it commissions from independent sector providers. In accordance with this strategy, the Council has recently transferred ownership of six of its older persons' care homes to an independent sector provider.

The Council has retained six older persons' care homes and in support of its policy to reduce the numbers of people in long term residential care, is in the process of changing the remit of these six homes so that they provide care and support to people on a short term basis, often following a stay in hospital, as part of a reablement service to help them to regain their independence with the intention of helping them to return their own home wherever this is feasible.

Conclusion

- 12 The Council has explored all the costs that providers identified in the survey and all of these costs have been considered and addressed in the development of the fee proposals. The NCA has been involved throughout the review of the fee structure and fee levels. The Council has taken into consideration the feedback received from the NCA and from other providers throughout the extensive consultation process. This has included seeking evidence from the NCA in relation to their assertions about actual costs. Where the Council has made some adjustments or assumptions about providers' costs, these have been clearly identified and explanations provided.
- 13 As indicated in the report to Policy Committee, the fee proposals for older persons' care homes represent an average fee increase of 11.8% for 2013/14. The proposals include further fee increases aligned to increases in actual costs as identified through the relevant inflation indices over the following four year period.

COUNCILLOR KEVIN ROSTANCE

Chairman of the Adult Social Care and Health Committee

For any queries regarding this report please contact:

Caroline Baria,

Service Director, Joint Commissioning, Quality and Business Change

Email: caroline.baria@nottsccl.gov.uk