

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**21 March 2019**

**Report of the Strategic Director for Adult Social Care & Health**

**INDEPENDENT SECTOR CARE HOME FEES 2019-20**

**ADULT SOCIAL CARE**

**1. Purpose of the Report**

To seek Cabinet approval to:

- increase the rate paid to independent sector residential care homes for the financial year 2019-20 by 4.80% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2019-20 by 5.43% per week
- make an inflationary payment of up to 4% for specialist care home placements where evidence is provided of inflationary pressures;
- set a rate of £39.82 per session (from £38.28 per session) for a day care placement in a care home;
- increase the rates for in-house day care by 4.80%;
- increase the dementia fee rate to £44.52 per week (from £42.84)
- make an inflationary payment of up to 3% for well-performing block contracts in specific circumstances.

**2. Information and Analysis**

**2.1 Background**

The Council has contract arrangements in place with over 350 independent sector care homes that provide residential services to approximately 2,856 people as detailed below:

- 921 people in nursing placements where the person needs constant involvement of, or supervision of, a qualified nurse;
- 1,867 residential placements.

A further 458 people are supported in Council run Care Homes.

## **2.2 Fee Levels**

A comprehensive review of fee levels for independent sector care services is undertaken annually. To assist with this review representatives of the Derbyshire Care Providers Association ("the Association") were invited to meet with Councillor Jean Wharmby, Cabinet Member for Adult Care and Julie Vollor, Service Director for Adult Care on the 14<sup>th</sup> February 2019 to set out particular business pressures affecting the care market and their costs.

The Association continue to express its view that the detailed fee analysis and consultation previously undertaken by the Council was flawed and the fee rates do not cover their actual costs. The Association have requested that the Council undertake a new study to better understand their costs.

The views shared at this meeting have assisted the Council in detailing 2019-20 fee proposals described in this paper. See appendix 1 for a copy of the paper presented by the Care Association at this meeting. Adult Care has also received additional requests from other Care Home providers not represented by the Association for a fee increase to reflect inflationary pressures.

## **3. Financial Considerations**

Care Home providers have highlighted a number of additional cost pressures for 2019/20 in the paper attached in Appendix 1 these concerns include;

### Wage and pension pressures

Providers have identified that the National Living Wage is due to increase by 4.8% for staff aged 25 and over from 1 April 2019 (from £7.83 per hour to £8.21 per hour a 38p increase).

The auto pension enrolment was another area that providers felt the Council should build in to the fee rate increase. Under the Pensions Act 2008, every employer in the UK must put certain staff into a pension scheme and contribute towards it. This is called 'automatic enrolment'. As part of these changes providers will now need to make an additional pension payment of 1% on top of the 2% they already have to make on behalf of all eligible staff.

Council response:

For the increase of the National Living Wage the Council has decided to use the 4.8% minimum wage increase for all staff costs including staff aged under 25 to assist with maintaining wage differentials.

The auto-enrolment pension scheme has been subject to a national introduction over the past few years. It has been nationally accepted that the costs to a provider from 1 April 2019 should be in the region of an additional 1% on their staffing bill. It is proposed as part of developing a fee settlement for 2019-20 that overall staff costs should be increased by 3% to enable providers to meet this requirement and the increase in the minimum wage.

### Nursing provision

The Association has requested that the Council respond in the fee setting exercise to concerns in respect of sustainability of Care Homes with Nursing. The Association has highlighted that they experience extreme difficulties with recruitment and retention of nursing staff. They have also noted that a number of homes have recently deregistered from providing nursing beds with the intention of only offering residential beds.

The Association has asked the Council to refer to a review undertaken by Mazars LLP (accountancy specialists) on behalf of the Department of Health in 2015-16 and 2017-17 into the rate of NHS Funded Nursing Care. When making a placement into a nursing home the nursing care element of the placement including the cost of nurses is funded by the NHS. The funding covers the tasks identified by a nursing needs assessment as those that need to be carried out or supervised by a qualified nurse. The Association have requested that the Council consider the overall findings of the Mazars analysis of the costs of nursing care. Mazars suggested that all the activities (including direct, indirect nursing care and non-nursing care) undertaken by a registered nurse costs £199 per week (includes NHS uplift of 2% in 2018-19). The NHS decided that they are only responsible for the direct nursing costs and the other costs attributed to nursing activity should be the responsibility of the Local Authority.

The difference between the fee rate of £158.16 (2018-19) paid by the NHS and the £199 inclusive of indirect nursing costs is £40.84 which the Association expects the Council to contribute towards.

### Council response:

The sustainability of the Nursing Care Home market is of great importance to the Council as it assists with ensuring that there are suitable places for people to live following a period of admission in hospital.

The fee contribution made by the Council towards placements in a Care Home with Nursing is £34.79 per week. This is paid on top of the standard fee paid by the Council to Care Homes to reflect the complexity of the service. It is paid alongside the NHS Funded Nursing Care Payment of £158.16 (2018-19 rate) per person per week.

Ensuring homes have a settled group of nursing staff is likely to contribute towards improved levels of care and will help to maintain availability of Nursing Care home beds at a time that the Health and Social Care system needs to be able to support Early Discharge from Hospital. It is also acknowledged that Care Homes are leaving the nursing market. The Council as part of its responsibility to promote a sustainable market has acknowledged the need to make a targeted increase of £5.11 to inflate the Nursing Care fee differential to £39.90 from £34.79 per week to help with sustaining the Nursing Care Home Market.

### **3.1 Fee Rate Methodology**

The method for identifying the proposed fee rates builds on the work previously undertaken to identify a basic care home fee rate as detailed in the paper presented to Cabinet on the 9 September 2014. As part of this work the Council asked care home providers to complete a questionnaire to evidence their costs. The Council then used standard cost headings to analyse the returns before identifying values against each cost head - see Appendix 2.

To develop fee rate proposals for 2019-20, the amount paid under each cost heading has been increased based on a set of assumptions about inflationary pressures – see Appendix 2. These proposals have taken account of the feedback received from Care Home providers. Based on this analysis, it is proposed to increase fee rates for basic care home provision by £24.67 per week which is equivalent to a 4.80% increase on the fee rate for 2018-19.

This methodology has been consistently challenged by the Association and a request has been made in correspondence for the Council to commission an independent review of the actual costs of care. The Council is satisfied that its analysis and methodology is correct and so such a review is not necessary.

As part of their challenge the Association has also argued that the Fee Model used by the Council which assumes that there is a 90% bed utilisation rate across the market is inaccurate. Representatives of the Association have stated that homes are now operating at an occupancy level of 80%.

The Council has reviewed the information available on bed vacancies that are shared by the Care Homes with the Adult Care Brokerage Team. Currently it is reported that as of 14 January 2019 there were 478 vacant beds out of a total of 7600 regulated care beds as reported by the Care Quality Commission. This equates to bed utilisation of 90%. The Council will continue to monitor the referral rates into Care Homes as part of our duty to manage the market and will take this in to account alongside other factors when considering future fees.

The Association has also expressed concern about the Council's own Care Home provision and the fees paid for the beds in the Community Care Centres. They have argued that the rates paid for Direct Care provision is greater than the council is prepared to pay for equivalent provision in the independent sector.

In each of the Community Care Centres and in some of the other residential Care Homes the Council operates provision where there is substantially higher levels of staffing available to match the assessed need of the client. In some cases staff are responsible for working with clients as part of a specialist reablement programme. The Council is satisfied that these fee levels match the needs of people using the services.

### **3.2 Impact of the Proposals on Care Home Fees for other Client Groups**

The proposals made in this report, and summarised in Appendix 2, focus on the basic fee rates for older people. It is proposed to also increase the base fee rates by 4.80% for other client group placements. This includes care home provision for people with a physical disability, people with learning disabilities and people with mental ill health- see Appendix 3.

The changes proposed to the basic fee rates for other client groups will not change the level of funding already paid against specialist care home placements where fee rates have been individually negotiated to ensure that the needs of people who require complex support/care arrangements are met. The fees for specialist placements are often substantially more than the standard care home fees.

The additional funding (top-up) paid for a specialist placement reflects the greater investment in staff and training to meet an individual's needs. It is proposed that top up payments of up to 3% can be agreed with providers in receipt of specialist placements where they can evidence their increase in costs.

### **3.3 Day Care Placements in Care Homes for Older People**

Some people who are supported to live in their own homes are able to use day care places in care homes for older people. The care home is often situated close to where an individual lives and they frequently help with transport to and from the home and provide meals. In some cases homes will also provide a bathing service and are very flexible with places being made available at weekends and evenings, which can help Carers to get a break. The standard fee rate paid by the Council for day care placements in independent sector care homes is currently £38.28 per day. It is proposed for 2019-20 that this fee level to be paid to providers is increased by 4% to provide a new daily fee of £39.82 per day.

#### **4. Block Contracts**

Adult Care has a small number of block contracts with independent sector profit and not for profit organisations. A number of these agreements were established before the introduction of the National Living Wage. A small number of providers have requested an inflationary increase to assist them with meeting this additional unforeseen cost. It is proposed that payments of up to 3% can be agreed with providers who operate block contracts on behalf of the Council where they can provide detailed evidence of their increase in costs relating especially to the increase in minimum wage rates as well as showing that they are meeting their agreed targets for activity and performance.

#### **5. Financial Considerations**

The estimated cost of this proposal to increase fee rates from 1 April 2019 is £6.147m. The costs will be met from the additional Improved Better Care Fund allocation

#### **6. Legal Considerations**

According to case law and guidance from the Department of Health, “Building Capacity and Partnership in Care” (2001) the Council should take steps to ensure that fee setting reflects the actual costs of care. The rates should also take into account the legitimate current and future costs, and the potential for improved performance and most cost effective ways of working.

In accordance with the Care Act 2014, the Council is under a duty to promote diversity and quality in the market of care and support provision. The Association has put forward an argument that the Council, in failing to increase the fee rates more, is in breach of this statutory duty. The Council is satisfied that the methodology used in calculating the proposed fee increase is equitable and properly reflects the increased cost pressures highlighted by the providers.

#### **7. Equality and diversity Considerations**

Providers are required to adhere to Derbyshire County Council’s Equal Opportunities policies. The Council also encourages Providers to gain the Derbyshire Respect and Dignity award.

#### **8. Other Considerations**

In preparing this report the relevance of the following factors has been considered: human resources, health, environmental, transport, and crime and disorder considerations.

## **9. Key Decision**

Yes

## **10. Is it necessary to waive the call-in period?**

No

## **11. Officer's Recommendation**

That Cabinet agrees to:

- increase the rate paid to independent sector residential care homes for the financial year 2019-20 by 4.80% per week;
- increase the rate paid to independent sector nursing homes for the financial year 2019-20 by 5.43% per week
- make an inflationary payment of up to 4.0% for specialist care home placements where evidence is provided of inflationary pressures;
- an updated fee rate of £39.82 per session (from £38.28 per session) for a day care placement in a care home;
- increase the rates for in-house day care by 4.8%;
- an updated dementia fee rate of £44.52 per week (from £42.84)
- make an inflationary payment of up to 3% for well-performing block contracts in specific circumstances.

**Simon Stevens**  
**Acting Strategic Director – Adult Social Care & Health**  
**County Hall**  
**Matlock**

## Appendix 1

### **Notes for meeting with Derbyshire County Council on 07 February 2019** **Provided by Derbyshire Care Association** **Duty of the Local Authority under the Care Act**

In performing its duty to promote the efficient and effective operation of the market, the Council is required to have regard to “the importance of ensuring the sustainability of the market”. The Department of Health’s guidance on this point highlights the impact that a local authority (as a significant purchaser of care) has on the sustainability of the market. Specifically, the guidance states: “Local authorities **must not** undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality – for example, by setting fee levels below an amount which is not sustainable for providers in the long-term.” (paragraph 4.35 of DoH ‘Care and Support Statutory Guidance’)

The Guidance also states that:

“Local authorities should understand the business environment of the providers offering services in their area and seek to work with providers facing challenges and understand their risks.”

Over the last few years there have been no investment into local authority funded areas by the independent sector solely because of the lack of funding by the Derbyshire County Council. On the contrary, some homes have either de-registered nursing services or closed down (most recently Amberleigh Manor closed down their residential home in Blackwell where residents were predominantly council funded).

In areas such as Nottinghamshire where the council fee to the independent sector is significantly higher there have been an influx of investment in new care homes in council funded areas.

#### **DCC Fee Model for independent sector is flawed**

- Outdated by 8 years. Need a new study – responsibility of council under the Care Act to understand our costs.
- Flaws have been shown to council every year.
- All other studies show that the DCC fee is significantly below true cost of care.

#### **1. Independent study by NCC and independent sector 2018/19:**

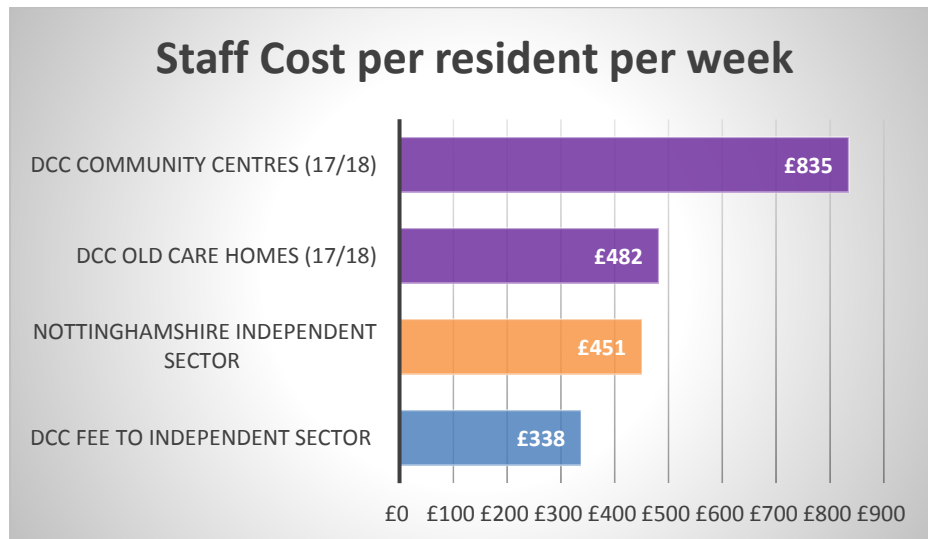
- o Actual cost over £700 per week
- o Minimum £195 underfunding in Derbyshire

#### **2. Staffing Costs – pay below National Living Wage**

- Staff hours increased over the years – not reflected in DCC cost model



- Staff costs in DCC model unrealistically low – see graph below
- National average rostered hours 32 per resident per week (English Care study) => **DCC pay below national living wage (£6.60)**
- Agency Staff – DCC spend £33.50 per resident per week. Nothing allowed for independent sector in the cost model by DCC.



Note: DCC costs have been adjusted for occupancy allow cost per resident (instead of cost per bed) so it's comparable with the independent sector

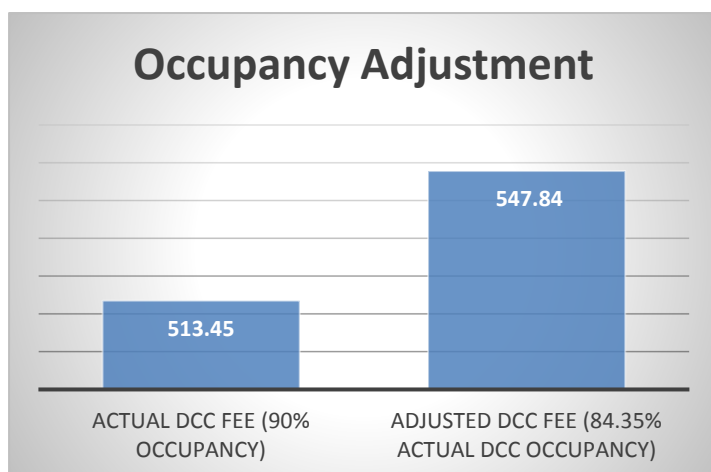
### 3. Nursing Fees

- Currently DCC pay a £35 difference to residential fees (excluding FNC)
- National study by Dept of Health (Mazar) identified a £40 difference in Registered Nurse Staff costs alone (to be funded by council)
- Other extra nursing costs not taken into account
  - o Manager (nurse qualified – higher salary)
  - o Lower occupancy due to shorter length of stay
  - o Higher risk – clinically (health and safety) and commercially
  - o Recruitment fees – mainly recruit via recruitment agents at £4000 per candidate
  - o Additional care staff
  - o Additional equipment (special beds, mattresses, chairs, medical products etc)
- Considering that the council is expecting to require an additional 900 nursing beds every 5 years, how is the council going to encourage investment? The current level of funding does not allow for any new investment into council funded areas and even encouraging de-registration and closures in the independent sector.

### 4. Occupancy:

- DCC operate on average 84.35% occupancy. This is consistent with occupancy in the independent sector (see current DCC bed vacancy stats and cost study on independent sector by DCC).

- Yet the funding for the independent sector assumes constant 90% occupancy
  - o £34 underfunding based on DCC's own figures for the independent sector (see below graph)
- Even more difficult for nursing homes. Average length of stay for long term resident is half of residential.



## 5. Additional cost pressures

- NLW – 4.9%
- Recruitment costs – only £1366 allowed for 40 bed home. Recruitment agent charge £4000.
- Electricity contract up 25% (two year period)
- Gas contract up 65% (two year period)
- CQC increase (not yet published)
- Food (DCC model £23, Nottinghamshire study £26, DCC own homes £26). Are independent sector homes expected to provide less food?
- Trade Waste and Clinical Waste (DCC Model £1.71, actual £3 – invoices can be provided)
- Insurance- (DCC Model £2.45, no claims home £3.57, Notts £4 – invoices can be provided).
- Apprenticeship levy (£4) / direct training cost
- Pension contribution increasing to 3%.
- Equipment – less provided to the independent sector – see change in Equipment List requiring residential homes to provide nursing equipment.

## 6. DCC in-house care homes

- The cost of operating the in-house Community Care Centres for residential clients is above £1,400 per resident (adjusted council's cost per bed to cost per resident plus overheads and cap ex costs).
- Yet the charge to self-funding clients is £986 per week. That means the public is subsidising 'self-funding' clients by over £400 per week. We

understand that the council is obliged to charge out the full cost and wish to understand what is being done about this.

- Considering that the council forecasting a reduction in residential care placements by nearly 300 over the next 15 years (equivalent to 10 care homes), how does it justify building new care homes for residential care?
- The excessive cost of the in house provision could instead be used to fund:
  - o Independent sector fees to incentivise new nursing provision as that is what the council has said is required
  - o A stable independent sector as per the requirement of the Care Act
  - o Provide savings to the tax payers.
- Did you know that the Council is spending double the capital on their new care homes compared to the independent sector (£200,000 per bed compared to £100,000 per bed) with no more space or facilities for residents?

End.

## Appendix 2

### Summary of Costs

PERSONAL CARE ONLY FOR FRAIL OLDER PEOPLE		2018/19 Inflation	
A) STAFF, INCLUDING EMPLOYERS' ON-COSTS			
TOTAL CARE ASSISTANTS (inc senior) STAFF	212.38	4.8%	222.57
Catering, cleaning and laundry staff cost per resident	47.87	4.8%	50.17
Other Staff Costs (excluding management and admin)	4.60	4.8%	4.82
Management, administration, reception staff cost per resident	66.15	4.8%	69.33
Pension Cost (3% of costs above)	6.62		10.41
TOTAL STAFF	<b>337.62</b>		<b>357.30</b>
B) REPAIRS AND MAINTENANCE			
Maintenance capital expenditure	16.96	3.2%	17.50
Repairs and maintenance (revenue costs)	9.86	0.7%	9.93
Contract maintenance of equipment	1.95	0.7%	1.96
TOTAL REPAIRS AND MAINTENANCE	<b>28.77</b>		<b>29.39</b>
C) OTHER NON-STAFF CURRENT COSTS AT HOME			
Food	22.98	4.4%	24.00

Utilities (gas, oil, electricity, water, telephone)	21.16	6.0%	22.43
Handyman and gardening (on contract)	9.11	0.7%	9.17
Insurance	2.45	3.7%	2.54
Total medical supplies and continence products	2.57	1.3%	2.60
Trade and clinical waste	1.71	2.3%	1.75
Registration fees (including DBS checks)	3.41	2.3%	3.49
Recruitment	0.73	2.3%	0.75
Direct training expenses (fees, facilities, travel and materials) net of grants and subsidies	10.08	2.3%	10.31
Other non-staff current expenses	20.87	2.3%	21.35
Equipment Costs	3.66	2.3 %	3.74
<b>TOTAL NON-STAFF CURRENT EXPENSES</b>	<b>98.73</b>		<b>102.13</b>
<b>TOTAL EXCLUDING CAPITAL</b>	<b>465.12</b>		<b>488.82</b>
Return on capital	48.33	2.0%	49.30
<b>Summary Weekly Fee</b>	<b>513.45</b>		<b>538.12</b>
Divisible by 7			538.09
Percentage Increase	<b>4.80%</b>		
<b>NURSING HOME</b>			
Residential rate	513.45		538.09
Nursing Top-Up	34.79		39.90

Nursing Rate	548.24	577.79
Percentage Increase	5.43%	

## **Inflation Assumptions used by Derbyshire County Council to Identify Fee Rates for 2019-20**

In considering the budget lines in the fee cost model in Appendix 1 the Council took account of the Office of National Statistics' Consumer Price Inflation (CPI) report for November 2018 as a proxy for understanding the costs in care industry.

Some of the budget lines used in appendix 1 do not have a direct corresponding goods or services division in the CPI report in such cases individual judgements have been made about how inflation may contribute to the costs of running a care home. The CPI report noted that standard inflation across all activity was 2.3% which is used as default in this fee modelling tool.

### **Staffing**

From April 2019 Providers will be required to pay all staff over 25 at least the national living wage of £8.21 which is equivalent to a 4.8% increase on the national living wage rate of £7.83 set in April 2018.

The Council has decided to use the 4.8% minimum wage increase for all staff costs including staff aged under 25.

Auto-enrolment pension scheme has been subject to a national introduction over the past few years, where providers have to offer to sign all staff into a pension scheme. From 1 April 2019 it has been nationally accepted that the costs to a provider should be in the region of an additional 3% on their staffing bill.

### **Repairs and Maintenance**

There are no direct comparisons with CPI available for these areas of cost. The closest comparable areas show inflationary costs of 0.7% for services and maintenance and 3.2% maintenance and repairs. These two inflationary levels have been used in the Council's calculation.

### **Other Non-Staff Costs**

Food is shown across most food types as 0.1% inflation however the Council notes the comparison of costs highlighted by care Providers and have consequently offered an increase of 4.4% equivalent to £1 extra per week.

For utilities the Council notes that there is great variance between the individual categories including power, which is likely to make up the most of this category. Since the greatest cost is on gas and electricity it is decided that this should be treated as an overall 6% increase.

There is no direct comparison for Insurance Costs in the CPI tables; the closest comparable cost is an increase of 3.7%.

**Medical supplies and continence** products are currently showing at 1.3%.

### **Registration Fees:**

The CQC are continuing with a fee policy that moves them to a full chargeable cost recovery position, so that providers ultimately bear all the chargeable costs, reducing CQC reliance on Grant Aid from Central Government. CQC have not yet shared their increase Care Home registration fees for 2018-19 so it is proposed to use last year's rate of 3.7%.

The Council has decided to use a general increase of between 2% and 3% for other cost items to reflect the potential impact of wage increases impacting on other service areas.

## Appendix 3

### Usual Cost of Care Fee Rates – From 1<sup>st</sup> April 2019

<b>NURSING PLACEMENT</b>	<b>Weekly Standard Rate</b>	<b>Quality Premium per week - £22.75</b>
	<b>£</b>	<b>£</b>
Older People Mental Health/Drug & Alcohol	578.20	600.95
Physical Disability (>65)	610.40	633.15
Learning Disability	550.48	573.23
These Nursing fees do not include funded nursing care contribution which at the time of writing is £155.05p/w		
<b>RESIDENTIAL PLACEMENT</b>	<b>Weekly Standard Rate</b>	<b>Quality Premium per week £22.75</b>
	<b>£</b>	<b>£</b>
Older People/Mental Health/Drug & Alcohol	538.09	560.84
Physical Disability (>65)	614.32	637.07
Learning Disability	554.82	577.57
<b>DEMENTIA CARE PAYMENT</b>	<b>£</b>	
Residential & Nursing	44.52 per week	n/a
<b>DAY CARE</b>	<b>£</b>	
Residential & Nursing	39.82 per day	n/a
<b>IN HOUSE PROVISION</b>	<b>£</b>	
Homes for Older People	560.84	n/a
Beds with Therapy	1,033.76	n/a
Community Care Centres	1,033.76	n/a
LD Residential	1,214.64	n/a
<b>Day Care</b>		n/a
Older People	38.96	n/a
Learning Disability	51.14	n/a



## **Dementia Fee Rate**

It is proposed that an additional payment of £44.52 per week towards supporting people with a diagnosis of dementia would be payable to homes that meet set criteria of dementia-friendly provision. This process was introduced to encourage homes to demonstrate that they have the skills, experience, environment and organisational culture in place to provide high quality dementia care. The Council introduced this criterion as many providers describe their service as being able to meet the needs of people with dementia but are unable to evidence that staff have adequate training, that the culture of the service is dementia friendly or that the environment has been adapted to be suitable for someone with a diagnosis of dementia.

The process used to determine which homes can provide dementia specific provision had been developed with care home representatives. Following feedback from these same providers the paperwork application has been rationalised and remains subject to review to ensure effectiveness. A number of providers have successfully applied for this status and others are currently being assessed for their suitability. The importance of this award will continue to be promoted with care home providers to increase the take up.