

## **Summary Sheet**

### **Council Meeting:**

Cabinet and Commissioners Decision Making Meeting – 13 February 2017

### **Title:**

Older People Independent Sector Care Homes – Annual Inflationary Fee Uplift  
2017/18

### **Is this a Key Decision and has it been included on the Forward Plan?**

Yes

### **Strategic Director Approving Submission of the Report**

Anne Marie Lubanski Director of Adult Care and Housing

### **Report Author(s)**

Jacqueline Clark – Operational Commissioning Manager

### **Ward(s) Affected**

All

## **Summary**

The purpose of this report is to agree the level of increase in fees for the Independent Sector Residential and Nursing Care Providers (people over 65 years) for the financial year 2017-18. The paper proposes 2 options to be considered against the context of the Rotherham Care Home Market. The details of the cost, associated impact and risk and how each option was arrived at are contained within section, 4 and 7 of this report.

## **Recommendation**

That approval be given to the preferred Option 2, which constitutes a 3.5% increase to be applied to the Residential, Residential Elderly Mentally Infirm and the Nursing care fee component and a 0% increase to be applied to Nursing Elderly Mentally Infirm care fee component.

**List of Appendices Included**

Nil

**Background Papers**

Care Act 2014 Statutory Guidance for Implementation

<https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>

Care Quality Commission – The State of Health and Adult Social Care – 2015/16

[http://www.cqc.org.uk/sites/default/files/20161019\\_stateofcare1516\\_web.pdf](http://www.cqc.org.uk/sites/default/files/20161019_stateofcare1516_web.pdf)

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

N/A

**Council Approval Required**

No.

**Exempt from the Press and Public**

No.

**Title: Older People Independent Sector Care Home – Annual Inflationary Fee Uplift 2017/18**

**1. Recommendations**

- 1.1 That approval be given to the preferred Option 2 which constitutes a 3.5% increase to be applied to the Residential, Residential Elderly Mentally Infirm and the Nursing care fee component and a 0% increase to be applied to Nursing care fee component.

**2. Background**

- 2.1 There are a total of 35 independent sector care homes (owned by 25 Organisation's) contracted to support older people in Rotherham. They provide a range of care types categorised as Residential Care, Residential Care for people who are Elderly and Mentally Infirm, Nursing Care and Nursing Care for people who are Elderly and Mentally Infirm.
- 2.2 The independent sector care home market in Rotherham provides 1779 beds and accommodates around 1593 older people Rotherham MBC is the dominant commissioner and purchaser with the majority of the resident population placed by Rotherham MBC. There is currently a vacancy factor of 186 beds or 10.5% of the total capacity.

Of the total care home population (1593 older people) around:

- 26% (409 people) are private paying clients including from out of Borough.
- 4.5% (72 people) are placed and funded by other local authorities'.
- 62% (987 people) are placed and funded by Rotherham MBC – this includes people who receive funded nursing care.
- 7.5% (125 people) are placed and funded by our health partners under continuing health care arrangements (fully funded by health).

**2.3 Occupancy levels by care type:**

The care home market requires a high occupancy rate to be sustained in each individual care home setting to help facilitate and maintain operational profitability. The table below shows typical occupancy rates in Rotherham's care home market by care type. There is high occupancy in nursing care type provision which is an area of increasing demand as a direct result of people living longer with more complex need.

Care Type	Occupancy by %
Residential	90
Nursing	95
Residential/Nursing	94
Residential Dementia Care	92
Nursing Dementia	95
Residential/Nursing Dementia	90
Residential/Residential Dementia	90
Nursing/Nursing Dementia	89

Rotherham MBC's strategic direction is to maintain people with care needs in their own home as long as it is safe to do so. This will require current provision to be replaced by alternative options of extra care schemes or enhanced home care which are being developed and will be available in the longer term.

Rotherham NHS Foundation Trust is required to carry out timely discharge of patients to alternative forms of care and prevent admission to acute bed capacity. A solution to increasingly complex care needs would be to increase nursing type capacity in the independent sector care home market. The high levels of occupancy in nursing type provision means there is a requirement to work with the Rotherham independent sector market to incentivise immediate growth in this area.

2.4 The pressures that the older people's care home market faces are well documented and are highlighted below:

- The impact of high nursing agency staff costs have been assuaged by the temporary increase in Funded Nursing Care fee from £112 to £156 in 2016. Funded Nursing Care supplements fees for residents who require a moderate level of nursing care (not Continuing Health Care).

The Department of Health has commissioned Mazars to undertake the review of the Funded Nursing Care fee and a report to the Department of Health will be available at the end of January 2017. There is currently no indication on the outcome of the review and the recommendations may include a reduction.

- The Government backed 'Centre for Work Intelligence' predicts that the NHS has 47,500 nurses less than it needs this year (2016). The enhanced terms and conditions of employment (pay, pensions, workplace support) offered by the NHS are a challenge for the independent sector market who are not able to compete to attract qualified nurses to work in care homes.
- The introduction of the National Living Wage in April 2016 set at £7.20/hr (for those aged 21 and over) will be increased by 4.17% as announced in the Autumn statement 2016 to £7.50/hr from April 2017.
- Compulsory employers' contribution to pension currently set at 1% up to April 2018 (rising to 3% by April 2019).
- Increasing high care requirements of residents for acute periods resulting in an intense demand on staff resource.

### 3. Key Issues

- 3.1 With the implementation of the Care Act from April 2014, local authorities have a duty to facilitate and shape their adult social care market to meet the needs of people who require care and support.

There is a requirement for the market to keep pace with demand and deliver high quality provision to the most vulnerable people in Rotherham. Both Rotherham MBC and our health partners require an adequate level of care home capacity at times of surge i.e. when there is a high activity of hospital discharges, planned or unplanned provider exit and in situations where embargoes are applied at poor quality care homes.

This report seeks approval to award an appropriate annual inflationary uplift which will support the sustaining of a high quality care home market providing appropriate environments and a skilled, competent, compassionate workforce for Rotherham's older people who require such service.

#### **4. Options considered and recommended proposal**

4.1 The report considers the following two annual inflationary uplift options:-

##### **4.2 Option 1 – No increase:**

Fees would remain at the current rate as at 2016/17. This option is not recommended as it does not support; the increase in the national living wage, higher premium for nursing care to meet complex needs and the increasing non staffing costs facing the sector. The current fee levels are contained in the table below:

<b>2016/17</b>	<b>Residential Care</b>	<b>Residential Care Elderly Mentally Infirm</b>	<b>Nursing Care</b>	<b>Nursing Care Elderly Mentally Infirm</b>
Option 1	417	451	421	518

##### **4.3 Option 2 - which constitutes a 3.5% increase to be applied to the Residential, Residential Elderly Mentally Infirm and the Nursing care fee component.**

The formulae used to calculate the level of fee increase takes into account 60% pay related cost and 40% non-pay cost. A 60% increase in National Living Wage of 4.17% is equal to **2.5%**. The non-pay related cost calculation is based on the Consumer Price Index (CPI) published at September 2016 by the Office of National Statistics (ONS) which was 1% and therefore is equal to **0.4%** using the formula. In addition a **0.6%** increase will accommodate the compulsory employer's pension contribution.

Option 2 also takes into account that the fees applied to residential, residential Elderly Mentally Infirm care and Nursing care in Rotherham are low in comparison to those paid in other Local Authorities (paragraph 5.2) and current fees for nursing Elderly Mentally Infirm provision compares favourably.

## 5. Consultation

- 5.1 There has been representation from the independent sector care home proprietors but there has been no formal challenge to date. Rotherham MBC has been consistent in their approach in previous years in awarding an inflationary uplift. However last year in 2016-17 an inflationary uplift was restricted to residential type care fee component and a slight increase on the nursing care fee component which was based on the amount of resource available.
- 5.2 Benchmarking with other LA's has been undertaken. The table below details indicative for comparison with Rotherham's current standard rate for 2016/17:

2016/17	Residential Care	Residential Care Elderly Mentally Infirm	Nursing Care*	Nursing Care Elderly Mentally Infirm*
<b>Rotherham</b>	<b>£417</b>	<b>£451</b>	<b>£421</b>	<b>£518</b>
Doncaster	£439	£439	£439	£486
Wakefield	£465	£465	£465	£465
Barnsley	£401	£434	£419	£424
Kirklees	£455	£475	£470	£491
Calderdale	£402	£457	£455	£497
Sheffield	£377 minimum - £425 maximum		£420 minimum - £439 maximum	

\*Excluding Funded Nursing Care element at £156.25

In terms of benchmarking with Rotherham's nearest neighbours, Rotherham's current Residential, Residential Elderly Mentally Infirm and Nursing care fees are low in comparison but Rotherham MBC's Nursing Elderly Mentally Infirm fees are the highest.

## 6. Timetable and Accountability for Implementing this Decision

- 6.1 The application of the agreed option will commence to coincide with the fiscal calendar and will be applied by the Strategic Director of Adult Care and Housing.

## 7. Financial and Procurement Implications

- 7.1 The financial implications for the two options are:

**Option 1 – No increase** = No additional cost to the Council

**Option 2 – 3.5% increase residential, residential Elderly Mentally Infirm and nursing care fee component** = £660k additional cost to the Council

- 7.2 The table below details the weekly fees aligned to each option for 2017/18:

<b>2017/18</b>	<b>Residential Care</b>	<b>Residential Care Elderly Mentally Infirm</b>	<b>Nursing Care*</b>	<b>Nursing Care Elderly Mentally Infirm*</b>
Option 1	417	451	421	518
Option 2	432	467	436	518

\*Excluding Funded Nursing Care at £156.25

- 7.3 The application of option 2 would contribute to sustaining care homes that deliver nursing and residential dementia care which are the areas of high pressure and demand; and will continue to support continuation of provision of residential care until alternative care options are available. This option would ensure Rotherham MBC constrain cost pressures within available resources.

The cost of this option is £660k and is affordable within available resources and therefore it is the recommended option.

## **8. Legal Implications**

- 8.1 There is strong support for the sector to increase local authority fee levels from influential organisations such as Laing & Buisson.
- 8.2 Section 5 of the Care Act 2014 establishes a duty on local authorities and Directors of Social Services to promote diversity and quality in the market of care and support providers of services available, offering a range of services shaped by the demands of individuals, families and carers, and that those services are of high quality, in order to meet the needs and preferences of people wanting to access service.
- 8.3 Section 48 of the Care Act requires that a local authority must for so long as it considers necessary meet an adult's (and their carers) needs for care and support when the registered care provider becomes unable to carry on the regulated activity in the authority's area.
- 8.4 In order to comply with those duties when setting fees, the Council needs to have due regard to the actual cost of care, in particular in relation to local factors. If it fails to do so there is a potential legal challenge from providers.

## **9. Human Resources Implications**

- 9.1 This report has no direct implications for human resources for Rotherham MBC. However, the social care market employs many people on the National Minimum Wage. They now face the burden of an increase of 30 pence per hour to meet National Living Wage requirements in 2017/18.

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 There are no implications for children and young people as a result of the recommendation made in this report. The recommendation will positively

impact on vulnerable older people in that it will contribute to the longer term financial stability of the care home market.

## **11 Equalities and Human Rights Implications**

11.1 The recommendations in this report if accepted contribute to supporting:

- the financial viability of Rotherham's care homes that support vulnerable older people
- the provision of high quality care
- the care home market to meet its obligations under the Equality Act as an employer.

## **12. Implications for Partners and Other Directorates**

12.1 Care Home capacity is secured by Rotherham MBC on behalf of our Health Partners. Failing to secure a viable care home market will negatively impact on our health partners who will be unable to manage admission/discharge arrangements for patients.

12.2 Rotherham CCG will be informed of the conclusion of this report in order that their review being undertaken around Continuing Health Care fees are aligned to complement the Rotherham MBC rates.

## **13. Risks and Mitigation**

13.1 National organisations who own the larger care homes hold a majority market Share in Rotherham. Large care homes will have the biggest impact in provider failure situations. A sudden unplanned exit of a care provider from the market will place a burden on Rotherham MBC to sustain service to the most vulnerable people.

13.2 Approximately 70 nursing beds have been decommissioned over the previous 3 years against increasing demand for this type of care. There is a requirement to incentivise the market to increase capacity to enable an adequate response to demand.

13.3 In order to give proper consideration to the longer term financial viability of the independent sector care home market an assessment is being undertaken by the Strategic Commissioning Team. Work is to continue with providers to fully understand the cost of residential and nursing care. The conclusion of this assessment is expected in January and will be reported in March 2017. The outcome of this work will inform the future longer term financial planning and market shaping activity.

13.4 The independent sector contracted care home market is monitored for quality and compliance with standards by the strategic commissioning team. A reduction in quality of care delivered in a care home is an indication of financial distress. There are currently no indications of financial difficulties and monitoring continues with strategic oversight.



#### **14. Accountable Officer(s)**

Approvals Obtained from:-

Strategic Director of Finance and Corporate Services:- Mark Scarrott

Director of Legal Services:- Neil Concannon

Head of Procurement (if appropriate):-

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