

Agenda Item No.7 (e)

DERBYSHIRE COUNTY COUNCIL

CABINET

5 April 2016

Report of the Strategic Director for Adult Care

INDEPENDENT SECTOR CARE HOME FEES 2016-17

ADULT SOCIAL CARE

1. Purpose of Report

To seek approval to:

- increase the rate paid to independent sector care homes for the financial year 2016-17 by 6.17% per week
- make an inflationary payment of up to 6.1% for specialist care home placements where evidence is provided of inflationary pressures;
- set a rate of £35.05 per session for a day care placement in a care home;
- increase the dementia fee rate to £39.24 per week
- make an inflationary payment of up to 5% for well-performing block contracts in specific circumstances.
- make an inflationary payment of 0.98% on all standard care home fees from 1st October 2016

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 2940 people as detailed below:

- 1003 people in nursing placements where the person needs constant involvement of, or supervision of, a qualified nurse;
- 1937 residential placements.

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”) have been invited 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 and require them to rely on “cross-subsidisation” by the providers themselves and residents/their families. Their comments and the Council’s responses can be found at Appendices 4 -7. A number of providers, including representatives of the Association, have also written to the Council identifying their cost pressures including the impact of the National Living Wage. Providers have detailed their concerns and have requested fee increases of between 5 and 10% to meet inflationary costs.

For a detailed explanation of the providers’ concerns, Cabinet Members should read recent correspondence between the Association and the Council. This can be found at Appendices 4-7. The Council will further respond to the Association following the decision by Cabinet in respect of 2016-17 fee rates.

3. Additional Cost Pressures Highlighted by Care Home Providers and Council Responses.

The providers have highlighted a number of additional cost pressures which, they argue, should be properly reflected in the Council’s fee rate. These are summarised in the table below. The main areas of concern are set out below together with the Council’s response. Specific detail of the Association’s submissions are set out in the correspondence appended to this report which Cabinet Members are advised to read prior to making their decision in respect of these proposals.

Living Wage increase (incl NMW in Oct 2015)	£35.23
Manager / Admin / Maintenance wages	£2.04
Training/Care Certificate	£2.55
CQC Fees	£0.22
Insurance Premium	£0.19
Total Cost increase	£40.23

Wage and pension pressures

The minimum wage increased in October 2015 by an average of 3% and providers have identified that the minimum wage is due to increase by 7.5% for staff aged 25 and over from 1 April 2016 (from £6.70 per hour to £7.20 per hour). The auto pension enrolment was another area that providers felt the Council should build in to the fee rate increase. As part of these changes providers will need to make a pension payment of 1% for all eligible staff. The implementation date for this is different for each provider.

Council response:

It is proposed that the care staffing costs used by the Council to identify the basic fee rates for care home placements should be increased by an initial 3% to reflect the increase in the minimum wage introduced on the 1st October 2015, except for management and administrative staff where we have used an increase of 2.2% in recognition that the management staff will be paid more than the minimum wage.

For the introduction of the National Living Wage the Council has decided to use 6.38% on care staff being eligible for higher payment. This has been calculated to reflect that National Minimum Dataset for Social Care (NMDS-SC) as at September 2015 which recorded that 85% of care staff in Derbyshire are over 25. A lower figure of 5.1% has been used for administration and management as it is likely that management staff are paid more than National Living Wage level.

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 1st April 2016 should be in the region of an additional 1% on their staffing bill. It is proposed as part of developing a fee settlement for 2016/17 that overall staff costs should be increased by 1% to enable providers to meet this requirement.

Training

The Association have identified a separate training expenditure to cover the cost of the implementation of the National Care Certificate.

Council response

The Council has decided to increase funding available for training by 2% to address any inflationary pressures. In addition, the Council will continue to offer free access to Council-run training courses many of which contribute towards the

Care Certificate and we will be exploring with Skills for Care and local training centres other ways to promote and support workforce development. Appendix 8 details the current Council training offer. It is proposed to build on this offer with courses to be introduced to promote dementia care.

Care Quality Commission fees

The Care Quality Commission (CQC) is currently consulting on increasing the level of fees charged to providers.

The CQC are looking to set 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. The current proposal by CQC for a Care Home registration fee increase is between 8 and 12%.

Council response

The Council is confident that the lower figure of 8% is the likely level that the CQC will increase their charge by. This percentage increase has been used in modelling the fee rates for 2016/17.

Insurance

The Association have stated that the unit value for insurance is lower than they would calculate for a care home with 40 beds. No evidence was provided by the Association to support this feedback.

Council response

The Council when determining an increase in insurance costs used the closest comparable inflationary cost of 4.2% as identified in the Office of National Statistics' Consumer Price Inflation report for November 2015.

Quality Premium

The Association noted that "The Quality Premium has not been consistently been increased in line with standard fees, despite additional costs in staff wages "for doing net payments and training".

Council response

The Quality Premium fee was introduced a number of years ago to promote improvements in the care home sector. It was previously agreed by Cabinet that the current Quality Premium Payment of £21 per person per week is maintained and that a new set of criteria would be considered to promote quality standards. Unfortunately, this commitment to review the payment and application process has had to be paused whilst the financial implications of the introduction of the National Living Wage for staff aged 25 and above from April this year and the subsequent year on year increases up to £9.00 in 2020 is better understood.

The continued payment of the Quality Premium shows the Council's commitment to promote improved ways of working in the sector. However any review of its continued use will need to take account of the known future inflationary commitments to meet National Living Wage in conjunction with the need for the Council to make substantial budget cuts. Any review of the Quality Premium scheme will be undertaken with the involvement of providers willing to participate.

Dementia Friendly Provision

The Association have expressed concern that the application process is too onerous and request that it is simplified. It has requested that all residents with dementia should receive the additional payment to reflect the "real additional costs" involved in dementia care.

Council response

Cabinet agreed on 5th May 2015 that an additional payment of £36.96 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. It is proposed that the dementia fee rate is inflated in line with the general inflationary increase of 6.17% identified in Appendix 1 this would give a new weekly cost of £39.24.

Nursing provision

The Association has expressed concerns that the Council has proposed to increase only the base care home fee rate by a standard inflationary amount. The Association has stated that “there is a significant market risk for care homes with nursing yet the Council has failed to have calculated a fee for nursing care and assumed that this category will have the same increase as a residential care home”. We would expect nursing care fees to have a higher margin than residential care because (a) it is a much riskier service to run (b) it is a more costly service to run (hence you lose money much quicker when occupancy drops) (c) the occupancy fluctuates significantly more than residential care giving you a lower average occupancy (d) some homes have already pulled out of the nursing care market and others have reported they are considering the same”.

Council response

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 current standard amount (2015-16) payable per week is £112.00. The rest of the nursing home placement standard fee is paid by the Council, this amount includes a payment of £12.11 on top of the standard residential fee paid by the Council to reflect the complexity of the service. The amount paid by the NHS has been inflated by 1% for each of the last four years which has been below the increases paid by the Council. This payment made by the NHS is currently subject to a national review to estimate the current cost of NHS-funded Nursing Care provision and the national rate required to fund it effectively.

The Council has acknowledged the concerns highlighted by the Association and firmly believes that the contribution made by the NHS towards funding nursing care needs to be increased to reflect these pressures. The Council in responding to these points has agreed to inflate the Nursing Care fee differential of £12.11 by 6.17% to reflect concerns about fluctuations in occupancy as the Council has a responsibility as part of the Care Act 2014 to ensure that there is suitable market coverage.

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 1.

To develop fee rate proposals for 2016-17, these previously identified cost headings have been inflated based on a set of assumptions about inflation 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 by £26.95 per week equivalent to a 6.17% increase on the basic care home fee rate for 2015/16.

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.

Summary of the Council's proposed increases – see Appendix 1 for more detailed breakdown of costs

Living Wage increase (incl NMW in Oct 2015) 3% plus 6.38%	£21.12
Manager / Admin / Maintenance wages 2.2% and 5.1%	£4.19
Training 2% plus continued access to free training places that contribute to Care Certificate.	£0.06
CQC Fees 8%	£0.23
Insurance Premium 4.2%	£0.09

The Associated have requested a fee increase of £40.23. Whilst below this figure, the Council's proposed fee rate of £26.95 is an above inflationary increase of 6.17%.

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

The proposals made in this report, and summarised in Appendix 1, focus on the basic fee rates for older people. It is proposed to increase the base fee rates by 6.17% 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 - see Appendix 3.

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 6.1% 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 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. The standard fee rate paid by the Council for day care placements in independent sector care homes is currently £33.02 per day. It is proposed for 2016-17 that this fee level to be paid to providers is increased by 6.17% to provide a new daily fee of £35.05 per day.

3.4 National Minimum Wage Increase from 1st October 2016.

The Government announced on the 14th March 2016 that the minimum wage rates for staff under the age of 25 would be subject to increases in hourly rates. The standard rate of the national minimum wage for 21- to 24-year-olds will increase by 3.7% to £6.95 per hour, after the Government accepted recommendations for the new rates from the Low Pay Commission (LPC).

This paper has focused on 85% of the workforce being impacted by the introduction of the National Living Wage due on the 1st April 2016. It is proposed that a further increase is implemented from the 1st October 2016 to take account

of the Minimum Wage increase that is likely to impact on the other 15% of the workforce.

The impact of the additional Minimum Wage payment from 1st October 2016 will be a further increase of 0.98% on care home fee rates. Appendix 9 shows the calculation of how this Minimum Wage increase will impact on overall fee levels. Appendix 10 details how this increase is translated into new fee levels from 1st October 2016.

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 proposed introduction of the National Living Wage e.g. the Laundry Contract for Care Homes. 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 5% 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 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 1st April 2016 by 6.1% is £6,121m. The proposed increase of 0.98% on fees to be implemented from 1st October 2016 would cost an additional £0.446m.

6. Legal Considerations

The Council is under a legal duty, arising both from case law and Department of Health Guidance, "Building Capacity and Partnership in Care" (2001), 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 new 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 care homes for the financial year 2016-17 by 6.17% per week as summarised in Appendix 3;
- make an inflationary payment of up to 6.1% for specialist care home placements where evidence is provided of inflationary pressures;
- an updated fee rate of £35.05 per session for a day care placement in a care home;
- an updated dementia fee rate of £39.24 per week
- make an inflationary payment of up to 5% for well-performing block contracts in specific circumstances.
- make an inflationary payment of 0.98% on all standard care home fees from 1st October 2016

Joy Hollister
Strategic Director – Adult Care
County Hall
MATLOCK

Appendix 1 Summary of Costs

PERSONAL CARE ONLY FOR FRAIL OLDER PEOPLE	2015/16 Actual	Min Wage 1st Oct 15	Summary rate	2016/17 Inflation NLW	Proposed
A) STAFF, INCLUDING EMPLOYERS' ON-COSTS					
TOTAL NURSING STAFF					
TOTAL CARE ASSISTANTS (inc senior) STAFF	174.41	3.00%	179.64	6.38%	191.10
Catering, cleaning and laundry staff cost per resident	39.96	3.00%	41.15	6.38%	43.77
Other Staff Costs (excluding management and admin)	3.85	3.00%	3.96	6.38%	4.21
Management, administration, reception staff cost per resident	56.62	2.20%	57.86	5.1%	60.81
TOTAL STAFF	£274.84				£299.89
Pension on total staff	2.74			1.00%	3.00
B) REPAIRS AND MAINTENANCE					
Maintenance capital expenditure	15.83			2.00%	16.15
Repairs and maintenance (revenue costs)	9.52			2.00%	9.71
Contract maintenance of equipment	1.81			2.00%	1.85
TOTAL REPAIRS AND MAINTENANCE	£27.15				£27.71
C) OTHER NON-STAFF CURRENT COSTS AT HOME LEVEL					
Food	21.79			0.00%	21.79
Utilities (gas, oil, electricity, water, telephone)	19.50			1.00%	19.69
Handyman and gardening (on contract)	8.58			2.00%	8.75
Insurance	2.09			4.20%	2.18
Total medical supplies and continence products	2.46			1.00%	2.48
Trade and clinical waste	1.63			2.00%	1.66
Registration fees (including DBS checks)	2.94			8.00%	3.17
Recruitment	0.70			2.00%	0.71
Direct training expenses (fees, facilities, travel and materials) net of grants and subsidies	2.93			2.00%	2.99
Other non-staff current expenses	19.79			1.30%	20.04
Equipment Costs	3.47			1.30%	3.51
TOTAL NON-STAFF CURRENT EXPENSES	£85.88				£86.97
TOTAL EXCLUDING CAPITAL	£390.61				£417.57
Return on capital	46.00				46.00
Summary Weekly Fee	£436.61				£463.57
Divisible by 7	£436.66				£463.61

Appendix 2**RESTRICTED****Inflation Assumptions used by Derbyshire County Council to Identify Fee Rates for 2016/17**

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 report for November 2015 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.

Staffing

As noted there was an increase of 3% in the national level of minimum wage on the 1st October 2015. Providers clearly have to meet this increase in staff wages for those members of staff paid at minimum wage. From April 2016 Providers will be required to pay all staff over 25 at national living wage which is equivalent to a 7.5% increase on the minimum wage rate set in October 2015. The Council has decided to use the 3% minimum wage increase for staff costs except for management and administrative staff where we have used 2.2%, which equates to 75% of staff being lower waged. . For National living wage the Council has decided to use 6.38% on care staff being eligible for higher payment. This has been calculated to reflect that National Minimum Dataset for Social Care (NMDS-SC) as at September 2015 which recorded that 85% of care staff in Derbyshire are over 25. A lower figure of 5.1% has been used for administration and management as it is likely that management staff are paid more than national living wage level.

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 1st April 2016 it has been nationally accepted that the costs to a provider should be in the region of an additional 1% on their staffing bill.

Repairs and Maintenance

There are no direct comparisons with CPI available for these areas of cost the nearest alternatives show inflationary costs between 0.8% to 3.2%. Midpoint between these two inflationary levels is 2% which has been used in the Council's calculation.

Other Non-Staff Costs

Food is shown as a negative -2.4% however for purposes of this analysis we have treated this as 0% inflation.

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. Electricity has dropped by minus 0.2% for and gas by minus 6.4%, water has decreased by minus 2.4%. Telephony has shown an increase in costs of 3%. It is therefore decided that this should be treated as an overall 1% increase.

There is no direct comparison for Insurance Costs in the CPI tables; the closest comparable cost is an increase of 4.2%.

Medical supplies and continence products are currently showing at 1%.

Registration Fees:

CQC is currently consulting on increasing the level of fees charged to providers. CQC are looking to set 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. The current proposal by CQC for Care Home fee increase is between 8 and 12%. The Council has decided that the lower figure (8%) is the likely level that providers would want the CQC to increase their charge by.

CPI shows an inflationary pressure of 1.3% for Equipment Costs and other miscellaneous goods.

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

Fee Rate

The proposed fee rate as highlighted in Appendix 1 of £463.57 has been increased slightly to £463.61 so that it can be divisible by 7 to provide a daily allowance.

The increase is equivalent to £26.95 per placement per week or 6.17%. This value will be used to increase all of the current fee rates as per the schedule in Appendix 3.

Appendix 3

Derbyshire Adult Care Proposed Fee Rates from 1st April 2016

NURSING PLACEMENT	Standard Weekly Rate	Quality Premium per week - £21
Older People	476.46	497.93
Physical Disability (<65)	530.04	551.04
Learning Disability	478.03	499.03
Mental Health / Drug & Alcohol	488.53	509.53

These Nursing fees do not include funded nursing care contribution which at the time of writing is £112.00p/w

RESIDENTIAL PLACEMENT	Standard Weekly Rate	Quality Premium per Week - £21
Older People / Mental Health / Drug & Alcohol	463.61	484.61
Physical Disability (< 65)	536.83	557.83
Learning Disability	484.89	505.89

DEMENTIA CARE PAYMENT	
Residential & Nursing	39.24 per week
DAY CARE	
Residential & Nursing	35.05 per day



Appendix 4

Derbyshire Care Providers Association (formerly known as Derbyshire Care Homes Association)

Joy Hollister
Strategic Director – Adult Care
Derbyshire County Council
County Hall
Matlock
DE4 3AG

Date: 02 February 2016

Dear Mrs Hollister,

Re: Fee rates for 2016/17

Thank you for meeting with us on the 12 November 2015 at the council offices to listen to our concerns around fee levels and other pressures in the care home market in Derbyshire. We expressed our concerns of further pressures in 2016, particularly around the introduction of the National Living Wage, and we set out further comments as follows:

General Comments

1. As you will be aware, the majority of the Care Act 2014 came into effect on 1 April 2015. Section 5 of the Act is of key importance. It requires the Council to “*promote the efficient and effective operation of a market in services for meeting care and support needs*”. This includes ensuring the presence of a variety of high quality providers to choose from.
2. 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’)

3. 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.”

Current Cost Model

4. In previous letters from the Association, including letters dated 15 May 2014 and 9 April 2015, we set out a number of fundamental flaws contained within the Council's calculations of the current fees. The Council chose not to address those flaws. However, the same flaws again became highly relevant in light of the Council's method of setting the fees for 2015/16 by inflating the current fees; the existing flaws being carried through and effecting the 2015/16 fees.
5. **We therefore propose that an independent review of the cost of care is commissioned with urgency.**
6. Any inflation uplift for 2016/17 based on 2015/16 fees will be flawed as this approach assumes that the current costs are themselves sufficient to meet the assessed care needs and are sustainable. Unfortunately, this assumption is wrong. Were this to be permitted, it would have the effect of ensuring that the 2015/16 fee levels fall significantly below the actual cost of providing the services; the fees therefore continuing to be insufficient to meet residents' care needs and are not sustainable in the short, medium and long term. The only way to bridge this funding gap is by cross subsidisation through third parties (which are seeing an increasing amount of third party top-ups), private fee payers and the care home owner themselves.
7. We do not propose repeating what the Association has already said previously about the flaws but would expect you to consider these in setting the fees for 2016/17.
8. Accordingly, there is a significant funding gap between the rates paid by the Council and the costs to providers of providing the services. Current fee rates are not sustainable, nor are they sufficient to meet care requirements without the need for bridging the funding gap by cross-subsidisation. We wrote to you in 2015 setting out that it would be wrong for the Council adopt the 2015/16 fee proposals, but the Council chose to implement these nevertheless. As such the Council failed in its duties to promote an efficient and effective market as the Council's fees is not sustainable without cross subsidisation. As the Council will be aware from previous judicial review decisions, cross subsidisation of any sort is not permissible.

Additional Matters Previously Raised

9. In addition to these points, the Association has raised the following matters on numerous occasions:
 - 9.1. Nursing: there is a significant market risk for care homes with nursing yet the Council has failed to have calculated a fee for nursing care and assumed that this category will have the same £ increase (which means the nursing fee will have a lower % increase than residential care!) in previous years. Even if the Council does not pay the free nursing care contribution it is still responsible for commissioning the nursing care placements and as such has a responsibility to ensure that the market is sustainable. With regards to this market risk, I draw the Council's attention again to its obligation to ensure the sustainability of the market and the variety of services offered within that market and to understand the risks that face providers in their attempts to maintain sustainable and quality services.

- 9.2. You will be aware that several nursing home providers have deregistered their nursing services in Derbyshire and several providers are considering the same.
- 9.3. The Quality Premium has not consistently been increased in line with the standard fees, despite additional costs in staff wages (for doing net payments) and training. This does little to engage with the Council's duty to promote a market with a variety of high quality services on offer. If the premiums do not increase, then the incentive and ability to meet the quality requirements falls away.
- 9.4. Dementia Payments: We have written to you previously regarding this and we also discussed this in our meeting on the 12 November 2015. We were under the impression that you sympathised with this being too much of a paperwork exercise and that it would be reviewed to simplify the process? We are now aware the standards that the Council imposed are changing and we are aware of some new, unrealistic and unfair requirements.
- 9.5. In general we are also very concerned that before the Council pays providers a dementia rate (the purpose of which is to cover the cost of meeting dementia service needs) the Council requires providers to meet set criteria. In short, providers are treated less favourably if they provide services to dementia residents than they do in the case of non-dementia residents. This is plainly discriminatory as no additional criteria is required in the event that the service is being provided to a non-dementia resident. The effect is to heighten the risk that dementia services will not be adequately funded in the event that providers do not meet the criteria and/or the availability of dementia services will become disproportionately restricted to non-dementia services. The consequence is that there is discrimination as well as a failure to meet the Care Act obligations.
- 9.6. We note that only two care homes have met the Council's criteria so far! This is clearly evidence that the process is restrictive.
- 9.7. The view of the Association is that all residents with dementia must be entitled to the additional dementia fee to reflect real additional costs and that this should be backdated to 1 April 2015 (which we understood was the original intention).

Funding

10. We noted from our meeting on 12 December 2015 that £3 million out of the £8 million budgeted for the back dated fee increase had not been spent. We trust these funds will be made available to improve the fee rates for 2016/17.
11. We note that the Council have invested in their own provision (including a recent development at Darley Dale and a future one in Belper). Unit costs (i.e. not full costs) for providing care in these are reported to be **£1,154.60 per week** (DCC Cabinet Report 16th June 2015 Appendix 7(d) page 66) compared to £436.66 offered to private care providers. How does the Council justify this in their Best Value review? Derbyshire has the largest in house provision in the country for residential care.
12. The Council continues to charge lower fee rates to self funding residents than the actual costs to the council. In other words, the tax payers are subsidising self funding clients in

Council homes. How does that give the tax payer Best Value and is it even legal for the Council to subsidise self funding residents?

2016 Cost Pressures

13. We have calculated some of the cost pressures for 2016 as follows:

Actual Increases:

Living Wage increase (incl NMW in Oct 2015)	£35.23
Manager / Admin / Maintenance wages	£2.04
Care Certificate	£2.55
CQC Fees	£0.22
Insurance Premium (statutory increase)	£0.19
Total Cost increase	£40.23

14. We have attached a spreadsheet with the calculations.

15. This does NOT include all costs, only some costs applied to the homes mainly through statutory and market pressures.

16. We set out other significant cost increases in our notes to yourselves in the meeting on 12 November 2015. We attach these notes to this letter. Page 3 sets out our cost pressures relating to Manager wages, nurse wages and agency costs, training, equipment, regulatory pressures from the CQC etc.

We urge you to take these points into account when preparing the fee proposal for 2016/17 and look forward to hearing from you shortly.

Yours sincerely,

Pierre Falleth
Chairman

On behalf of the committee of the Derbyshire Care Providers Association

The following information was submitted by the Derbyshire Care Association to support their bid for additional funding from the Council for 2016-17

Summary:

Actual Increases:

Living Wage increase (incl NMW in Oct 2015)	£35.23
Manager / Admin / Maintenance wages	£2.04
Care Certificate	£2.55
CQC Fees	£0.22
Insurance Premium (statutory increase)	£0.15
Total Cost increase	£40.19

Examples of Costs Avoided by the Council or too low in their calculations:

Agency costs (avoided by Council):	£10.44
Additional actual Insurance costs for the home	£2.19

1. CQC have been consulting on fees increases

size of home	2015/16	2016/17	%increase	Per res per week (40 bed home)
36-40	5090	5497	8%	£0.22

2. Agency Costs

Average Agency rates	£18.00
In house staff costs:	£9.36
Average hours per res per week worked by care staff:	22
Assume 5% is agency	1.1

Additional Costs Per Res per Week £10.44

3. Insurance

Current insurance allowed for by the council	2.08 per resident
Total for 40 bed	£3,894
Actual Insurance Costs from Insurance Co for 40 bed	£8,000
Additional Costs avoided by the council	£4,106
Per res per week	£2.19

4. Living Wage

Payroll On Costs:

Annual Leave as % of total gross pay	12.07%
Average rate of NIER as % total gross pay	8.5%

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SSP & Matern Pay as % of total gross pay	2.0%
Wages during training (backfill costs)	3.2%
Pension contribution	1.0%
Bank Holidays as % of total gross pay	2.19%
Total On costs	30.0%

Operating Margin required (source: Laing & Buisson*)	21.0%
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**Cost
increase:**

NMW increase (£6.50-£6.80) and Living Wage increase (£6.80-£7.20)	£0.70
Payroll on costs	£0.21
Operating Margin	£0.19
Total Increase	£1.10

**Hours per
Resident per
week:**

Care, Housekeeping/Domestic/Laundry, Kitchen staff	32
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Total increase in fees per resident per week required for living wage increase:				£35.23
Manager / Admin Wages per res p week			£59.36	(see council model)
Maintenance			£8.59	(see council model)
Increase in 2015		3.00%	£2.04	

5. Care Certificate:

The Care Certificate is much more in depth than the Skills for Care Induction and on average requires 5 days training before doing induction on shift

The additional costs are 5 days of payroll costs and additional training costs.

6. Extra Payroll Costs:

Hours (5 days x 7 hours)	35
Payroll costs per hour (see living wage calculations):	£11
Total Care Certificate Payroll cost per new staff:	£396.36

Number of care staff in a 40 bed care home:	25
26.3% annual turnover (source: Skills for Care 2014)	6.575

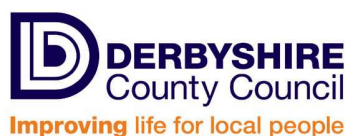
Total Care Certificate Payroll cost for all new staff	£2,606
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Training Costs per new member of staff (see example below)	£330
Training Costs for all new staff	£2,170

TOTAL COSTS PER RESIDENT PER WEEK	£2.55
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Appendix 6



Pierre Falleth
Chairman
Derbyshire Care Providers Association
Milford House
Springwood Gardens
Belper
Derbyshire
DE56 1RT

Joy Hollister

Strategic Director, Adult Care
Derbyshire County Council
Adult Care
County Hall
Matlock
Derbyshire
DE4 3AG

Telephone: (01629) 532432
Fax: (01629) 581922
E-mail: Joy.hollister@
derbyshire.gov.uk
Our ref: JH/SM
Your ref:
Date: 3 February 2016

Dear Mr Falleth

Re: Proposed Care Home Fee Rates 2016 – 2017

Thank you for your letter dated 2 February 2016 and attachments detailing the Association's proposals for next year's fee levels. We will of course consider your views alongside the Council's proposals detailed in this letter.

Following Cabinet approval of the Council's budget I am now able to write to advise you of the proposed care home fee rates for 2016-2017. The method for identifying the proposed fee rates builds on the cost model previously used for 2015-2016 fee levels detailed in the paper presented to Cabinet on the 5th May 2015. See appendix 1.

The cost headings used to identify the 2015 -2016 fee levels have been inflated based on a set of assumptions about inflationary pressures paying particular attention to the introduction of the National Living Wage in April 2016 and the National Minimum Wage increase in October 2015. The assumptions used in determining the proposed fee increase are detailed in Appendix 2.

The outcome of this work is that the Council is proposing to increase fee rates by £26.95 per week from 1 April 2016 which is equivalent to a 6.16% increase.

This proposed increase is made in light of the continued Council budget pressures. Appendix 3 attached shows how this increase will be translated into weekly costs for each client group.

A Cabinet Paper detailing the Council's proposals will now be prepared and I would be happy to include any further comments from you on behalf of the Derbyshire Care Providers Association on the proposals summarised in this correspondence. I would appreciate if you could advise me of your comments by 22 February 2016 as it is planned that these proposals will be presented to Cabinet on the 5 April 2016. This will then give the Council time to reflect on your proposals and any further comments you would like to submit.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Hollister', with a large, sweeping initial 'J'.

Joy Hollister
Strategic Director, Adult Care

Appendix 7



Derbyshire Care Providers Association (formerly known as Derbyshire Care Homes Association)

Joy Hollister
Strategic Director – Adult Care
Derbyshire County Council
County Hall
Matlock
DE4 3AG

Date: 11 February 2016

Dear Mrs Hollister,

Re: Fee rates for 2016/17

Thank you for your letter dated 3 February 2016 setting out the Council's fee proposal for 2016/17.

This is clearly not a response to our letter 2 February 2016 as it does not respond to any of the concerns we have set out in points 1 to 16 of that letter.

The fee proposal, if implemented, will widen the gap yet further between the actual cost of providing care and the DCC fee to the independent sector, which is clearly a breach of the Care Act. We cannot stress enough that an independent review of the cost of providing care is needed to ensure sustainability of the care market in Derbyshire.

We are particularly concerned that you have not addressed the market risk for Nursing Care. In fact your calculations have a perverse effect. The margin (in %) in your model is less for nursing care even though it is a much more costly and risky service to run:

	DCC Fees				% margin		
	2014/15	2015/16	2016/17	Static ROC in DCC Fee model	2014/15	2015/16	2016/17
Residential Care (non QP)	£424.90	£436.66	£463.61	£46.00	10.8%	10.5%	9.9%
Nursing Care (non QP)	£548.11	£560.98	£587.93	£46.00	8.4%	8.2%	7.8%

Firstly, we would expect Nursing Care fees to have a higher margin than Residential Care because (a) it is a much riskier service to run (b) it is a more costly service to run (hence you lose money much quicker when occupancy drops) (c) the occupancy fluctuates significantly more than residential care giving you a lower average occupancy (d) some homes have already pulled out of the nursing care market and others have reported they are considering the same.

Secondly, you can see that your proposal actually continues to lower the margin year on year for both Residential and Nursing Care, making them even more risky services to run.

We also note that there has been no proposed increase for the Dementia Care rate, despite the additional National Living Wage costs imposed on the higher staffing levels for dementia care. We have also expressed serious concerns about the 'minimum standards' you have imposed on the dementia care rate, which I don't believe anyone is yet receiving in Derbyshire.

Similarly there is no proposed increase for the Quality Premium.

We kindly urge you to address the serious concerns we raise above and those raised in our letter of 2 February 2016.

We look forward to hearing from you.

Yours sincerely,

Pierre Falleth

Chairman, on behalf of the Derbyshire Care Providers Association committee

Appendix 8

Adult Care Learning and Development Activity: Private, Voluntary and Independent Sector Care Providers (PVI)

Current provision:

All DCC learning and development courses are at no cost apart from first aid and basic food hygiene where there is an external cost for the certificate.

The PVI sector providers are allocated 50% of the places on all of the courses.

PVI Course Preferences:

There are distinct courses that PVI sector provider's access; they are not attending the entire Care Certificate programme. However, they do dip into some of the courses that make up the programme.

- Safeguarding recognising and alerting others to abuse. 1 day
- Tissue viability. ½ day
- Infection control. ½ day
- Dementia awareness. 1 day
- Autism awareness. 1 day
- Administering medication in the community. 1 day
- Administering medication in care homes. 1 day
- First aid 1 day
- Moving and handling core modules
- Moving and handling updates ½ day
- Leadership and management 6 modules.

Information packs (training materials) E-learning

These can be accessed by providers through the DCC website and the EPDR learning platform.

Information packs can also be accessed through the DCC website.

- Principles of the Mental Capacity Act and DoLS.
- Infection control
- Tissue viability
- Medication awareness
- Fire safety
- Fire evacuation
- Care in safety
- Personal safety

Additional Support

When requested a representative from AC learning and development will visit a provider that has been issued with a notice of removal of registration. Or that contracts have identified as being of concern. They will offer advice on what training is required and how it can be accessed and support the manager to develop a learning and development action plan. Where providers are at risk through lack of training learning and development will support with some in house training for the service as part of their action plan.

AC learning and development are currently working with providers to make best use of training rooms they may have. L&D will provide training courses they are interested in at their venues, the provider will have 25% of the places, and other providers will have access to the remaining places. Some of the venues are in areas of the county that are difficult for staff to travel from; this may be a solution to cutting down travel time and costs.

Appendix 9

Summary of Costs - showing additional impact of the introduction of Minimum Wage from 1st October 2016 for staff under the age of 25

PERSONAL CARE ONLY FOR FRAIL OLDER PEOPLE	2015/16 Actual	Min Wage 1st Oct 15	Summary rate	2016/17 Inflation NLW 1st April 2016 Based on 85% of care staff eligible for NLW	Propose from 1st April 2016	Min Wage from 1st Oct 15% of care staff	Propose from 1st Oct 2016
A) STAFF, INCLUDING EMPLOYERS' ON-COSTS							
TOTAL CARE ASSISTANTS (inc senior) STAFF	174.41	3.00%	179.64	6.38%	191.10	0.55%	192.09
Catering, cleaning and laundry staff cost per resident	39.96	3.00%	41.15	6.38%	43.77	0.55%	44.00
Other Staff Costs (excluding management and admin)	3.85	3.00%	3.96	6.38%	4.21	0.55%	4.23
Management, administration, reception staff cost per resident	56.62	2.20%	57.86	5.1%	60.81	0	
TOTAL STAFF	£274.84				£299.89		£304.15
Pension on total staff	2.74			1.00%	3.00	1.00%	£3.04
TOTAL REPAIRS AND MAINTENANCE	£27.15				£27.71		£27.71
TOTAL NON-STAFF CURRENT EXPENSES	£85.88				£86.97		£86.97
TOTAL EXCLUDING CAPITAL	£390.61				£417.57		£421.87
Return on capital	46.00				46.00		£46.00
Summary Weekly Fee	£436.61				£463.57		467.87
Divisible by 7	£436.66				£463.61		£467.88

Appendix 10

Proposed Fee Rates from 1st October 2016

NURSING PLACEMENT	Weekly Standard Rate	Quality Premium per week - £21
Older People	481.11	502.11
Physical Disability (<65)	535.22	556.22
Learning Disability	482.72	503.72
Mental Health / Drug & Alcohol	493.29	514.29

These Nursing fees do not include funded nursing care contribution which at the time of writing is £112.00p/w

RESIDENTIAL PLACEMENT	Weekly Standard Rate	Quality Premium per week - £21
Older People / Mental Health / Drug & Alcohol	467.88	488.88
Physical Disability (< 65)	542.08	563.08
Learning Disability	489.16	510.16

DEMENTIA CARE PAYMENT	
Residential & Nursing	39.62 per week
DAY CARE	
Residential & Nursing	35.38 per day