

**REPORT TO:** Executive Board

**DATE:** 26 March 2015

**REPORTING OFFICER:** Strategic Director, Communities

**PORTFOLIO:** Health & Wellbeing

**SUBJECT:** Fee Levels for Residential and Nursing Care 2015/16

**WARD(S)** Borough-wide

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Executive Board of proposed fee levels for Residential and Nursing Care as from April 2015.

## **2.0 RECOMMENDATIONS: That Executive Board**

- 1) note the contents of the report; and**
- 2) agree fee levels as set out in paragraph 3.5**

## **3.0 SUPPORTING INFORMATION**

3.1 The Council currently contracts with a range of residential and nursing care providers who provide a range of care services. A contractual agreement has been in place for considerable time and there have been various National issues raised regarding a "fair price for care" fee this has resulted in a number of judicial reviews across England. It was therefore agreed with care home providers that a review of fees take place. Any final set of fees must be both financially sustainable for the Council and ensure the continuance of high quality care and market stability. The Council currently spends circa £18m per annum on residential and nursing home placements.

3.2 External consultants were engaged in November 2014 ,this was necessary because of the specialist nature of the financial work involved in determining the 'Fair Price for Care', to provide a level of independence and to engage consultants who have worked with other Councils facing similar issues. Following a procurement exercise the following brief was agreed:

- To develop for consideration by the Council a "fair price for care" fee, inclusive of Borough Council and Continuing Health Care funding, compliant with the National Assistance Act 1948 (Choice of Accommodation) Directions 1992 and Local Authority Circular LAC (2004)20 and as developed in relevant case law and which has regard to the Council's financial position so far as is reasonable;
- To review fee sustainability in Residential and Nursing Homes (including

establishing and updating information on the elements that make up the unique 'standard cost of care').

3.3 The process to date has included:

- Gathering information on comparative fees from CIPFA comparator authorities;
- Undertaking two consultation events to explain context and seek provider input into the process, which were attended by 8 representatives of five providers;
- Consulting with stakeholders including providers through one-to-one interviews

3.4 The findings from the consultants were:

- Average fee levels and numbers of people with funded residential and nursing care are not substantially different from the average of the comparator groups;
- Unit prices for residential and nursing care are a little below comparator averages and most neighbouring authorities but not substantially so;
- Based on local costs and prices the fees currently paid can cover the average cost of running a care home in the Borough;
- The average local occupancy rate is above 90% (higher than the national average of 87%) indicating that current local homes are viable on this metric;
- The Council has limited difficulty in placing people with local providers in most (but not all) cases;
- Most providers understand the Council's budgetary position and, whilst frustrated by increasing costs, have worked proactively to ensure high occupancy levels and improve quality. There is little indication that maintaining fees at current levels would lead to mass withdrawal from the market by providers. However, there is a difference here between small-scale local providers and larger scale providers with the former reporting greater cost pressures.

3.5 The recommendation from the consultants was that 0% inflation should be applied for 2015/16 with increases in the following two years, but they also pointed to the need to maintain market stability.

A draft report setting out these proposed fee levels was sent to providers on 25<sup>th</sup> February, 2015 requesting comments by 12<sup>th</sup> March, 2015. This timescale was extended until the 16<sup>th</sup> March, 2015 in response to some providers comments.

Two detailed responses were received, and these are now considered.

### Comments on provider figures

	RQ	Provider X	Diff	
Staffing	£323.3	£391.3	£68.00	21%

Maintenance	£40.99	£33.71	-£7.27	-18%
ROC/profit	£57.71	£250.57	£192.86	334%
	£522.73	£773.55	£250.83	48%

The table above compares RedQuadrant bottom up assessment of weekly local costs per unit<sup>1</sup> with figures presented by Provider X for Nursing Home. Comments;

- Staffing costs for Provider X are greater than those modelled by RedQuadrant. Rates of pay for qualified and un-qualified appear quite close in both models. The main difference relates to the number of hours care being provided, particularly by non-qualified staff where there is £62 differential. Provider X are providing 630 hours per week in a 21 unit home (30 hours per person) whereas RedQuadrant modelled 965 hours per week in a 46 unit home (the Borough average equivalent to 21 hours per person): staffing levels are ultimately a matter for Provider X but this level of staffing does not seem warranted as a basis for paying fees. Management costs are £12 per week because of the inclusion of a Deputy ; again staffing arrangements are a matter for Provider X but it is difficult to see why the Council should be expected to pay for this extra post
- The substantial difference however relates to Return on Capital/profit. Provider X have included a rental charge equivalent to £121.65. We are unclear as to whether this represents a charge to an external landlord or an internal recharge. However it is more than double RedQuadrant's calculation of £57.71 as a reasonable Return on Capital. They have then added a further 20% (£128.92) onto direct costs as dividend/profit. The total impact of these is that they are expecting 47% on top of direct costs as ROC/profit – there is no reason for the Council to consider ROC/profit at this level as constituting a reasonable cost of care

	<b>RQ</b>	<b>Provider X</b>	<b>Diff</b>	
Staffing	£368.0	£399.4	£31.39	9%
Non-staffing	£100.73	£104.21	£3.49	3%
Maintenance	£40.99	£33.71	-£7.27	-18%
ROC/profit	£57.71	£253.32	£195.61	339%
	£567.43	£790.64	£223.21	39%

The table above shows the same comparison for Nursing EMI costs. A similar pattern emerges as above but it is less attenuated. Provider X are providing 29 hours per person whereas RedQuadrant modelled 26 hours; this, together with the Deputy explains the difference in staffing figures. The ROC/profit point is the same as above.

Provider Y weekly costs and comparison with RedQuadrant figures are presented below:

<sup>11</sup> These figures vary slightly from the current rates but only by 1-2%

<b>Residential</b>	<b>Provider Y</b>	<b>RQ</b>	<b>Diff</b>	<b>% diff</b>
Staffing	£230.69	£196.58	<b>£34.11</b>	<b>17%</b>
Non-staffing	£102.44	£100.73	<b>£1.71</b>	<b>2%</b>
Maintenance	£37.94	£40.99	<b>-£3.05</b>	<b>-7%</b>
ROC/profit	£151.73	£39.99	<b>£111.73</b>	<b>279%</b>
	£522.79	£378.28	<b>£144.51</b>	<b>38%</b>

<b>Residential EMI</b>	<b>Provider Y</b>	<b>RQ</b>	<b>Diff</b>	<b>% diff</b>
Staffing	£256.60	£267.80	<b>-£11.20</b>	<b>-4%</b>
Non-staffing	£102.44	£100.73	<b>£1.71</b>	<b>2%</b>
Maintenance	£37.94	£40.99	<b>-£3.05</b>	<b>-7%</b>
ROC/profit	£153.80	£39.99	<b>£113.81</b>	<b>285%</b>
	£550.78	£449.51	<b>£101.27</b>	<b>23%</b>

<b>Nursing General</b>	<b>Provider Y</b>	<b>RQ</b>	<b>Diff</b>	<b>% diff</b>
Staffing	£315.67	£323.30	<b>-£7.63</b>	<b>-2%</b>
Non-staffing	£102.44	£100.73	<b>£1.71</b>	<b>2%</b>
Maintenance	£37.94	£40.99	<b>-£3.05</b>	<b>-7%</b>
ROC/profit	£158.52	£57.71	<b>£100.81</b>	<b>175%</b>
	£614.57	£522.73	<b>£91.84</b>	<b>18%</b>

<b>Nursing EMI</b>	<b>Provider Y</b>	<b>RQ</b>	<b>Diff</b>	<b>% diff</b>
Staffing	£346.77	£368.01	<b>-£21.24</b>	<b>-6%</b>
Non-staffing	£102.44	£100.73	<b>£1.71</b>	<b>2%</b>
Maintenance	£37.94	£40.99	<b>-£3.05</b>	<b>-7%</b>
ROC/profit	£161.01	£57.71	<b>£103.30</b>	<b>179%</b>
	£648.15	£567.43	<b>£80.72</b>	<b>14%</b>

- Staffing: in three of the four categories staffing costs (and indeed all direct costs) in the Provider Y model are slightly less than modelled by RedQuadrant. There appears no clear reason why staffing costs should be greater in the residential model
- ROC: whilst the case law is clear that ROC is a legitimate part of the cost of care calculation the expected ROC of £113 per unit per week is equivalent to 13% of land/build costs is way in excess of what is reasonable (particularly when combined with expectations of operator profit) and is even greater than the 12% in the Laing and Buisson model
- Profit an 8% profit on top of a 13% ROC is not defensible: we would argue that profit should not be considered when ascertaining the costs of care

Having considered carefully the representations from providers and in particular the

need to maintain market stability with a reasonable cost for care the revised position is that 0.82% inflation will be applied in 2015/16, 2016/17 and 2017/18. Hence, the proposed fee structure is:

Older People: Based on the above the following rates would apply over the three years. Current and previous rates are included for comparison:

<b>Type of placement</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Older People Residential	£363.71	£376.08	£379.16	£382.27	£385.45
Older People EMI	£434.71	£443.40	£447.04	£450.71	£454.85
Older People Nursing	£393.98	£401.86	£405.16	£408.48	£411.88
Older People Nursing EMI	£453.09	£462.15	£465.94	£469.76	£473.67
Older People CHC	NA	NA	£586.38	£591.20	£596.13

Other client groups: For mental health and learning disability residential placements we propose moving to an approach where a standard base fee is set as above but recognising that additional package costs may need to be negotiated.

For adults under 65 with mental health problems requiring residential care we propose a base rate of £419.56 for 2015/16, rising to £423.00 in 2016/17 and £426.52 in 2017/18

For adults with learning disabilities requiring residential care we propose a base rate as follows;

<b>No of beds</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
6	£461.53	£465.32	£469.20
8	£440.11	£443.72	£447.42
10	£495.65	£499.72	£503.88
12	£418.68	£422.12	£425.64
14	£412.56	£415.95	£419.42
15	£410.12	£413.48	£416.93
16	£407.98	£411.32	£414.75
18	£404.41	£407.73	£411.12
20	£401.55	£404.84	£408.22

For adults with physical disabilities there are very few homes in the Borough. Thus we propose that individual fees be agreed with each home.

The consultants also recommend that due regard and consideration should be considered where individual homes think the fees recommended are not adequate. However, these should be assessed on the basis of an 'open book' exercise. This recommendation should be accepted.

Finally, if having taken into account all of the information available, the Executive Board considered that the recommendation would not result in being able to meet the care needs of the supported residents; the Executive Board could decide to set fees at a higher level.

Whilst the financial implications of any decision and affordability in the context of the budgetary constraints faced by the Council, are legitimate factors to be taken into account, they must not be the sole reason and would not justify the Council knowingly setting its 'usual costs' below the level necessary to meet assessed care needs. However, the work undertaken by RedQuadrant provides a firm and solid background for decision making.

#### **4.0 POLICY IMPLICATIONS**

4.1 The Department of Health Guidance and subsequent case law make clear of the setting of care home fees must be evidential and follow a credible process. The work as set out in this report conforms to these criteria.

#### **5.0 OTHER/FINANCIAL IMPLICATIONS**

5.1 The proposed fee structure is deliverable within the Council's finances.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children & Young People in Halton**

None Identified.

##### **6.2 Employment, Learning & Skills in Halton**

A sustainable care home market supports local employment.

##### **6.3 A Healthy Halton**

High quality residential and nursing care is essential for the health and well-being of the local population.

##### **6.4 A Safer Halton**

None identified.

##### **6.5 Halton's Urban Renewal**

None identified.

#### **7.0 RISK ANALYSIS**

7.1 The proposed fee structure may pose risk to some homes with regard to their sustainability. However, the Directorate will consider individual requests for additional fees, but only if these are accompanied by an 'open book' process.

#### **8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The setting of reasonable and sustainable care home fees will result in a consistent quality of care for older people in Halton.

## **9.0 REASON(S) FOR DECISION**

9.1 The setting of care home fees supports delivery of the priorities of the Council, Halton Clinical Commissioning Group and the Health and Well-Being Board.

## **10.0 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

10.1 None identified.

## **11.0 IMPLEMENTATION DATE**

11.1 1<sup>st</sup> April 2015.

## **12.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

<b>Document</b>	<b>Place of Inspection</b>	<b>Contact Officer</b>
Residential and Nursing Home Fee Consultation and Analysis for Halton Borough Council: consultation with providers plus responses from providers	Runcorn Town Hall	Paul McWade
Provider X response	Runcorn Town Hall	Paul McWade
Provider Y response	Runcorn Town Hall	Paul McWade