

DERBYSHIRE COUNTY COUNCIL

DRAFT CABINET REPORT

9th September 2014

**JOINT REPORT OF THE STRATEGIC DIRECTOR – ADULT CARE
AND
DIRECTOR OF FINANCE**

**PROPOSED FEE LEVEL INCREASES FOR INDEPENDENT SECTOR
HOMES**

1. Purpose of the Report

To inform Cabinet of the outcome of the recent consultation on the proposal to set independent sector fee levels at an appropriate level to reflect the actual cost of care.

Following this consultation, to approve the fee increases and associated matters.

2. Information and Analysis

2.1 Background

A comprehensive review of fee levels for independent sector care services is undertaken annually. Consultative meetings are held on a quarterly basis to enable care home owners to advise the Council of particular business pressures affecting the care market and their costs. The proposed fee rates are approved by Cabinet at the start of the financial year.

2.2 Legal Challenge

In May 2011, the Council received a “letter before action” from solicitors acting on behalf of the Derbyshire Care Home Association (DCHA) threatening the Council with an application for judicial review of the fee rate increase set by the Council. Advice was sought from leading Counsel (Steven Knaffler QC). It was argued by DCHA that the Council’s fee rates were unlawful on a number of grounds. The main reasons being that the Council had failed to take into account the actual

costs of care incurred by care providers, not allowing for reasonable profit levels and local factors. DCHA suggested that an appropriate level of fee increase was between 40% and 45%. The interim increase approved by Cabinet in 2011 was 2% (pending the outcome of this review).

On the advice of Counsel, the Council agreed to carry out a review of the actual costs of providing care locally.

A lengthy dialogue has taken place between the Director of Legal Services and solicitors for DCHA, debating the methodology to be used in determining fee rates and what information would be made available to the Council by care homes. The Council issued questionnaires to all Care Homes in Derbyshire requesting information and evidence of their actual costs involved in running their business. This data would then be analysed by the Council's technical accountants and would form the basis of the Council's determination of a proposed fee rate. Any proposals would be the subject to a final consultation with home owners.

This questionnaire was circulated to 160 homes in September 2012. All home owners were also invited to attend one of two forums which were to help deal with any matters arising from this process and answer any questions home owners may have.

The Council's technical accountants have conducted a thorough analysis of the responses received. (draft analysis at appendix 1). This analysis raised a number of issues:

- a. The low response rate – only 29 of approximately 160 homes responded
- b. Inconsistency of data supplied (for example figures provided by Care Homes for staff costs, per resident per week, ranged from 15.33 to 297.92).
- c. The lack of verification for the data supplied (as no accounts were supplied and no other way of verifying the data has been offered by the care homes).

Counsel had advised, taking into account recent court judgments, that the Council should consider taking into account a range of information in the form of:

- information supplied by local homes so far
- benchmarking information from other local authorities where the Council considers local costs to be similar and
- this Council's own experience of care home fees/standards and the local market as well as information available in the public domain

regarding care home costs to be able to formulate a realistic and justifiable fee rate.

In addition to this piece of work, Counsel advised approaching all independent Care Homes again asking them to provide an annual statement of accounts on a confidential basis in order to provide some evidential basis for the information provided in the questionnaire and in order to be able to cross-reference other information received with “real” data, but the Care Homes were reluctant to provide this information.

The DCHA Solicitors have been fully informed of the Council’s proposals in this regard.

2.3 Legal Context

The Council has an obligation under Section 21(1)(a) of the National Assistance Act 1948, “to provide residential accommodation to those adults in its area who, by reason of age, illness, disability or any other circumstances, are in need of care and attention which is not otherwise available to them”. By Section 26(1) of this Act, a local authority may discharge this duty by contracting with a private care home provider who operates for profit. The Local Authority must also comply with the National Assistance Act (Choice of Accommodation) Directions 1992, commonly known as the “Choice Directive”, and shall make arrangements for “accommodation for that person at a place of his choice within the UK subject to it not requiring the council to pay more than it would usually expect to pay having regard to his assessed needs” (known as the “usual cost”).

This “usual cost” is described further in Local Authority Circular (2004) 20.

2.5.4 states:

“one of the conditions associated with the provision of accommodation should not require the council to pay more than they would usually expect to pay, having regard to assessed needs (the usual costs). Costs should be set by councils at the start of a financial or other planning period, or in response to significant changes in the cost of providing care, to be sufficient to meet the assessed care needs of supported residents in residential accommodation. A council should set more than one usual cost, where the cost of providing residential accommodation to specific groups is different. In setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors”.

Paragraph 3.3 provides:

“when setting its usual costs, a council should be able to demonstrate that this cost is sufficient to allow it to meet assessed care needs and to provide residents with a level of care services that they could reasonably expect to receive if the possibility of resident and third party contributions did not exist”.

Separately, from the formal statutory guidance, in October 2001 the Department of Health had issued what was described as “an agreement between the statutory and the independent social care, healthcare and housing sectors” entitled “Building Capacity and Partnership in Care” (“Building Capacity”).

Paragraph 6.2 of Building Capacity states:

“Providers have become increasingly concerned that commissioners have used their dominant position to drive down or hold down fees to a level that recognises neither the cost to providers nor the inevitable reduction in the quality of service provision that follows. This is short sighted and may put individuals at risk. It is in conflict with the Government’s best value policy. It can destabilise the system, causing unplanned exits from the market. Fee setting must take into account the legitimate current and future costs faced by providers as well as the factors that affect those costs, and the potential for improved performance and more cost effective ways of working. Contract prices should not be set automatically but should have regard to providers’ costs and efficiencies and planned outcomes for people using services, including patients”.

Recent Relevant Court Decisions

A number of cases have been brought before the courts since 2010 where care home providers have challenged the rates fixed by councils. The providers were successful in the number of cases on the basis that the individual council had:-

- failed to inform itself of the actual costs to care home providers of providing services before setting their rates contrary to the relevant guidance;
- acted irrationally and/or failed to take into account relevant considerations in reaching its decision on care home rates;
- failed to comply with the duty to consult;

- attempted to abuse its dominant position by refusing to place persons in particular homes which did not comply with certain conditions

Recent cases however involving Devon County Council, Northumberland County Council and Redcar and Cleveland Borough Council suggest that the courts are becoming more reluctant to become involved where councils have developed a fair and transparent methodology for determining the actual costs of care. The courts have made it clear that it is for the council (not care home providers nor the court) to decide what is a fair way to determine the actual costs of care.

3. Affordability

The availability of Council resources generally and reductions in Council funding from central government over the past few years are not, of course, relevant to assessing what the usual costs of local care homes are but they are relevant factors in considering whether local care homes can be expected to continue to strive to achieve better value ways of working, just as the Council and many others have to do and they are also relevant to some extent in assessing what the Council can afford to pay by way of base fees.

The Council has reduced its overall budget by £90 million over the last four years, and the current medium term financial plan shows further reductions of £159 million are required over the next five years in order to achieve a balanced budget. The Government previously announced details of its further Comprehensive Spending Review and this included further reductions in local government spending which were confirmed until at least the end of the decade. There are future pressures which the Council also needs to consider and the outcomes of which could result in larger budget reductions than those currently planned. These pressures include demographic growth and waste costs.

4. Proposals Subject to Consultation

The following section brings together the findings of the analysis of actual costs of care as detailed in Appendix 2. These findings helped inform proposals on the future funding arrangements for Care Home Placements in Derbyshire.

4.1 Proposed Fee Levels 2013/ 2014

Following a detailed analysis (detailed in Appendix 2) of the questionnaires returned by local care homes and benchmarking with payments made by other local authorities it was proposed for

2013/2014 that the residential weekly base fee should be £416.01 per week. However following the consultation exercise detailed later in this report it was acknowledged that an additional inflationary increase needed to be considered which resulted in a new weekly base fee of £416.57. This represents an increase of £28.21 per week per residential placement. This proposed increase in the fee base rate includes a return on capital of 7.25%. The proposed fee rates compares well with the fees paid by surrounding authorities as shown in the table below.

It is proposed that Nursing placements will retain the fee differential of £12.11 between Nursing and Residential provision that was previously paid by the Council which would give a weekly base fee of £428.12 an increase of £28.21 per week compared with interim payment made in 2013/14 of £400.47.

It is likely that the proposals to implement backdated fee increases will have a positive impact on the quality of provision in Derbyshire Care Homes.

Other Local Authority Base Fee Rates 2013/2014

Local Authority	Residential Placement £	Residential with Dementia £	Nursing £	Nursing with Dementia £
Derbyshire	388.36	N/A	400.47	N/A
Derbyshire Proposal	416.57	451.57 From 2015	428.68	463.68 From 2015
Derby City	415.14	449.33	426.32	N/A
Sheffield	398	406	401	426
Tameside	419-452	431-464	443-481	461-500
Staffordshire	400	418	410	428
Leicestershire	395	411	410	
Nottinghamshire	399-520	410-566	433-573	443-615

Nursing fees quoted in this table do not include the NHS Funded Nursing Care payment of £109.79 per person per week.

- 4.1.1** All of the weekly fee rates quoted in this report will be rounded up or down to ensure that they are divisible by 7. Appendix 1 attached to this report details the proposed fee rates for each of the client groups supported by the Council for the three years impacted by this review and shows the new amended fee rates for 2014/15.

4.2 Proposed Backdated Increase.

The request from the local Care Home Association to review the fee rates was originally made in the financial year 2011/ 2012. Since this original request Derbyshire County Council has made interim increases against the fee rates of 2% per annum.

The Council therefore proposes to backdate payments for the following periods:

- Financial year 2011/2012,
- Financial year 2012/2013,
- Financial Year 2013/2014

It is proposed to split the increase of the fee rate over the past three years as demonstrated in the tables below. The taper of the fee rate increase has been calculated by inflating the base rate paid for each of 2011/2012, 2012/2013 and 2013/2014 by 2% to give increase in payments of £7.49 for £15.19 and £27.65 respectively.

4.2.1 Proposed Residential Fee Rates

	2011/2012	2012/2013	2013/2014
Base Rate Fee Paid Already	373.24	380.73	388.36
Proposed Tapered Base Rate Fee	380.73	395.92	£416.01
Increase in payment per week per client to be backdated	7.49	15.19	27.65

4.2.2 Proposed Nursing Fee Rates

	2011/2012	2012/2013	2013/2014
Base Rate Fee Paid Already	384.93	392.63	400.47
Proposed Tapered Base Rate Fee	392.63	408.31	428.12
Increase in payment per week per client to be backdated	7.70	15.68	27.65

The process by which homes would receive backdated payments will need to be explored further as there has been a great deal of movement of residents within homes over the past few years.

There have also been a number of homes that have failed their residents by offering poor standards of care and have subsequently had their contracts suspended for periods of time. It is proposed not to pay any backdated funds for periods when a home was suspended from receiving new placements as this could be perceived as rewarding poor care.

It is hoped that providers would use the proposed additional backdated funds to invest in their services to improve the quality of their provision/environment to ensure that their residents feel the benefit of this investment in quality care.

4.2.3 Proposal to Discontinue “Standard Residential Older Persons Fee Rate”

The ‘standard’ residential older persons’ fee rate has not had any new placements made against it for a number of years. The decision to discontinue the use of this fee rate for new referrals was made because the presenting needs of clients have increased since this rate was originally introduced. There are currently 70 placements that are still in receipt of this fee rate. It is proposed that this rate is discontinued completely from 1st April 2014 with the fee rate shifting from the current level of £371.42 to the new proposed residential basic fee rate of £416.01 (before 2014/2015 inflation is included).

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

The proposals made in this report focus on the basic fee rates for older people, it is also proposed to increase the base fee rates for other client group placements by the same values identified above to maintain the current funding differentials.

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 proposed base fee rates for people with a physical disability, people with learning disabilities and people with mental ill health can be found in Appendix 1 below

4.2.5 Fee Increase for 2014/ 2015

Cabinet agreed at its meeting on 5th February 2014 that following the outcome of this fee analysis that the Council intends to increase all care home basic fee rates by 2% from 1st April 2014. The increase was initially paid against the current basic fee rate. It was agreed that following completion of this process for reviewing fees that the impact of the 2% increase would be backdated against the new proposed basic fee rate.

The proposed new table of fee rates for 2014/2015 which takes account of the proposed new base rate and 2% fee increase can be found at Appendix 1. All new placements made by the Council would be made at these new rates and all current placements would be paid at these rates backdated to the 1st April 2014.

4.3 Proposed Review of Quality Premium Payments

The Quality Premium fee was introduced a number of years ago to promote improvements in the care home sector. This payment was linked to a Star Rating system that was managed by the Care Quality Commission (CQC). This Star rating system has since been disbanded by the CQC and the Council's Quality Premium is therefore in need of being refreshed to reflect the challenges faced by the Care Home sector.

It is therefore proposed that the current Quality Premium Payment of £21 per person per week is maintained and that a new set of criteria will be introduced during 2015/2016 to continue to promote quality standards. It is proposed that any new system includes flexibility to accommodate any proposals by CQC to introduce a new 'star rating system'. It is proposed that this review of the Quality Premium scheme will be undertaken with the involvement of representatives of the Derbyshire Care Homes Association and other individual home owners who express a wish to be involved..

4.4 Proposed Introduction of Dementia Care Payment

With the predicted increase in the numbers of people with dementia and the need to ensure people's needs are appropriately met it is proposed to introduce an additional payment to Care Homes (Nursing and Residential) that have been approved by the Council to support people with Dementia, in order to at least cover the additional costs of supporting people with Dementia. It is proposed to introduce a new Dementia Payment of £35 per person per week. This would be introduced from April 2015 and would only be paid to a care home (Nursing and Residential) that achieved a new set of Dementia Care standards and whose clients had a diagnosis of dementia.

It is proposed that the additional payment of £35 per week towards supporting people with a diagnosis of dementia would only be payable to homes that meet set criteria to offer dementia-friendly provision. The process to determine which homes can provide dementia specific provision will need to be developed with care home representatives with the intention that the new payments would commence on the 1st April 2015.

4.5 Community and Equality Impact Assessments

The proposals identified in this section have aimed to balance the interests of clients of care homes, providers and the public in terms of quality, equity and cost. An Equality Impact Assessment has been carried out on the proposals and is detailed in Appendix 4.

It is judged that the proposals to implement fee increases with a commitment to backdate payments will likely have a positive impact on provision in Derbyshire Care Homes. It is also worth noting that the proposals continue to promote a commitment towards working with the Care Home sector to promote quality service provision. No adverse impacts on protected groups were identified.

5. Feedback from the Consultative Process

On the 7th April 2014 a letter and supporting information detailing the Council's determination of a proposed standard base fee rate was sent to all Care Homes in Derbyshire. Homes were asked to participate in the consultation on the findings of this exercise to determine fee rates for the years 2011/2012, 2012/2013 and 2013/2014.

Over 150 homes were contacted to ask for their views against recommendations for the provision of Care Home fees in Derbyshire. Forty eight responses were received. Up to 70 homes were represented by these returns as some of these responses were from organisations that own more than one home in Derbyshire. All responses are detailed in Appendix 3.

The following section references the questions asked (highlighted text) as part of the consultation process and summarises the feedback.

- 1. It is proposed that Care Homes would receive backdated payments based on the weekly amounts highlighted in the bottom row of each table. Please comment on these proposed rates and on the principle of backdating the increase.***

Fee Rates for Older People Care Homes without Nursing	2011/2012	2012/2013	2013/2014
Base Fee Rate Paid Already	373.24	380.73	388.36
Proposed Base Rate	380.73	395.92	416.01
Increase in payment per week per client to be backdated	7.49	15.19	27.65

Fee Rates for Older People Care Homes with Nursing	2011/2012	2012/2013	2013/2014
Base Fee Rate Paid Already	384.93	392.63	400.47
Proposed Base Rate	392.63	408.31	428.12
Increase in payment per week per client to be backdated	7.70	15.68	27.65

Half of the responses received have expressed agreement to the proposed fee changes, a number of other responses welcomed the Council's intention to increase the fees and to include an element of backdating the payments, however a number noted that the proposed fee level was too low. More detailed responses were received from a small number of providers who have disagreed with the financial values used by the Council to determine the fee rates and are of the view that the weekly rate should be greater than the proposed level. Officers consider that if there was any serious shortfall between its base fees and the sum required to at least cover the usual costs of provision, there would have been a substantially higher response. These are further factors that in the opinion of Officers indicate that the Council's base fees during the three year period covered by this paper at least covered usual costs, although as recommended with these new proposed fee rates some adjustment is necessary.

Officer Response: It is recommended that the Council notes the concerns of providers that they believe that the fee should be set higher.

Following comments from providers about the fee proposals needing to also reflect inflationary pressures it is proposed that the tapered increase for 2012/2013 and 2013/2014 are also increased by the annual inflation increase of 2% used by the Council. The impact of this proposed change in response to the consultation exercise is detailed in the table below.

Fee Rates for Older People Care Homes without Nursing	2011/12	2012/13	2013/14
Base Fee Rate Paid Already	373.24	380.73	388.36
Increase in payment per week per client to be backdated	7.49	15.19	27.65
Proposed Base Rate	380.73	395.92	416.01
Add in 2% inflation to taper increase		0.28	0.56
New base rate plus inflation		396.20	416.57

Fee Rates for Older People Care Homes with Nursing	2011/12	2012/13	2013/14
Base Fee Rate Paid Already	384.93	392.63	400.47
Increase in payment per week per client to be backdated	7.70	15.68	27.65
Proposed Base Rate	392.63	408.31	428.12
Add in 2% inflation to taper increase		0.28	0.56
New Base rate plus inflation		408.59	428.68

The Council is of the view that the proposed fees are fair on the basis of its analysis and that these rates should be introduced and backdated as detailed in the tables above.

2. It is proposed that any increase in fee rates would only be paid to homes that were at that time offering good quality care. The Council is mindful not to reward poor practice – so any home that was suspended from receiving new placements would not receive the backdated payment for the period they were suspended (including voluntary suspension). Please comment on this proposal.

Opinion was divided on the proposal to withhold backdated payments for periods when a home may have been subject to a suspension of new placements. A number of homes feel that this is a fair proposal whereas others considered that the homes had already been penalised by receiving no new referrals and that the proposed backdated fee increase relates to the base fee rate so should therefore be paid.

Suspension of new placements often occurs when there is a lack of confidence following serious safeguarding concerns in the quality of care provided at a home, and/or CQC have issued a notice of proposal to remove registration. In such scenarios the Council and Health staff spend disproportionate amounts of time working with these homes to encourage improvements. It is therefore the Council's view that additional public funds have already been spent on these services to encourage and promote the necessary improvements. As a consequence this proposal will stand.

Officer response: It is recommended that this proposal to withhold backdated funds for the period a home was suspended from receiving new referrals due to poor performance should be implemented.

3. *Following the introduction of a new payment system in August 2012 the Council is only able to automate the backdated payment of the proposed fees to this point. We are inviting providers to comment on whether they would rather invoice the Council for the period before August 2012 for the proposed outstanding increases or wait for the Council to undertake the calculations. Please let us have your views on this.*

The feedback received showed that the majority of providers would rather the Council undertook the calculation of the backdated fees for the period before August 2012. It is suggested that providers who expressed a willingness to provide to the Council a detailed invoice for the period before August 2012 will be encouraged to do so.

Officer response: If the Council agrees changes to the fee rates then all Care Homes will have their payments increased and backdated to August 2012. Providers will be encouraged to invoice the Council for the period before August 2012 however it is acknowledged that the Council will undertake the majority of the calculations to determine the backdating of fees.

4. *The Council is proposing not to backdate any payments to owners that have closed or sold their business to another party. Please comment.*

The feedback received from providers is divided on the proposal of not making a backdated payment to an owner that has sold or closed a service. There is a view that because a service was provided that any recalculation of fee rates should be made to a provider in either of these scenarios. Following this feedback it has been recommended that the calculation of the backdated payment will be made based on the individual circumstances of each home closure and sale of a home. Evidence of poor financial management, lack of respect and dignity of clients in their home who were then required to move and failure to meet CQC standards would be taken into account before any decision was made.

Officer response: The principle of not making payments to owners who have sold or closed their business should remain as proposed. However, it is recommended that the decision should be based on the individual circumstances of each home closure or sale of a home.

5. *It is proposed that the 'standard' residential older persons fee rate which has not been used for new placements for a number of years but still has a small number of clients paid at this rate is*

discontinued from 1st April 2014. Please comment on this proposal to discontinue the 'standard' residential older persons residential fee rate and uplift from the 1st April 2014 all current clients on this rate to the proposed rate of £416 per person per week

The majority of feedback received agrees with the proposal to discontinue the fee rate from 1st April 2014. A number of providers took the opportunity to also note that they felt that this fee rate was too low and in at least one case the provider response was that the fee rate should have been discontinued earlier and the new rate backdated to at least 2011. It is recommended that based on the feedback received that the original proposal of discontinuing this fee rate is implemented and that the proposed new fee rate is adopted and backdated to the 1st April 2014.

Officer response: That this proposal is adopted as proposed

6. It is proposed to introduce a new Dementia Payment of £35 per person per week. This would be introduced from April 2015 and would only be paid to a care home that achieved a new set of Dementia Care standards and whose clients had a diagnosis of dementia. Please comment on this proposal

The suggestion of introducing a Dementia Care payment was welcomed by providers. However, many providers expressed a view that the proposed level of £35 per person per week is not enough and would like the level to be reviewed in line with the proposed dementia standards.

Officer response: That the proposal to develop Dementia Care standards with care providers is implemented and that work is commenced with GPs to ensure, where applicable, that clients have an up to date diagnosis of dementia. It is also suggested that the proposed rate of £35 is subject to further discussion. The outcome of these discussions to identify a set of dementia standards and proposed fee rate will be presented to a future Cabinet meeting.

7. It is proposed to refresh the current Quality Premium Payment Scheme for 2015/16. A new set of criteria will be introduced to continue to promote quality standards. It will also include flexibility to accommodate any proposals by CQC to introduce a new 'star rating system'. Please comment on this proposal.

The majority of providers acknowledged the continued importance of the Quality Premium payment and would support a re-fresh of the standards as long as they were given the opportunity to be consulted on the content and that any changes did not result in greater workload without any financial benefit.

Officer response: To engage provider representatives in a review of the Quality Premium standards.

8. We have attached a number of documents that summarise the information used to help determine the proposed fee rates. Having considered these documents and the proposal made is there any further information or comments you wish us to consider?

Feedback received from providers acknowledged the level of work that had gone into understanding the usual costs of care, however some felt that the calculations used and financial assumptions did not match with their own views of the costs of running a care home. A number of providers expressed dissatisfaction with the proposed fee rates and felt that Council should consider paying more.

6. Financial Considerations

Summary of Costs – All Client Groups			
	Nursing	Residential	Total
2011/2012	411,450	776,619	1,188,069
2012/2013	838,682	1,581,426	2,410,108
2013/2014	1,557,779	2,796,716	4,354,495
Total			7,962,672

The impact of this proposal would be a recurrent cost of £4,354,495 per annum.

Since receiving this challenge from the local Care Homes Association, the Council has increased the Care Home fees in line with the standard inflationary increase available within the Council's yearly budget without any prejudice to the outcome of this review. As a consequence the Council increased the base fee rates by 2% in 2011/2012, 2% in 2012/2013 and 2% in 2013/2014.

Whilst this consultation was on-going, the Council had already agreed to an interim increase in the base fee rates of 2% for 2014/2015. In coming to this decision the Council considered the Consumer Price Inflation report for March 2013 and compared the inflationary pressures with the costing used in the calculation of the proposed base fee. It is proposed that the impact of this 2% increase will now be backdated to the 1st April 2014. The new table of fees for 2014/ 2015 can be found in Appendix 1.

7. Legal Considerations

The Director of Legal Services had advised that any proposals would need to be subject to a programme of full consultation and that the process of consultation detailed in the report is appropriate and proportionate.

When considering the proposals it will be essential for Members to have due regard to protecting and providing the welfare and interests of persons who share a relevant protected characteristic (age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation). The proposals have, therefore, been subject to an Equality Impact Assessment (Appendix 4).

8. Other Considerations

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

19. Key Decision

Yes

10. Officers Recommendations

That Cabinet:

- approves the proposed fee increases for independent sector Care Homes for the financial years 2011/ 2012, 2012 /2013, 2013 /2014 and 2014/2015, as detailed in Appendix 1.
- approves the backdating of payments to Care Homes that are impacted by the proposed changes to fee rates.

- notes the non-payment of backdated payments for the period a Care Home was subject to a suspension of new placements due to poor performance.
- notes the proposal to backdate payments to homes that were sold or closed down being considered on a case by case basis
- approves the discontinuance of the 'standard' residential older persons fee rate from 1st April 2014.
- notes the proposal for the introduction of a new Dementia Care payment being introduced together with a set of Dementia Care standards being developed in partnership with representatives of the Care Home sector
- notes the proposal to review the Quality Premium Scheme in partnership with representatives of the Care Home sector.

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Appendix 1

Proposed Fee Rates for all Client Groups

Please note some of the rates quoted may change by a small amount to enable all to be divisible by 7.

Residential Older People	2011/12	2012/13	2013/14	2014/15
Proposed Base Rate	380.73	396.20	416.57	424.90

Nursing Older People	2011/12	2012/13	2013/14	2014/15
Proposed Base Rate	392.63	408.59	428.68	437.22

Residential Physical Disability Under 65	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	442.82	451.71	460.74	
Proposed Base Rate	450.31	466.90	488.39	498.12
Increase in payment per week per client to be backdated where applicable	7.49	15.19	27.65	9.73

Residential Learning Disabilities	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	393.82	401.73	409.78	
Proposed Base Rate	401.31	416.92	437.43	446.18

Increase in payment per week per client to be backdated where applicable	7.49	15.19	27.65	8.75
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Residential Rates for Mental Health Placements and for People with drug and Alcohol Problems	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	373.24	380.73	388.36	
Proposed Base Rate	380.73	395.93	416.01	424.90
Increase in payment per week per client to be backdated	7.49	15.20	27.65	8.33

Nursing Physical Disability Placements	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	436.38	445.13	454.02	
Proposed Base Rate	443.87	460.32	481.67	491.34
Increase in payment per week per client to be backdated where applicable	7.49	15.19	27.65	9.67

Nursing Learning Disability Placements	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	387.38	395.15	403.06	
Proposed Base Rate	394.87	410.34	430.71	439.32
Increase in payment per week per client to be backdated	7.49	15.19	27.65	8.61

Nursing Rates for Mental Health Placements and for People with drug and Alcohol Problems	2011/12	2012/13	2013/14	2014/15
Base Rate Fee Paid Already	397.25	405.23	413.35	
Proposed Base Rate	404.95	420.42	441	449.82
Increase in payment per week per client to be backdated	7.70	15.19	27.65	8.82

Please note the fee rates for nursing placements do not include the Local NHS payment for funded nursing care.

Fee and Market Analysis 2013

1. Derbyshire County Council Care Home Placements

1.1 Numbers of Placements

Derbyshire County Council (“the Council”) supports over 1925 people in independent residential care home placements and a further 1010 in independent nursing care home placements. The Council also supports 600 people within its own care homes. The majority of placements are for older people; 1431 in residential care and 822 in nursing care.

1.2 Standard Costs

The Council decides on an annual basis what the usual cost of care will be for nursing and residential care placements. These rates are stated amounts that the Council is willing to pay providers to provide accommodation and support. Providers are not obliged to contract with the Council if they are not satisfied with the standard rates being offered. There are a small number of homes for older people within the county boundary that only contract with self-funders.

1.3 Quality Premium Placements

All care home providers within Derbyshire are currently able to apply for an additional Quality Premium payment; this is currently set at £21 per placement per week above the standard agreed fee rates. The Council introduced these additional payments nearly ten years ago to encourage providers to invest in the provision of a high quality service.

To be eligible for these additional payments providers must evidence that they can achieve a range of stated standards with a strong focus on training staff and then maintain them to a satisfactory level. Currently 120 homes out of a possible 150 that the Council contracts with are currently in receipt of Quality Premium payments. This is equivalent to 75% of homes.

Weekly Placements Eligible for Quality Premium (QP) Payments

	Nursing Home Placements – All Client Groups	Residential Care Home Placements – All Client Groups	Total Placements
QP not paid	490	629	1,119 (38% of overall placements)
QP paid	520 (51% of overall nursing placements)	1,296 (67% of overall residential placements)	1,816
Total – All Client Groups	1,010	1,925	2,935

1.4 Nursing Fee Rates

When making a placement into a nursing home the nursing care element of the placement 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 payable per week is £109.79. The rest of the nursing home placement standard fee is paid by the Council.

1.5 Third Party Contributions

As noted, the Council informs independent Care Homes each financial year of the usual fee level for each placement category. There are a number of homes that will request a contribution from family members of a client to supplement the amount paid by the Council. These requests are normally made on an individual placement basis with the third party payment being negotiated at the point of the placement. As a consequence the third party rates observed in an individual home can vary a great deal. These payments are known as third party contributions and can differ from less than £5 per week to over £150 per week.

Care Homes ask people to make these additional payments to bridge the gap between what the Council pay and what care home providers believe is the value of that particular placement. Currently 768 placements (including out of county placements) for older people have third party contributions at an average of £44 per week, which is equivalent to 34% of the overall number of older people supported by the Council in independent sector care homes. This compares with 647 placements in April 2011 where there were additional third party payments at an average of £32 per week, which was

equivalent to 32% of the overall number of older people supported by the Council in independent sector care homes.

The Council's Brokerage service has advised that the majority of the homes within the County boundary will request a third party contribution from the families of prospective new clients. However, many are still willing to accept the Council's current fee levels as demonstrated by 70% of placements being made at the Council's fees without a third party top up.

The table below breaks down the numbers of placements in residential and nursing homes where third party payments are made. The table shows the average third party payment paid in Derbyshire and the average paid for placements made outside Derbyshire.

1.5.1 Third Party Payments During 2012 / 2013 placements for Older People

Nursing Placements – Older People within Derbyshire

Total Placements	822
Third Party Payment in Derbyshire	233 placements. Equivalent to 28% of all placements for Older People
Range of Payments made per week	£5 to £267.93
Average payment Third Party in Derbyshire	£39.82

Residential – Older People within Derbyshire

Total Placements	1431
Third Party Payment paid in Derbyshire	452 placements. Equivalent to 31% of all placements for Older People
Range of Payments made per week	£0.83 to £273.27
Average payment Third Party in Derbyshire	£41.86

Out of County Placements – Older People

Third Party Payment paid Nursing	31		
Range of Payments made per week	£2.37	to	£335.37
Average payment out of county	£58.15		
Third Party Payment paid in Residential	52		
Range of Payments	£0.27	to	£494.27
	£85.74		
Average Payment Third Party out-of county			

The average weekly costs of third party payments are disproportionately impacted by a significant number of high cost payments. This is demonstrated by the fact that 50 of the 504 people making third party payments in residential care make payments of over £100 per week, with a maximum payment of £273 per week in a Derbyshire home. Whereas 18 of the 264 clients making third party contributions in nursing homes make payments of over £100 per week, the highest payment being £267.93.

These figures demonstrate that the majority (70%) of the placements being made by the Council in Derbyshire Care Homes continue to be made at the Council's usual cost for care.

3. Care Home Market

3.1 The care home market in Derbyshire has over the past few years been relatively stable

There were two nursing home closures in 2011 that were as a result of fewer people choosing to live in the homes, a high use of agency nurses (expensive) and their banks withdrawing any additional credit. Another nursing home made a business decision in April 2013 to no longer offer nursing beds switching to residential only. A further nursing home closed in 2012 with the owner claiming it was no longer viable to run the nursing home. Other nursing homes have expressed similar concerns about continuing to offer registered nursing care.

During this same time period we have seen some growth in the market with individual homes extending their current provision, one new purpose built nursing home having opened and two new homes being built. The level of

vacancies available within the County ensures that it is possible to find a vacancy when required. However the reduction in nursing bed availability is of concern, homeowners report that the Funded Nursing Care payments they receive for clients with nursing needs does not meet the costs associated with recruitment and retention of nursing staff.

- 2.2** As previously noted, at the time of writing this paper, the Council purchased 1925 residential places and 1010 nursing placements which is equivalent to 67% of the residential market and 45% of the nursing beds.

The table below summarises the placement numbers against the available registered beds. There has to be some caution when reviewing these numbers as some of the registered beds for nursing can also be used to meet the needs of non- nursing clients (i.e. residential). These figures suggest a high occupancy level of 93% for residential care and 95% for nursing care.

Market Share

Residential Beds **2832** available registered beds in Derbyshire

1925 purchased by adult care – equivalent to 68 % of available beds

192 known vacant – equivalent to 7% vacancy level

715 likely to be self-funders and placements by other authorities

Nursing Beds **2246** available registered beds in Derbyshire

1010 purchased by adult care – equivalent to 45%

489 FNC only self- funders, 22% of all placements

112 known vacant – equivalent to 5% vacancy level

635 continuing health care clients and placements made by other authorities

2.3 Market Stability

As previously noted nearly 70% of residential placements are currently procured by the Council and 45% of Nursing Placements. The Council is therefore the primary purchaser in the market and offers confidence to providers that placements will continue to be made and that financial commitments will be honoured. With high occupancy levels and the continued need for placements there is a low risk for providers as they will be able to maintain a steady cash flow against their service, as long as the service continues to be desirable to potential new clients.

The numbers of potential self-funders and continuing care nursing placements are less predictable. However, Nursing Homes can apply to gain “Any Qualified Provider” status with the NHS which will provide assurances that they will receive continuing care placements (fully funded by NHS).

Self-funders may pose a higher financial risk for a provider as they are less predictable in respect of numbers of people choosing to stay in their home and as such some providers may decide to introduce a higher rate for self – funders to help mitigate this risk. It is also the case that homes that have heavily invested in their environment and offer higher staffing ratios than many others in the market will be able to secure a larger percentage of self-funders at rates above the Council’s usual cost of care. A small number of homes operate within the Derbyshire boundary that are almost solely used by self- funders.

2.4 Conclusion

Taking into account the stable condition of the care home market in Derbyshire excepting for the concerns around recruitment and retention of nursing staff as noted earlier in this report (combined with other factors referred to in this Report), Officers are of the view that the Council’s base fees probably do at least cover the usual costs of local providers, although some adjustment may be required.

3. Fees Analysis

3.1 Analysis of Care Home Fees

The Council has been in correspondence with representatives of Derbyshire Care Homes Association (“the Association”) for some time concerning the level and calculation of fees the Council pays for residential and nursing care. This was after the care home owners indicated to the Council their willingness to undertake a legal challenge of the current rates by way of Judicial Review. The argument rests on whether the actual costs incurred by care home owners are higher than the fees paid by the Council.

3.2 The Association has previously shared a report completed by Laing and Buisson Ltd, which had been commissioned by the East Midlands NHS resource procurement hub and five East Midlands Care Provider associations to help the Primary Care Trusts (PCT’s) in the East Midlands region with the identification of a Decisions Support Tool. This tool has been developed to help determine the funding level of continuing health care nursing placements (these are placements where the PCT meets the full cost of care) and identify a placement price for the Association. The Association felt that the information collected by Laing and Buisson, following a survey of Care

Homes across the region and subsequent development of the Decision Support Tool to identify a funding level should influence the Council's consideration of an annual fee level. Following careful consideration, the Council decided that it did not agree with the financial assumptions used within the Decision Support Tool in relation to non-continuing care placements purchased by the Council and decided not to use this tool to determine fee rates; however it was agreed that some of the cost headings used to calculate the fees were relevant.

- 3.3** Therefore, in agreement with the Association, a questionnaire was developed by the Council in order to determine the actual revenue costs of running a care home. The questionnaire was distributed to all independent sector Care Homes in Derbyshire. The homes were informed that completed forms should be returned no later than 22nd October 2012.
- 3.4** It was agreed to hold two forums with the providers, one in the north and one in the south of the county, prior to the questionnaires being distributed. All providers were invited to the meeting, however only 9 homes/groups were represented at the meeting. At the forum, a number of questions were raised and following the meetings, information was distributed to all the homes.
- 3.5** A total of 29 completed questionnaires were received. However, for the purposes of the analysis, the response from a specialist mental health care provider was omitted because their costs are considerably higher than that of the other homes analysed. Of this total, 15 related to non-nursing homes, with the remaining 13 being nursing homes.
- 3.6** The data received was subsequently entered into spreadsheets for analysis and initial sanity tests were conducted. The results were examined to highlight any irregularities in the data. Initial analysis was also undertaken using standard deviation to determine which costs were considered to be outliers. The standard deviation shows how tightly all the various examples are clustered around the mean in a data set.

There were a number of inconsistencies in the responses received, a particular problem however is that the data supplied was too erratic. For example, the figures provided for staff costs, per resident per week, ranged from £15.33 to £297.92.

Although the initial review clearly identified inaccuracies and variation in the level of detail provided, it was concluded it was at least possible to draw some conclusions for assessing local actual costs of care but the Council took the view that it needed to undertake additional verification of the initial data received. Contact was made with the homes that completed the questionnaire to request access to further information. Unfortunately, this did not result in any further insight into the true cost of care because care home

providers were unwilling to disclose their accounts, even on a confidential basis, or provide any other verification of the information provided in the relatively few questionnaires that were returned.

Further clarification was required from some of the providers in those areas where extremities existed in the responses, or further information was needed to aid the analysis. In the main, clarification related to question numbers 11, 12, 13, 14 and 15. These questions related to management, administration and reception costs, repairs and maintenance, and non-staff costs.

Of the homes who responded, some further questions were sent for clarification, emails were sent to 13 of the nursing homes requesting clarification. Of those, seven failed to respond to the email. A further 15 emails were sent to the non-nursing homes, of which eight did not responded.

Having received clarification from some of the providers, it was considered justifiable to exclude some costs such as foot care, hairdressers, etc. as it was considered that these were not a cost to the home but costs that would have been passed to the resident.

3.7 In undertaking the final analysis, the following assumptions were used:

Occupancy Levels

To assume that Care Homes have 100% occupancy at all times is unrealistic and not representative of how costs are spread amongst residents in reality. It was also recognised that although some costs would vary with occupancy levels this was not applicable to the majority of costs and the costs were defined as either variable or fixed.

Variable Costs

Food and medical supplies were treated as variable and the per person per week rate was calculated on the individual homes' average occupancy.

Fixed Costs

All other costs were treated as fixed and the per person per week rate was calculated on an average occupancy of 90% (as per Lang & Buisson) of the individual homes' registered beds.

The spreadsheet in appendix XX shows the information provided by the homes. The spreadsheet shows the formulae used in calculating the costs, which are summarised below.

Formulas – Fixed Costs

Staff Costs

Other Non Staff Costs at Home Level (exclude Food and Medical Supplies)

$$\frac{\text{cost} \div 365 \times 7}{90\% \text{ of registered beds}}$$

Management, administration and reception

Maintenance capital expenditure

Repairs and maintenance (exc. Staff)

Contract equipment Maintenance

As these costs were specified per person per week (pppw) they were equated back to a total per home per week and then the cost pppw was recalculated at an average occupancy of 90%

$$\frac{\text{cost} \times \text{occupancy}}{90\% \text{ of registered beds}}$$

Formulas – Variable Costs

$$\frac{\text{cost} \div 365 \times 7}{\text{average occupancy per home}}$$

3.8 Conclusion

The initial analysis undertaken clearly identified issues regarding the quality of the data received in order for the Council to make any informed decisions. The completed returns were quality checked and where appropriate, the Council attempted to clarify the information submitted with the Care Homes concerned, but the responses received were limited. However, as the number of responses to the questionnaire received represented only 19% of homes, it was agreed to use all the data, with the exception of one as highlighted above.

The Council took the view that it needed to undertake additional verification of the data currently in our possession. Further contact was made with the homes that completed the questionnaire to request access to further information. Unfortunately, this did not result in any further insight into the true cost of care because care home providers were unwilling to disclose their accounts, even on a confidential basis, or provide any other verification of the information provided in the relatively few questionnaires that were returned.

3.9 Average Identified Unit Cost

As previously noted the analysis of the Care Home Cost Questionnaires identified broad differences between the information shared by providers. To help expedite this work it has been decided to pool the information for all of the homes for older people and to remove the nursing staff wages from the calculation. The justification being that there should be some common expenditure between the types of homes. There is no evidence to support an argument that the provision of social care within a nursing home is higher than in a residential home. It is also the case that nursing staff wages should be covered by the Funding Nursing Care fee contribution from the NHS rather than the Council. Any concerns about this funding should be of concern to the local NHS rather than the Council.

The following figures were produced when the findings from the questionnaires submitted were averaged out;

Total Staff Costs	£208 per week
Management plus others	£ 54 per week
Total Repairs and Maintenance	£ 27 per week
Non-staff current expenses	£ 82 per week

Total	£371 per week
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The findings from averaging the costs as described above were compared with detailed costs that have been publically shared by other organisations, including Laing & Buisson statistics and other local authorities including Nottinghamshire and Lincolnshire who also contract for care home provision.

This provided the opportunity to benchmark costs which demonstrated that the averages identified following the analysis of the Derbyshire Questionnaires was broadly comparable;

- **Combined Total Staff Costs non-nursing**

○ Derbyshire	2012/2013	£262
○ Nottinghamshire	2012	£262
○ Leicester City	2012/2013	£251
○ Oxfordshire	2013	£261
○ Leicestershire	2013	£261

- **Total Repairs and Maintenance**

○ Derbyshire	£27
○ Nottinghamshire	£29
○ Leicester City	£12
○ Oxfordshire	£22
○ Leicestershire	£21

- Non staff current expenses

○ Derbyshire	£82
○ Nottinghamshire	£82
○ Leicester City	£75
○ Oxfordshire	£52
○ Leicestershire	£80

- Total Costs

○ Derbyshire	£371
○ Nottinghamshire	£357
○ Leicester City	£338
○ Oxfordshire	£335
○ Leicestershire	£362

4. Return on Investment

In establishing a fair rate of return the Council must establish that the rate of return relates to the risk of the investment. This discrete piece of work was the subject of a competitive tendering exercise. Unfortunately none of the organisations on the Council's framework were able/willing to undertake this work. As a consequence this work was undertaken by Council Officers.

As previously noted in this report Derbyshire is the primary purchaser of care home placements. With high occupancy levels and the continued need for placements there is a low risk for providers as they will be able to maintain a steady cash flow against their service, as long as the service continues to be desirable to potential new clients. Demand for care home placements due to the rising population of older people will also continue so providers should have confidence that numbers of potential residents will increase.

It is also possible to argue that the care home market is stable within Derbyshire with very few care home closures over recent years. It is also the case that at the time of undertaking this review of the primary property websites for Care Homes that only four homes were known to be for sale. On the basis of the above it has decided that the Council should be guided by the property advisors CBRE who publish detailed market information to assist potential investors. The latest available property dashboard for 2013 identifies "Good Secondary Healthcare" as being able to warrant investment yields of 7.25%. On the basis of the current stability in the market and the limited business risk it is deemed appropriate to use a return of 7.25%.

A review was undertaken of the following property websites on 8th May 2013 to identify Care Homes for sale in Derbyshire.

- Businessforsale.com
- CareHome.co.uk

- DaltonsBusiness.com

The web site search identified four Care Homes for older people for sale within Derbyshire. The limited number of homes for sale and the lack of providers falling into financial difficulties over the past year suggest that the market is stable. The quoted for sale value of the 4 homes in Derbyshire had an average £32,000 listed bed price. Using this listed bed price with a 7.25% return on investment is equivalent to £45 per week

Summary of Rent or Return on Capital

○ Derbyshire	£45 based on 7.25%
○ Nottinghamshire	£55 (7% value home)
○ Leicester City	£42
○ Oxfordshire	£92
○ Leicestershire	£44.55 (4.2% ROCE)

The Council has, as part of its consideration of the costs of provision, decided that it would not include a value for operational profit as this is not an actual cost of care and also because, in the opinion of Officers, standing back from the various figures that have been generated, which can only amount to reasonable approximations, the fee levels proposed below will at the very least cover the usual costs locally of providing care home accommodation, as well as incentivising better value provision, and dementia provision, and safeguarding the Council's limited resources for the benefit of all those who need assistance..

5. Proposed Fee Levels 2013/2014

Taking the average unit cost of £371 per week and the contribution of £45 return on capital provides a proposed weekly base fee of £416 per week. Nursing placements will retain the fee differential of £12.11 between Nursing and Residential provision that was previously paid by the Council resulting in a weekly base fee of £428.11, before adding in the NHS FNC payment of £109.79

Other Local Authority Base Fee Rates 2013/2014

Local Authority	Residential Placement £	Residential with Dementia £	Nursing £	Nursing with Dementia £
Derbyshire	388.36	N/A	400.47	N/A

Derbyshire Proposal	416.01	451.01 From 2015	428.12	463.12 From 2015
Derby City	415.14	449.33	426.32	N/A
Sheffield	398	406	401	426
Tameside	419-452	431-464	443-481	461-500
Staffordshire	400	418	410	428
Leicestershire	395	411	410	
Nottinghamshire	399-520	410-566	433-573	443-615

Nursing fees quoted in this table do not include the NHS FNC payment of £109.79 per person per week.

6. Dementia Care Payment

With the predicted increase of people with a diagnosis of dementia needing registered care it is proposed to introduce an additional payment to Care Homes(nursing and residential) that have been approved by the Council to support people with dementia, in order to at least cover the additional costs of supporting people with dementia.

Providers would be required to apply to become a Dementia Care Provider. They would need to complete an approval form for each home they operate demonstrating how they meet standards for the provision of dementia care. Each applicant would also receive a visit from a Council officer to validate their submission before award. Once a home has gained approval then all clients in the home who are funded by the Council with a diagnosis of dementia would be eligible for the additional payment.

This payment is linked to an individual home maintaining quality outcomes to meet the needs of people with a diagnosis of dementia, if at any time the performance of an individual home was below the required level, then these payments could be suspended until improvements are made or removed completely. In the latter scenario the home would then have to reapply to regain the Dementia Care payment, consideration about whether the home would continue to be a suitable placement for people with a diagnosis of dementia would also need to be made

A draft approval scheme has already been developed and will be the subject of further discussions with Care Home Providers before it is implemented.

The following Quality Outcomes will be considered as part of this new Care Payment;

- Philosophy of the home is that of a Person Centred Organisation that delivers high quality support
- All clients experience a high standard of emotional support and quality of life
- All clients are supported by staff that are well trained in provision of dementia care
- Clear leadership in promoting quality Dementia Care provision
- All staff promote dignity and respect
- Physical environment is developed to nurture and enable clients to feel a sense of ownership, belonging, security, familiarity, dignity, direction and purpose.

The £35 payment per client has been calculated to include a minimum of 3.5 hours additional carer time per week per client, or 30 minutes a day. Using an average of £8 per hour to calculate costs this is equivalent to £28, the additional £7 would contribute towards other costs such as training.

7. Contract Monitoring

7.1 Joint Working (Fieldwork, Safeguarding, Health and Care Quality Commission)

The Council's Contracting and Compliance Team work closely with social work teams, Health colleagues and Care Quality Commission Inspectors (CQC) to promote provision that meets people's needs in a safe environment with respect and dignity.

The Team endeavours to communicate on a daily/weekly basis with all groups (identified above) where there are concerns with the quality of services. On a more formal basis quarterly meetings, chaired by CQC take place where all care homes/home care agencies where there are concerns are discussed in turn. Also, a Joint Quality Group Meeting is held bi-monthly (Chaired by a Health Senior Manager) where the focus is on emerging themes in terms of quality. Short term task and finish groups are commissioned from this meeting to undertake projects in an effort to address specific areas of concern in respect of quality or gaps in policy and procedure.

7.2 Review Methodology

Contract monitoring reviews of Care Homes are undertaken as part of a routine rolling programme of visits. However visits can be brought forward in

response to safeguarding, whistleblowing alerts or when concerns from visitors and users of a service when considered together show potentially systemic problems with provision. A Contract Monitoring Tool is used for all reviews and providers are issued with a SMART Action Plan following a Contract Monitoring Review detailing the actions required by the Contracting Team.

A RAG (Red, Amber, Green) system is in place to assist the team in managing the market to ensure monitoring activity is prioritised on the providers that give greatest cause for concern.

7.3 Conclusion

Officers report that Contract Monitoring shows that the quality of care home provision in Derbyshire is predominantly very good. It is, also, rare for any care home to attribute inadequate care to inadequate fee levels and there is no evidence of this. The primary concern highlighted by Providers is the level of funded nursing care as highlighted in section 4.3. and the associated difficulties in recruiting and retaining nursing staff. Officers conclude that this is another indicator that the Council's base fee at least covers providers' usual costs of making provision, although some adjustment may be required.

8. Commissioning Context

8.1 Strategy for Accommodation, Care and Support.

The Council's strategy for accommodation, care and support for older people in Derbyshire involves investment in Specialist Community Care Centres and Extra Care housing developments which are being developed to compliment the current provision of the Council's existing homes for older people.

This also supports the Derbyshire Dementia Strategy, which places a high priority on enabling people to stay in their own home, whilst offering an opportunity for that home to be in a more supported environment, such as Extra Care, where appropriate. It aims to provide individuals with an alternative model that facilitates a real choice between supported living at home and living in residential care, which will be retained for those with the most complex needs.

The provision of high quality independent sector Care Homes plays a key role in ensuring that there is a range of services available across the county to ensure people have choice over where they live and are supported.

8.1.1 Community Care Centres

The strategy encompasses the development by the Council of Specialist Community Care Centres providing a network of high quality dementia

friendly buildings across Derbyshire that will become the focal point for delivering services to older people with more complex levels of need.

Focusing on dementia, Specialist Community Care Centres will provide:

- a range of flexible day opportunities for people in the community which includes advice and information services, day respite, rehabilitation and health and support services and;
- short-term intermediate and respite care for older people; and
- long-term care for older people with dementia and more complex needs.

The Centres will be part of a hub and spoke model of Council and Local NHS services to support the Dementia Pathway; they will be the hubs that provide countywide access to centres of Dementia Care excellence; with spokes providing outreach into the community.

8.2 Provision of Dementia Care

The Derbyshire Dementia Strategy highlights that there will be a significant growth of the numbers of older people in Derbyshire with a 76% increase in people aged 85 and over between 2008 and 2025 resulting in the number of people in this age range increasing by 13,400 to a total of 31,100.

The positive correlation between incidence of dementia and age means that Derbyshire will see a dramatic increase in dementia; by 2025 it is expected that there will be a 58% rise in the numbers of people with dementia. This will result in the number of people with dementia growing from 9,800 in 2010 to 15,474 by 2025.

It is therefore of importance that there is a range of high quality services across Derbyshire to manage this increase in need. People with dementia and their carers should be able to expect services and support from staff who are knowledgeable about dementia and who have skills to work effectively with individuals.

Service providers should have an informed and effective workforce and that their level of skill and expertise should be proportionate to the level of contact staff have with people with dementia. It is also of importance that the physical environment where people with dementia live be developed to nurture and enable clients and to help them feel a sense of ownership, belonging, security, familiarity, dignity, direction and purpose.

Care Home Fee Proposal Consultation Feedback

On the 7th April 2014 a letter and supporting information detailing the Council's determination of a proposed standard base fee rate was sent to all Care Homes in Derbyshire. Homes were asked to participate in the consultation on the findings of this exercise to determine fee rates for the years 2011/2012, 2012/2013 and 2013/2014.

Over 150 homes were contacted to ask for their views against recommendations for the provision of Care Home fees in Derbyshire. Forty eight responses were received. Up to 70 homes were represented by these returns as some of these responses were from organisations that own more than one home in the Derbyshire.

The questions posed by this consultation exercise are listed below. The responses received from providers are numbered and shown in italics after each question. Councillor Officer Responses have been added to the narrative to explain the Council's viewpoint.

Provider comments against each question have then been summarised and recommendations made within the Cabinet Paper dated 9th September 2014.

Derbyshire County Council Care Home Fee Consultation

Derbyshire County Council has carried out an assessment of Care Home Fees since April 2011 and has recalculated the fee rates for the three years as set out in the table below.

Fee Rates for Older People Care Homes without Nursing	2011/2012	2012/2013	2013/2014
Base Fee Rate Paid Already	373.24	380.73	388.36
Proposed Base Rate	380.73	395.92	416
Increase in payment per week per client to be backdated	7.49	15.19	27.64

Fee Rates for Older People Care Homes with Nursing	2011/2012	2012/2013	2013/2014
Base Fee Rate Paid Already	384.93	392.63	400.47
Proposed Base Rate	392.63	408.31	428.11
Increase in payment per week per client to be backdated	7.70	15.68	27.64

4. It is proposed that Care Homes would receive backdated payments based on the weekly amounts highlighted in the bottom row of each table. Please comment on these proposed rates and on the principle of backdating the increase.

Responses Received (numbers listed reference each provider response)

1. *I am in agreement to all of the proposals set out in the Fee level Consultation e-mail of 7th April 14, which includes the offer of a backdated award, the introduction of a dementia premium and changes to the current Quality Premium scheme.*
2. *Agreed*
3. *Can you please explain why the percentage of the increase in years 2011-12/12-13 is significantly lower than years 13-14? (1.96%) (3.83%) (6.64%). The principle of backdating is good provided there is equal proportionality in the increase each year.*

Council Officer Response: The review of the fees was undertaken at point in time and took account of the costs identified from a number of sources. Having already increased payments during these three years by interim amounts of 2% each year it was determined that tapering the fee rates by the values identified was a fair and justified use of public funds.

4. *The increase is long overdue but would help to give better quality care for our residents.*

It is not clear if this is taking into account the Quality Premium rate.

Council Officer Response: The Quality Premium payment would still be additional to the quoted fee values.

5. *I agree should be backdated, we are under major stress and increased payments are a must.*
6. *Rates seem reasonable and backdating will be useful.*
7. *Why is the increase only being offered back to 2011.*

Council Officer Response: The local Care Home Association challenged the level and process for calculating the fees the Council pays for care home placements for older people in Derbyshire for 2011/ 2012 therefore it was agreed with the Care Home Association to backdate to 2011/2012 only.

8. *Agree with backdating. However, rates used for calculation are too optimistic in respect of occupancy, think this should currently be around 80% - 85%. Bed values used I think are low and should be 35k - 40k per bed. This makes return on capital rates wrong but in the comments favour. New rates are positive but don't go far enough at present.*

Council Officer Response: The bed occupancy level was set at 90% as per Laing and Buisson model however the Council was also able to compare the information collated on the county bed vacancy tool which is regularly updated based on provider feedback, which supports this assumption. Undoubtedly, some homes may have a lower utilisation than others who operate with waiting lists. Your view about the bed value is noted. (See Officer Response below regarding occupancy rates).

9. *It is still not much but it is better than nothing. Considering the high cost of running the home, it will be helpful to receive the backdated increase.*
10. *As a care home which took the time to respond to your request for accounting information we struggle to understand how the figures we submitted translate to those presented as you have provided no information on how you have arrived at these figures (save the return on capital)? For instance what occupancy levels and care home size have you based your model on as these will have a massive impact on the efficiency of a home? As you will be aware for a number of years Derbyshire County Council restricted the maximum size of care homes in the county meaning the vast majority of stock is 40 beds or under. You will also be aware from our very own data that 90% + occupancy levels you have based previous models on (and presumably this one also?) are not consistently achievable, especially with the ever more complicated clients being presented?*

Council Officer Response: Detail of how the financial information presented to the Council was analysed was included within the Consultation Pack. The limited response received from Care Homes in Derbyshire coupled with the variability in the quality of the submitted information and lack of supporting evidence gave rise to the finding of this analysis. (See Officer response below regarding occupancy levels)

Sadly I must say I can find no sense in the method employed in calculating the value of a care bed at £32,000? It would seem apparent that the care homes chosen for this exercise as being currently for sale could not have been of any quality? As Derbyshire County Council are themselves investing heavily in the care sector by constructing their own care homes you are in prime position to understand exactly how much it costs per bed to build, could you please share with me these costs and explain why these were not used instead of four distressed care home sales? I would also suggest that a 7.25% return on investment is ludicrously low considering the level of risk an investor is exposed to in today's heavily inspected market and 'no win no fee' legal culture. I can only therefore assume that 7.25% is intended as a return on the property investment only and not the operation element of running a care home?

Finally could you please confirm what inflation was applied to the data? It would appear from the proposal that our data relating to financial year 2010 - 11 has created a figure of £416, therefore should we not be receiving £416 + inflation for the period 2011-12, followed by further inflationary rises for 2012-13 and 2013-14? If an inflationary increase has been applied how has this been calculated as our real world expenses have increased far beyond the 1% increases applied in previous years?"

Council Officer Response: Your views about how the return on capital are noted. The Council did not undertake this analysis on the basis of developing and building a new home rather this was undertaken on the costs of care home beds in Derbyshire at a point in time.

The Council believes a return of Capital of 7.25% is a fair rate of return. With high occupancy levels and the continued need for placements there is a low risk for providers as they will be able to maintain a steady cash flow against their service, as long as their service continues to be desirable to potential new clients.

The review of the fees was undertaken at point in time and took account of the costs identified from a number of sources. Having already increased payments during these three years by interim amounts of 2% each year it was determined that tapering the fee rates by the values identified was a fair and justified use of public funds.

11. *Method of calculation appears reasonable and principle of backdating is welcomed. The only reservation held is that the return on capital use at 7.25% is low.*
12. *DCC is using a single band system assuming that “one size fits all” whereas Nottinghamshire is using a 5 band system. The multiband system meets the needs of service users far better and can be upgraded as their needs increase. Derbyshire and Nottinghamshire have in the past paid similar rates and now it appears Derbyshire have taken an extremely different view. My home is 2 miles inside the Derbyshire county border and my costs are very similar to Nottinghamshire, we have to continually use services based in Nottinghamshire.*

Council Officer Response: The Council has decided to operate a standard price for care with homes being able to apply for additional quality premium payments. The Department of Health Guidance relating to the setting of fees requires Council's to take account of the costs locally. There is no standard guidance for the methodology of how this should be achieved or whether a range of fees should be available based on a home's ability to achieve set standards.

DCHA (Derbyshire Care Home Association) have negotiated and submitted data from the 28 homes that replied and concluded a much higher payment was appropriate (£474.36). DCC rejected the data supplied as “unreliable” and then “cherry-picked” the data they wished to use. DCHA provided supporting evidence for their conclusion. The 2% given each year (without prejudice) should be applied to the new payment figure and not just adding the payment figure to existing.

Council Officer Response: I can confirm that DCHA have presented their response to the findings of the analysis undertaken by technical accountants of the Council against the 28 completed questionnaires received by the Council. The information that was judged by the Council's accountants as unreliable were either very low figures compared to the others submitted or very high. Each of the providers who had submitted these figures were subsequently contacted and requested to evidence their submission. No supporting information was submitted so I am sure you can appreciate we had to make a judgement not to include the figures. *The Council paid the 2% increases with the intention that this would be included within the proposed fee rates not as well as.*

13. *We support the submission from the Derbyshire Care Providers Association Ltd in respect of this matter and the Proposal.*

The principle of the backdating is accepted but the proposed fees are inadequate for reasons stated.

14. *I agree with the proposed rates and principle as stated above.*

Backdating the payments seems only fair, the payments are more appropriate, and in line with other counties, it is a shame it has taken the council so long to recognise the value the elderly in our society.

15. *The fee rates, even with the back dated amounts being taken into account for all three years are low, and in particular significantly less in 2011/12 and 2012/13.*

I obviously agree with the principle of backdating any increase but would have thought the £27.64 increase should be for all three years and not the lesser amounts stated above

16. *We welcome the proposed rates and backdated payments. We feel it is a step in the right direction in deciding on appropriate and realistic fees*
17. *The consultation papers state that the fee rates are computed from data provided by Care Homes in the questionnaires sent out in 2012 with a preference for data relating to the period 1st April 2011 to 31st March 2012. The data provided in those responses received has been used to calculate a fee rate for 2013/14 BUT with no inflationary increase applied to those costs. This means that in terms of Staffing costs, at least 2 National Minimum wage increases (1st October 2012 and 2013) have been omitted with 3 years for data provided for the period prior to October 2011. The inflationary increase for other costs needs to be considered in light of appropriate national statistics such as Consumer Price Index which mirrors Care Home costs closer than the Retail Price Indices. The fee rates proposed therefore need to be uplifted for inflation.*

Council Officer Response: It is normal practice when determining costs to take the information available from one year to help inform the costs for the next which is what has been undertaken in this analysis. It is however acknowledged that the tapered increases for years two and three should be inflated to reflect that these additional payments need to be inflated in line with the previous interim payment. It is not felt that this approach need to be taken for year one (2011/12 as this is the base year of the analysis)

Fee Rates	2011/2012	2012/2013	2013/2014
Increase in payment per week per client to be backdated	7.49	15.19	27.65
Add in 2% inflation to taper increase		0.28	0.56

Inflation; The papers refer to a 2% inflationary increase for 2014/15 but does not detail how this has been computed and we feel that this is inadequate for the following reasons:

- The National Minimum Wage increase for 2014/15 is estimated at 3%, which at 60% of the fees, represents 1.8% of the 2% increase, leaving 0.2% inflation for all other costs which is clearly inadequate!

Consumer Price Indices for some of the other cost areas are Food 1.7%, Housing, Water, Electricity, Gas and other fuels 3.1% and Health re medical products 3.4%

Additional cost pressures in 2014/15 that do not appear to have been considered nor included are:

- The Council have implemented the National Living Wage from April 2014 which may reduce the ability of Care Homes to recruit sufficient staff at the rate assumed in the proposed base fee rate as the Council will be paying staff in their Care Homes a living wage which is £1.40 per hour above the National Minimum Wage.*
- The cost of Auto Pension enrolment both in terms of the administrative cost of implementing a new system, processing the pension contributions and fees to the Pension providers. Pensions advisors inform us that a realistic timescale for implementation is 12 to 15 months and therefore even for independent one off Care Homes like ourselves, significant costs will be incurred in 2014/15 in preparing for implementation date in mid 2015.*
- Increasing training costs as fewer 'free' places are available to Care Homes on Derbyshire County Council run courses which means that payments to external training providers is increasing. Also the range of courses that staff are expected to attend is increasing as the dependency and complexity of residents increases e.g. dementia, falls prevention, diabetes.*
- Care Homes are expected to provide a lot more equipment as standard now due to the increased dependency of the residents coming into the Care Homes e.g. profiling beds, pressure relieving equipment, different types of hoists.*

Council Officer Response: This review about care fees is about the payments made for independent sector care not about the payments made for Council services. Comments about the current and future cost pressures are noted. The training offer from the Council has recently been refreshed and during the transition there has been reduced availability, however availability is expected to improve.

TAPERING OF BACKDATING The Consultation Papers provided do not give an explanation of how the tapering back of fee rates has been computed and therefore it is difficult to comment on this except to say that without any methodology we would have assumed that the total of the backdated payment for 2013/14 would have been spread evenly over the years i.e. one third in 2011/12 (£9.21), two thirds in 2012/13 (£18.43) and three thirds in 2013/14 (£27.64). The figures provided in brackets here are before the correction for inflation noted in the paragraph above.

Council Officer Response: The tapering arrangement used to apportion the proposed increase over the three years was to increase the fees in each of years one and two by an additional 2%, the Council having already increased the fees for these two years by 2%. It was then proposed that year three (2013/14) would receive the difference. The Council believes this is a fair apportionment of the increase proposed over the three years.

Fee Rates for Older People Care Homes without Nursing	2011/2012	2012/2013	2013/2014
Base Fee Rate Paid Already – with 2% increase included	373.24	380.73	388.36
Increase in payment per week per client to be backdated	7.49 2% increase on interim rate paid	15.19 2% increase on interim rate paid	27.65

OCCUPANCY RATE

The base fee rates have been calculated using a 90% occupancy rate however, the data from the returned surveys shows an average occupancy rate of 83% for residential homes and 86% for Nursing homes. These actual rates of occupancy in the Homes in the County should be used in calculating staffing costs rather than 90% so that average actual costs incurred are used with actual occupancy rates. Staffing costs will vary dependent on resident numbers as a Home with very low occupancy such as Home number 14 at 59% occupancy would clearly increase its staffing level if its occupancy rose from 59% (10 residents at that Home) to 90% (15 residents at that Home). The use of 90% occupancy rate is resulting in an understatement of the cost of care and hence base fee rate.

The justification given for using a 90% occupancy rate appears to be that it was the rate calculated by Laing & Buisson however, in the past the Council have rejected the use of the Laing & Buisson report as not being specific enough to the County homes.

Council Officer Response: The Council felt that it was entitled to set fair standard fees by reference to the level of occupancy the Council considers reflects a level that an attractive, efficient care home should achieve.

RATE OF RETURN

The Consultation Papers state that you have taken the average £32,000 listed bed price from 4 homes in Derbyshire that were on the websites for sale however, the papers do not state the names of those Homes, their location (not even rural or urban) or their profitability or condition. Research by our Derbyshire Care Providers Association with Christies & Co and Edward Symmons has ascertained that the listed bed price used would be based on a substandard home which is poorly trading and has issues. A good performing home with average sized living space and non-ensuite bedrooms would attract prices in excess of £42,000 per bed whilst a Home built out of the ground with ample living space, ensuite facilities and enough space to fulfil Derbyshire Council requirements would cost in excess of £55,000 per bed plus land cost at about £10,000 per bed.

The rate of return of 7.25% only refers to return on property investment and does not take into account the other aspects of rate of return namely financing cost (interest on loans and dividends to investors), repayment of capital, reasonable profit to allow reinvestment into the business and reward risk and enterprise and to meet unforeseen costs. The rate of return used is clearly inadequate to cover all these aspects and as such will lead to fall in standards of care and facilities provided in Care Homes and/or Care Homes closing.

Even at a rate of return at 7.25% (which we would question anyway) with an average home price of £53,500 per bed (£42,000 to £65,000), the rate of return would be £74.60 per bed, not the £45.00 quoted in your Consultation papers.

Council Officer Response: The Council believes that a rate of return on Capital of 7.25% is fair in respect of the current state of the financial market. The Council in undertaking this exercise were interested in responding to the rate of return on capital for current homes not new builds. The justification of using the information available on homes for sale was this in the opinion of the Council a good guide of the bed values of care homes at that point in time

18. *The principle of backdating any increase in fee levels is obviously most welcome.*

However, the values proposed and the calculations used to come to those figures, I feel are flawed. Whilst, in comparison to fee rises implemented in the past, £27.64 seems relatively generous, I am aware not to be blinkered by that and to be mindful of the ever increasing costs in running such a business, and why in comparison to other neighbouring counties, Derbyshire still pay significantly lower rates. For this, there is no justification and this must be addressed.

20. *I believe the basis of your analysis are flawed on the following levels:*

Total Staff Costs inc Home Managers (excl Provider) =

£275 per week per resident at 100% occupancy

£289 per week per resident at 95% occupancy

£302 per week per resident at 90% occupancy

Council Officer Response: The Council cannot determine how you have arrived at the figures quoted above, but notes your comments.

Return on Capital – An investment yield of 7.25% in this sector is low considering the capital requirements as well as risk profile. Your “average list price of £32,000” based on 4 care homes for sale in Derbyshire is also inadequately backed up. Having spoken with Christies and Edward Symmons, this price level is based on a substandard home which is poorly trading and has issues. Indeed to purchase a good performing home with average sized living space and bedrooms (non-ensuite for this purpose) would attract prices in excess of £42,000 per bed. Indeed to build a home out of the ground with ample living space, ensuite facilities, and enough space to fulfil Derbyshire requirements would cost in excess of £55,000 per bed plus land cost. Cost of care across the country is on the increase with staff costs, energy prices, food costs and facility management all on the increase. I have attached the Knight Frank report on the Care Sector written in 2013 for your reference.

In order to reach a fair return cost and based on the above, the cost of a bed should be set at £45,000. This would result in a £62.74 return on capital per week

I am comfortable with findings on Repairs and Maintenance (£27) and non-staff expenses (£82), though it should be noted that these include areas like food and energy which are on the constant increase above inflation.

In summary, I believe base fee rate should be set at a minimum of £473.7 (302+27+82+62.74)

With respect to back dating of these costs, I do not understand the tapering mechanism. Rather the difference between the rate paid already and proposed rate should be added at the same value. In your example, it would be £27,64 each year. In mine, it would be £85.38 per client per week to be backdated. Quality Premium payments are in addition to these amounts"

21. *We accept the proposed rates.*

22. *The proposed rates are acceptable as are the principles of backdating.*

23. *Whilst recognising that an uplift in fees which is back dated is a realistic step in the right direction in a fair payment for care, as a County this is still considerably lower per person than other neighbouring counties – in some cases by as much as £150 per week.*

Council Officer Response: As part of this exercise the Council also has to take a view of the fee rates in surrounding authorities. The following table shows for the

period being considered with the proposed new rates included. The table shows authorities on Derbyshire's border and other than one Authority the proposed fee rates for Derbyshire are fair and comparable with the majority of bordering authorities.

Other Local Authority Base Fee Rates 2013/2014

Local Authority	Residential Placement	Residential with Dementia	Nursing	Nursing with Dementia
Derbyshire	388.36	N/A	400.47	N/A
Derbyshire Proposal	416.01	451.01 From 2015	428.12	463.12 From 2015
Derby City	415.14	449.33	426.32	N/A
Sheffield	398	406	401	426
Tameside	419-452	431-464	443-481	461-500
Staffordshire	400	418	410	428
Leicestershire	395	411	410	
Nottinghamshire	399-520	410-566	433-573	443-615

24. *"Whilst the increases are welcomed, the proposed rates still do not reflect the cost of care or increases over the period being backdated.*

The increase does not cover the sum of cost pressures experienced over the same period. These include Inflationary pressures (Food, Gas, Electric), Wage pressures (Minimum wage increases, Pensions), On-going standard & legislative requirements and increases in bank charges and lending rates.

So we welcome the fee increases and we welcome them being backdated – but do not think the increase truly reflects the cost and cost increases of providing care.

25. *The proposed rates are reasonable and backdating the increase is 100% the correct thing to do.*
26. *The tapered increase presumes that inflation was 4.85% between 2012/13 and 2013/14 ((428.11-408.31)/408.31) and 3.99% between 2011/12 and 2012/13 ((408.31-392.63)/392.63). What inflation measure was used? Please*

give exact details if any calculations were applied to arrive at the care home inflation.

The DCC has assumed much lower inflation (1.5-2%) when fees were actually increased during those years. The 2% inflation for 2014/15 fees that is proposed by the DCC is far too low to compensate for National Minimum wage increase of 3%, utilities increase of over 3%, increased training costs (DCC provide less), increased equipment requirements, etc.

- 27. The intended back payments go part way to addressing the cost of providing care. It is with the understanding to limited fee rates would, even with the refund still be low, but at least there is a recognition of the shortfall in previous years.*
- 28. I have taken the time to read all the information forwarded as part of the fee review for Older People in Derbyshire who access residential and nursing services. Although there appeared a low response rate for participation in the scheme, I feel that the offer of 3 year's back dated payments as detailed above is reasonable and more accurately reflects the costs involved with delivering a high quality residential care package. It is also useful to note that the impact of basic fee increase of 2% from April 2014 will be backdated against the new proposed fee rate.*
- 29. At long last DCC have recognised that fee levels were dropping behind other Councils, despite rising costs. I think this is a very fair approach to adopt and act in agreement with the principle.*
- 30. It is promising that fee increases are being addressed. It is also welcome that it is being considered that these fees are to be backdated too. The proposed rates are realistic but consideration should be given to how much capital is left to reinvest in the Home and its staff's professional development. These are extremely important in order to assure high quality standards in the services provided to the residents and staff's job satisfaction, which would ultimately lead to low staff turnover and continuity of care.*
- 31. We would be satisfied with these proposed weekly amounts, and feel that the principle of backdating the increase is a fair one.*
- 32. I agree that the rates are fair and strongly agree that the fees should be backdated.*
- 33. I agree with those increases and the backdating.*
- 34. This is acceptable.*

35. *We do not wish to complete the questionnaire and we are in full agreement with the offer that is proposed.*
36. *This is acceptable.*
37. *This increase is very welcomed together with the backdated proposal.*
38. *We welcome the increase but feel that this does not fully cover the full running cost of the home and to provide care above what is needed for the individual. Other counties are paying more than the proposal*
39. *Acceptable*
40. *Whilst we appreciate the thoroughness of the process that Derbyshire have gone through, and the work which has been completed, we would query the rate that has been included (the latest Laing Buisson reviews estimate that this should be approx £60,000 per bed) and also where homes are sold it could be that they are not financially viable and the price for commercial sales is usually based on a profit multiple which may have deflated the value of capital used in your model for the sector as a whole artificially. In addition there is no allowance for a reasonable level of profit (e.g. 2-3%) which would usually be permitted.*
41. *We are willing to accept the backdated fee proposals as we appear to have little choice. Fortunately we have only one home that this affects and have a significant proportion of self-funding clients as well as charging third party contributions, otherwise our business would not be sustainable if we had to rely solely on LA funded clients.*

We do however have a number of comments that it is hoped the Council will take note of:

As set out in the letter of 07 April 2014 the return rate with regards to the questionnaires was very low and I would suggest the results do not give an accurate picture of the market costs.

Over the last few years many authorities have set out to 'consult' with providers as to our actual cost of care, however in reality do not take any real steps towards trying to meet these costs and sadly many of us no longer see any point in spending valuable time providing the information just to be ignored yet again. Once again we appear to have been proven right as yet again many of the assumptions within the Laing and Buisson model have been manipulated to suit the Councils position and are not reflective of the actual market. Examples being the return on investment set at 7.5% and the average bed price set at £32,000, way below L%B assumption. It is also quite astounding that the Council have not included any value

for operational profit as this is not an actual cost of care; what business would operate without achieving a profit margin and maintaining a surplus.

Whilst we can all understand there are many pressures on the public purse equally providers face ever increasing costs set against inadequate fee rates whilst providing more and more complex care to the most vulnerable and dependent people in our society.

- 42. Having read the content of your letter, and having viewed the proposal for increasing the fees across the years 2011-12, 2012-13 and 2013-14. I can confirm that we are in full agreement with the proposal and are happy to accept the new proposal base rates for each client group across these years.*
- 43. We welcome any increase but the amount proposed is still insufficient to maintain the quality of care that the service users deserve. Back dated increase are always very welcome. Laing and Buisson recommend £596/wk residential care, £630/wk with dementia.*
- 44. In response to your email regarding the consultation fees , we are pleased to advise that we have read your proposal and are in an agreement with all the content.*
- 45. We are happy with the backdating arrangements and any increase to a more realistic rate for providing good quality care is appreciated*

Council Officer Comment: Half of the responses received have expressed agreement to the proposed fee changes, a number of other responses welcomed the Council's intention to increase the fees and to include an element of backdating the payments however noted that the level was too low. More detailed response were received from a small number of Providers who have disagreed with the financial values used by the Council to determine the fee rates and are of the view that the weekly rate should be greater than the proposed level. The Council notes their comments and will ensure that some of these concerns will be considered in subsequent fee setting.

<p>5. It is proposed that any increase in fee rates would only be paid to homes that were at that time offering good quality care. The Council is mindful not to reward poor practice – so any home that was suspended from receiving new placements would not receive the backdated payment for the period they were suspended (including voluntary suspension. Please comment on this proposal.</p>

1. *Agreed*
2. *Fully agree*

3. *I agree that it should not be given to homes offering a poor standard of care.*
4. *This seems fair.*
5. *We have offered good care practice so this would not effect us.*
6. *A fitting proposal.*
7. *Quite understandable. Poor care should not be rewarded.*
8. *Difficult to comment on this, not knowing why a care home was suspended from placement but in principle I understand the Council's decision.*
9. *That is a good idea because it takes so much resource and effort to efficiently run a home. It is very encouraging for the homes to receive the backdated increase as an appreciation for their effort in providing quality care and it will also encourage those failing homes to do better.*
10. *With regard to the councils proposals to only make the backdated fee increase available to homes that did not have their contracts suspended (even voluntarily) to avoid being seen to reward poor care. The increase relates to the price the council should have been paying for care since 2011 and as such they cannot pick and choose who should receive it and who should not. If the council truly did not wish to be seen to reward poor standards of care they would immediately suspend all future placements to any home not quality premium rated and remove all contracts from any home that consistently failed to reach this standard. Does the council intend to make backdated increases to none quality premium rated homes?*
11. *Principle of not paying facilities that had a cessation of placements for a period of time is fair, especially from the perspective from an organisation committed to providing quality care who has never had a suspension imposed on their facility.*
12. *I believe this clause may be tenuous if not illegal, regarding the point of suspension of placements.*

Suspension of new placements can be given for different reasons. I was given a suspension for approximately a month (threatening legal action to get it lifted) because 3 of my part-time nurses didn't have Medication certificates in their personnel folder and we were asked for documentation we had never (in my 7 years) been asked to provide and I know other providers were also not doing so. They were NHS nurses and the NHS doesn't issue certificates (I'm told also) but apparently and I quote "they are too big to tell what to do". We are a single home and can be punished and they cannot.

Council Officer Response: Safe management of medication is a very serious activity. Adult Care with the local NHS, Pharmacists and CQC spend a great deal of time ensuring that good medication practice is undertaken in care homes. Confirmation that staff have adequate training and support is a minimum requirement. Although nursing staff will have received training it is not always the case that this is sufficient or recent enough to be relevant for the provision of medication in a care home.

Derbyshire Adult Care with the Local NHS make decisions about suspension of new placements at a care home based on evidence of poor quality of care and potential risks to residents at a particular care home. This judgement is not influenced by whether the home is part of a large group or smaller/sole trader.

13. *Next the payment is for existing service users; the cost is existing and not new. The suspension as stated is for NEW PLACEMENTS. It is not about rewarding poor practice but meeting the costs of providing the care for those already placed.*
14. *Agreed*
15. *I agree with this.*
16. *On the face of it this seems right and fair. However, these homes (which does not represent the home I am working in) were penalised for their failings at the time through the embargo system. By not making back payments for the residents in the home at the time you are punishing them a second time rather than rewarding 'poor practice'.*
17. *I do not agree with this as my understanding is that the backdated fee increase is due to the council not meeting the actual cost of operating the service, it is not a 'bonus' payment it is a well overdue backdated increase in fees.*

It could be argued that a contributory factor to homes standards slipping is that they were not being paid a fair rate for the service they were providing. I therefore feel fees SHOULD be paid to homes that have had a suspension notice in place.

18. *We agree that the increases and backdated payments should only be paid to care homes which were offering good quality care.*

It would not be fair to award funds to homes which were below standard and not ensuring their residents receive the best possible care.

19. *We agree with this proposal but under payment of fees may have been the reason for their poor quality.*

20. *When a Home is under suspension from receiving new placements, I assume the payment of fees continues at the same rate for those residents in situ. If this is the case, and had the fee at the time been at the proposed new rates, such a Home would have therefore received this rate. As such I feel that this is an unfair proposal.*
21. *Quality Premium payments already differentiate good care from the rest. Those that have underperformed but have turned around, have required investment to do so. The penalty for poor care has already been paid with embargos etc. Therefore basic rate increase should be paid to all homes.*
22. *Whether a Home was suspended or not all residents still received good care and would have been paid the fee rate determined.*
23. *Any suspension would not determine that a lesser fee rate was paid as residents would still have been paid at the fee rate chargeable for that resident.*
24. *Any suspension would only have resulted in a Home not being able accept new residents into the Home for a limited period whilst the suspension remained, and would therefore only have affected the Quality Premium rate which would have been forfeited for the limited suspension time and a Home/provider would not have seen a lesser rate of fees paid for that period.*
25. *This is acceptable.*
26. *I think this is wrong (and unlawful).*

I agree that poor care homes should not be rewarded a quality payment, however the DCC basic fee is not a rewarding payment. It is (in theory) supposed to cover actual costs. I obviously do not know the individual circumstances of the care homes in question, but perhaps the increase is just what they need to afford better investment in the home.

27. *Failing to pay homes who were suspended from receiving placements during the 'back dated payment' time period, actually post incident penalises these homes twice, thus these homes – loose placement, loose premium payment, and loose back dated payment. This could seriously affect the financial viability of some homes that are already challenged, and could lead to a reduction in bed availability in an area that is already under-subscribed for the populace requirement of the county.*

We do not agree with this proposal

Council Officer Response: Homes that have been subject to a suspension of new placements have often been in this position due to serious concerns about the level and quality of support available. Often an incident that is likely to be investigated under safeguarding procedures highlights a range of poor practice, including, but not limited to; poor management of medication, poor training, poor record keeping, abuse, lack of permanent staff, reliance on agency workers who receive little induction etc. The period of suspension provides time for a home to make the necessary improvements and regain the confidence of all stakeholders.

28. *The increase is not designed to reward 'good practice', it is to cover the cost of providing care and therefore disagree with this notion.*

Homes that were underperforming are most likely in most need of the additional funding and therefore should be included.

29. *This is the correct decision to ensure only quality and compliant homes are awarded reasonable rates. Also better homes would have been investing money to ensure continued care so it is only fair they get this increase.*

30. *This I feel is unfair as placements were not made, to refund is a recognition of providing care and the costs received at that time and not a reward for poor practice, especially when poor funding will have played a part in problems suffered by care homes.*

31. *I would agree with this proposal and feel it is fair and reasonable. Owners, nominated persons and registered manager's should always strive to deliver high quality services and must be accountable for failings. By applying increases to providers who fell below the required standards lowers the anticipated expectations by DCC commissioning team and therefore overall standards and value for money.*

32. *I think this is a fair approach.*

33. *It is appreciated that the Council is mindful not to award poor practice. On the other hand, a Home that had undergone a suspension on admissions (imposed or voluntary) was already under financial restraints due to the impact the suspension on admissions had on its occupancy. A Home in this situation still required to provide a certain level of staffing, training, services to the clients regardless of the suspension status. If they were under voluntary suspension it showed that they recognised there was an issue and they were proactive in addressing it before things got worse.*

I think these aspects should be considered when the Council decides what Homes should receive or not the backdated payment.

34. *We feel that this proposal is fair.*

35. *I think this proposal is fair, good quality homes providing a good service spend a lot of money doing so. Hiring good quality staff is always a premium, as are basic things such as good cleaning products and regular maintenance work. At Willow Bank we are proud to say we are not a minimum wage employer and we do not have any budgets or constraints on cleaning products, staff wages or food.*
36. *I would agree that only Homes providing quality care should receive the backdated fee increase.*
37. *This is acceptable.*
38. *This is acceptable.*
39. *This is a very acceptable proposal.*
40. *We agree in principle that if the service were suspended so should the fee until the home meets requirements and then should re start*
41. *Acceptable*
42. *This would appear appropriate – as long as the excluded period only related to suspensions.*
43. *We agree in full with the comments made.*
44. *We agree with this part of the proposal*

Council Officer Comment: Feedback is split on the proposal to withhold backdated payments for periods when a home may have been subject to a suspension of new placements. A number of homes feel that this is a fair proposal whereas others feel that the homes had already been penalised by receiving no new referrals and that the proposed backdated fee increase relates to the base fee rate so should be paid.

Suspension of new placements often occurs when there is a lack of confidence following serious safeguarding concerns in the quality of care provided at a home, and or CQC have issued a notice of proposal to remove registration. In such scenarios the Council and Health staff spend disproportionate amounts of time working with these homes to encourage improvements. It is therefore the Council's view that additional public funds have already been spent on these services to encourage and promote the necessary improvements as a consequence this proposal will stand.

6. Following the introduction of a new payment system in August 2012 the Council is only able to automate the backdated payment of the proposed fees to this point. We are inviting providers to comment on whether they would rather invoice the Council for the period before August 2012 for the proposed outstanding increases or wait for the Council to undertake the calculations. Please let us have your views on this.

1. *Council to undertake calculations.*
2. *Wait for the Council to undertake the calculations on the provision that the arrears are calculated within three months.*
3. *I would prefer the Council to undertake calculations.*
4. *We would like to receive the calculations from the Council to compare with our own.*
5. *I would say let the Council undertake the calculation.*
6. *I believe it would be better to wait for the Council to undertake the calculations, there would be less room for errors!*
7. *I will await the Council's calculations for the period prior to August 2012.*
8. *This depends on the length of time to calculate payments from prior period. If within a reasonable time scale this would be acceptable.*
9. *It would be more beneficial to invoice the Council for the period before August 2012 in order to recover all arrears which would help in improving the quality of care in homes. However, it is long and complicated procedure which I think would take a long time for the Council to deal with. Therefore, waiting for the council to undertake the calculations is probably the best option.*
10. *Our preference would be to invoice the council for the outstanding fees however we would propose to do this in a table format on a year by year basis rather than individually for each resident."*
11. *This would be difficult for us to produce so we would rather wait for the Council to undertake the calculations.*
12. *If we issue an invoice will DCC require supporting evidence?
If DCC do the calculation will they provide supporting evidence?*

I can do calculations from the payment sheets but do not propose to starting copying and listing individual service users start and finish dates.

DCC were running the payment systems in parallel (or so I was led to believe) the data must be held somewhere! And must be accessible.

DCC must have records of a year's payment to homes, calculate a percentage and pay a total figure.

13. *We are happy to invoice.*
14. *I would prefer for the council to undertake the calculations as I do not have any administrative support(sole manager)*
15. *My home has records for this period which can be supplied to support any invoicing, presumably the council do too, either option should not present a problem to either party, but perhaps it would be quicker for homes to invoice the council individually with supporting documentation rather that the council trawl through all the data they have.*
16. *This would depend how long it will take the council to work out the backdated amounts, would it be any quicker if we calculated it as surely you would still need to check it?*

We have the facility to calculate how much we are owed and would be able to do this (but I do not believe it would help)

17. *We would rather wait for the Council to do the calculations. This will no doubt be a time consuming exercise and the Council will no doubt have all the relevant information in one place.*

For small companies such as us, the time taken to complete all the work required would be a massive strain on the one administrator we have to deal with all payments and invoices.

18. *There will understandably be a large workload involved in the computation of the backdated payments no matter who undertakes this work.*
19. *I would have thought that it would be quickest if those Care Homes who are able to compute the back payments do so and the Council help out those Care Homes who do not feel able to do it themselves for whatever reason. This would have the benefit of spreading the workload however, we strongly feel that some compensation be made to Homes who undertake the work to cover the cost of undertaking this work.*
20. *We assume that interest be paid on the back payments but at what rate?*

21. *The Council must calculate this with clear, concise and easy to interpret detail. Unlike current financial paperwork and amendments, which can sometimes take a long time to figure out. Individual Homes can then easily cross reference to see if this has been done correctly. The onus should be on the Council to undertake this as swiftly as possible.*
22. *Happy with either way.*
23. *We would prefer to invoice the Council for payments prior to 2012.*
24. *We would be willing to wait for the council to undertake the calculations for April 2011 to July 2012 BUT only if this did not delay the payment of the fees that the Council does have information for. If the council are only willing to make one delayed payment once they have calculated the full and final amount then we would prefer to supply this missing information to accelerate the process.*
25. *We would like the council to undertake the calculations.*
26. *We agree to the council undertaking this calculation, but would support the release of these calculations with payment in order that calculations can be ratified by each home.*
27. *We would rather calculate and invoice ourselves to make sure that it is done accurately.*
28. *We are happy to calculate the additional amounts and then invoice the council. We are happy to provide all of our calculations. We are keen to get closure on this matter so are happy to assist as required.*
29. *I would personally prefer it if the Council undertook the calculation.*
30. *It would depend on timescales involved. For smaller providers it may be easier and quicker for them to submit an invoice for backdated payments as one is only looking at 16 months of figures. Where there are multiple sites, providers may prefer to await DCC calculations.*

Another consideration provider's may take into consideration are current cash-flow problems and the difference the backdated payments will make.

31. *I think if the Council did the calculating for the period August 2012 and prior this would be more beneficial but depends on how long this process will take.*

I would suggest that providers invoice for the backdated payments for the period prior to August 2012.

32. *We are prepared to wait for the Council to undertake the calculations.*
33. *We would like the council to calculate the outstanding increase which we shall then check.*
34. *I am prepared to wait for the council to undertake the calculations.*
35. *This is acceptable.*
36. *This is acceptable.*
37. *We would be happy to wait for the Council to undertake the calculations.*
38. *We would wait for the calculations*
39. *Would like the council to undertake the calculations.*
40. *We can generate figures for this period, but some other providers may struggle.*
41. *We would prefer for the Council to undertake these calculations to ensure accuracy relative to previous service users*
42. *We would rather the council calculate the amount*

Council Officer Comment: In summary of the feedback received the majority of providers would rather the Council undertook the calculation of the backdated fees for the period before August 2012. Providers who expressed a willingness to provide a detailed invoice for the period before August 2012 will not be dissuaded from doing so.

4. The Council is proposing not to backdate any payments to owners that have closed or sold on their business to another party. Please comment.

1. *Homes that are currently operating but subsequently close or sell should still receive backdated payments (currently = date of consultation notice 07/04/14).*
2. *No comment suggest Council seeks legal advice.*
3. *I agree because any backdated payments would be used to provide better facilities within the home.*
4. *This seems fair.*

5. *Not sure. Would not affect us.*
6. *A fitting proposal.*
7. *No comment - this does not affect The Risings.*
8. *This seems appropriate.*
9. *Yes I agree with that, because even if these owners were given the backdated payments, it would not serve the purpose which it was intended.*
10. *"By the council's own admission they are paying moneys owed because of their failure to pay the actual cost for the care they purchased between 2011 and 2014. This fee is therefore due to any person or company who had a contract with the council to provide care during this period regardless of their current operation status."*
11. *This is not applicable to our organisation.*
12. *I can understand the point regarding change of ownership, but someone who has sold their business would have received the payment and therefore I believe it is due and owing to them.*
13. *New owners should only receive payments from when they took over.*
14. *Is this fair? If the owners provided the service, they should be paid accordingly.*
15. *If homes have closed due to enforcement action due to poor care I agree that back payments should not be made, however if a home has shut due to financial pressures I think it is unfair that these homes do not receive the backdated payments. I also think that if people have sold their homes to another party they should still be able to receive backdated payments as long as there were no suspensions at the time*
16. *That seems unfair, if the new figures are the actual cost of providing care at that time, then that cost should be paid. Perhaps if the council were to make their intentions widely known and invite previous owners to invoice the council with supporting documentation they can then be recompensed for the care they have already provided. Maybe some homes changed hands or closed as a result of the inaccurately low payments which were made at the time.*
17. *I think this is unfair, as the only people being sent this question are existing owners, who would probably all agree. I'm sure if you contacted the historic*

owners of the homes they would say they would like to be paid, but for us as a long standing existing business it makes no difference to us.

18. *We agree that it would not be appropriate to give backdated payments to closed homes.*
19. *We understand and appreciate the difficulties in trying to contact previous owners and therefore agree with this proposal.*
20. *The payment is due, therefore it should be made, regardless of who now owns the business.*
21. *Agree*
22. *The proposal not to backdate the uplift in fees for Homes that have closed/sold is manifestly unfair and a legal connotation could be charged.*

We would ask the Council to re-consider the decision not to apply the uplift in fees to Care Home. If the Council will not re-consider, we will need to take legal advice as to whether proceeding may be necessary or desirable to resolve the situation.

During the period of consultation we were still caring for residents and also we were of the understanding and were verbally told that we would receive the uplift in fees even if Care Home closed. Also, if the consultation had not taken so long and resolved earlier in a more timely manner we would not have had to close the Home. Whilst we were still waiting for the uplift in fees we were still caring for residents and the low fee rate forced us to close.

23. *This is acceptable.*
24. *Given that the residents fee rate relates to the Residents, NOT the business, we do not agree with this principle. If homes have closed, the contracts department should know where the resident has been transferred to, and money should be transferred to where the residents currently live. Failing to do this, through revenue and re-investment within the homes, could actually disadvantage individual residents. We feel this is discrimination against resident who have no control over the sale or closure of the homes they live in.*
25. *We accept that if a home has closed then no payment is required to be made. We do not accept the notion that just because the home has new owners, no payment should be made – on the basis that it is to cover the cost of care.*
26. *We agree with this decision.*

27. *It would be unfair if previous owners etc did not receive a payment as their cost would have been the same, and they are no less entitled.*
28. *Agree with this proposal as it seems only fair to deal with original providers who have been trading since 2011 and continue to offer a good service.*
29. *The reasons for the any businesses closing or being sold may have been due to lack of finances, low occupancy or poor standards and therefore would not have qualified under question 2*
30. *Agreed.*
31. *It is understandable that if the business is closed the owners are not to be entitled to the backdated payments. Nevertheless, the Council should consider backdated fee payments when the Home was sold to another party (there was a change of service providers) but those clients are still being accommodated and cared for in the Care Centre at the present.*
32. *Special consideration should be given in order to not to penalise continuous service providers where there has been a change of ownership of the parent or holding company.*
33. *We feel that this is fair.*
34. *I think this may be unfair unless the business has been closed by the CQC due to not meeting standards. Although the back dated pay is perhaps going to go to a lot of improvements, the payment is a back date for the care that was provided rather than a bonus for the future.*
35. *I can accept that decision.*
36. *This is acceptable.*
37. *This is acceptable.*
38. *This is an acceptable proposal.*
39. *If the company was sold and the home changed its name then we feel that the back date should not be applied but if sold as the same name it should be backdated*
40. *Acceptable*
41. *Whilst we appreciate the Councils perspective, there is also the argument that the service was provided and therefore some recognition should be made for the shortfall in fees which in effect was experienced.*

42. *We are not affected by this proposal and therefore we would leave the Council to seek responses from those who are affected.*

43. *This seems a fair policy*

Council Officer Comment: The feedback received from providers is split on the proposal of not making a backdated payment to an owner that has sold or closed a service. There is a view that because a service was provided that any recalculation of fee rates should be made to a provider in either of these scenarios. Following this feedback it has been recommended that the calculation of the backdated payment will be made based on the individual circumstances of each home closure and sale of a home. Evidence of poor financial management, lack of respect and dignity of clients in their home who were then required to move and failure to meet CQC standards would be taken into account before any decision was made.

5. It is proposed that the 'standard' older persons residential fee rate which has not been used for new placements for a number of years but still has a small number of clients paid at this rate is discontinued from 1st April 2014. Please comment on this proposal to discontinue the 'standard' older persons residential fee rate and uplift from the 1st April 2014 all current clients on this rate to the proposed rate of £416 per person per week

1. *Agreed*

2. *Agree*

3. *I agree with discontinuing this rate.*

4. *This seems fair.*

5. *Any increase in fees is welcomed. Staff costs, every cost, food cost, Insurance costs all increasing. Yet fees not!*

6. *Yes this is agreeable.*

7. *There is no "standard" older person and, for a long number of years elderly people who come into care are VERY dependent, bordering on nursing.*

8. *This is a fairer method.*

9. *Even the above figure is not enough, but it is still a better offer than what it is. It is not surprising that homes are closing at such an alarming rate because the Council want to keep everyone in their own homes and if they are placed*

in a care home, the rate is very low. I have had residents come to me from "care in the community" and their relatives have been disgusted.

10. *There seems no reason as to why this decision would not also be backdated to 2011 or at the very least to the same period that the decision was taken not to make any further placements under this category.*
11. *As an organisation we accept this proposal.*
12. *Understandable but the home should not lose out and be paid a lower figure, payment should meet the needs.*
13. *Agreed*
14. *I agree with this proposed rate*
15. *That seems fair and logical.*
16. *I agree that the standard person rate is an appallingly low rate and should be abolished. I agree that existing placements should be uplifted to the new rate of £416, although I think even this rate should be higher*
17. *It would be fairer to have one universal rate for all residential clients as the standard of care they receive is the same as any other service user in the home.*
18. *Nursing clients and others with more challenging/complex health issues or needs will still pay more for the care they receive but, residential fees should be the same.*
19. *We agree with the proposal to remove the 'standard' older persons fee rate as it seems irrational to have 2 different rates for which the only difference between the two is the date at which the Council started contributing towards a residents placement.*
20. *As all the other rates are being backdated to April 2011 then the 'standard' older persons fee rate should however, be discontinued from that date and not April 2014, giving backdated amounts of £23.73 in 2011/12, £31.78 in 2012/13 and £44.58 in 2013/14 prior to correction of the new fee for prior years inflation as noted in question 1's answer above.*
21. *Agreement that this should be removed*
22. *I agree that this rate should be discontinued and these clients should be at the new fee level set. In addition however, backdated payment for these clients going back to when this band was stopped should be made.*

23. *If residents have been paid at the incorrect rate, then the payments should obviously be backdated from the beginning of the new proposed fee rate.*
24. *This is acceptable.*
25. *Agree with this proposal. The council does not place residents in care homes unless they are in very high need of 24 hour care.*
26. *Agreed*
27. *Agree to discontinue but again, the proposed rate is still too low.*
28. *This is the correct decision and should have been implemented a while ago. £416 PP, PW is still short of the Derby City Council's rate of £424.18 PW. There is a cost of care and the payments made should be relative to the cost of delivering care.*
29. *I think this is a sensible approach as the cost of delivering care to people has increased and people on the standard rate are likely to require more input as they have become older and more dependent on support for health and well-being.*
30. *Agreed,*
31. *I agree with this proposal as some residents were not included in previous fee uplifts and are funded at considerably lower level than new admissions. This affects the Home due to the significant increases of the utilities costs, food, maintenance services, etc. that occurred in the last few years.*
32. *We feel that this is a fair proposal.*
33. *I think that this is fair.*
34. *I would agree to this uplift.*
35. *This is acceptable.*
36. *This is acceptable.*
37. *This is a good proposal.*
38. *We feel that the rate is very low*
39. *Acceptable*

40. *We would prefer a standard, transparent pricing structure which is clear to both the Council and the care home providers and therefore would support any moves to towards this.*
41. *This does not affect us but we are sure that those who are affected would benefit from the proposed rate.*
42. *This also seems a reasonable proposal*

Council Officer Comment: The majority of feedback received agrees with the proposal to discontinue the fee rate from 1st April 2014. A number of providers took the opportunity to also note that they felt that this fee rate was too low and in at least one case the provider response was the fee rate should have been discontinued earlier and the new rate backdated to at least 2011. It is recommended that based on the feedback received that the original proposal of discontinuing this fee rate is implemented and that the proposed new fee rate is adopted and backdated to the 1st April 2014.

6. It is proposed to introduce a new Dementia Payment of £35 per person per week. This would be introduced from April 2015 and would only be paid to a care home that achieved a new set of dementia care standards and whose clients had a diagnosis of dementia. Please comment on this proposal

1. *Agreed*
2. *Agree*
3. *This would be an excellent idea as more staff time is required to provide practical activities.*
4. *This is well overdue and not generous! Consult with Joseph Rowntree/Laing Buisson on their research on the true cost of care.*
5. *Again any increase is welcomed. Dementia patients do take up more time and resources so any fee increase is valid.*
6. *Yes this is a sound proposal.*
7. *We await your proposals before comment.*
8. *This is welcome. Think care homes qualifying should have this backdated. Needs a better system of dementia diagnosis.*
9. *Good proposal but we are already providing care for dementia services at no cost at the moment. Will that also be backdated? Most of our clients who*

enter our doors have a diagnosis of Dementia and it is unrealistic to turn them away. We try to train our staff to understand and know how to help them. I would rather this proposal comes into effect soon.

10. *Homes currently providing quality dementia care will already be incurring increased costs therefore it would seem that the council are repeating the same mistake of not paying the fair price for the care they are purchasing. Therefore to acknowledge the increased costs associated with this type of care yet deliberately avoid paying it until 2015 only leaves them open to the same criticism they are currently trying to address in backdating increases to 2011. It would be impossible to say if a £35 increase in the dementia fee would be sufficient to meet the demands of an as yet not written set of standards. The council seem to fundamentally fail to understand that they are required to understand the required standards for care then calculate what it would reasonably cost to provide that care. The proposal to set the standards after the fee would seem at odds with their statutory obligation. As the council currently operate dementia specialist care beds what are their costs per bed and what standards to they currently operate to?"*

Council Officer Response: As stated the Council is willing to work with Providers to consider the detail of the proposed standards and will want to ensure that the proposed level of funding is sufficient.

11. *This is not applicable to the service that we offer therefore unable to comment.*
12. *Dementia payment should be made NOW. The government and others have spoken about a "dementia time bomb" I can tell you it has already gone off! We as service providers desperately need funds to meet the needs of dementia sufferers. I do not charge my users families/representatives a top up fee. We need this payment now, almost every applicant to our home has dementia in one form or another. DO NOT GIVE IT WITH ONE HAND AND TAKE IT AWAY WITH THE OTHER. (see 7 below).*
13. *The principle is fine provided the standards are acceptable and agreed with the Association as intended in initial discussions to form a working party to deal with this. The amount proposed is inadequate – please see response from the Association.*
14. *I agree with this proposal –that the care home would have to fulfil the standards required*
15. *This is way over due, there are costs in terms of resources and staffing which are incurred in caring for people with dementia homes need to be recompensed for this. Additionally, without these extra costs being acknowledged and met what incentive is there for any home to care for*

individuals with dementia, obviously over time this would become a problem as more and more people requiring care will have a diagnosis of dementia as the National occurrence of dementia rises.

One concern is though who would dictate the criteria for 'good dementia care' which any home would be marked against in order to receive the payment. A lot of current research focuses quite clearly on, less tangible aspects like emotional support and input, sensory environments and 'nurturing and enabling'.

Council Officer Response: It is the Council's intention to work with Provider representatives on developing a set of standards that are appropriate, easily evidenced, achievable and encourage improved ways of working.

16. *If there was a clear framework sent out to providers 6 months ahead of it being introduced that would be great, we could then ensure that we meet the criteria and then suitable services could obtain the payment from April 2014.*

My concern would be that the framework would be too subjective and that to meet the criteria the cost of achieving this would make it not worthwhile to providers.

17. *Yes an extra £35 Dementia Payment would be welcomed. It would help cover extra costs such as extra staffing for one to one care etc.*

More information would be welcomed regarding the new set of "dementia care standards"

Council Officer Response : The draft dementia care standards will be shared with provider representatives to ensure their suitability and to make sure that they are not too onerous.

Would the care home need to be registered separately for Dementia care still?

Council Officer Response : The Provider service would need to ensure that they describe that they are a Dementia Service in their statement of purpose as required by CQC.

Would the payment depend on what stage of Dementia the resident is at or would it just be whenever they are diagnosed?

Council Officer Response: The current proposal is from the point when the person is diagnosed as having dementia.

27. *The Consultation Papers provided do not appear to provide any computation of the £35 per person per week proposed which is a very low figure when all the cost implications of providing accommodation and service for Dementia residents are considered, for example:*

- *Additional Staff time for interaction, nutrition intake, activities, as well as potential depression, mood swings, aggression, and wandering (falls prevention).*
- *specific décor, fixtures and fittings, memory boxes, signage, artwork. etc.*
- *higher environment wear and tear, repairs and replacements.*
- *Pressure pads for additional falls prevention and*
- *Staff training on dementia.*

A calculation of the £35 should be provided to us so that we can comment on the individual cost elements.

28. *Various levels of dementia - this currently what we deal with on a daily basis with the majority of residents. Funding should be given in order to maintain availability of those placements as a basic inclusion of the fee rate, not as an add on. However, I am unsure how this fits with the CQC registration of "Dementia". How can a home with Nursing receive a dementia care payment if it is not registered to accept dementia patients?*

Will any such audit of such standards be done as a compliment with for example the QP audit or the CCG Audit? Or would this be yet another audit/inspection and further paperwork to do?

Council Officer Response: CQC requires an individual home (with or without nursing) to describe in their Statement of Purpose which client groups they provide support for. CQC do not regulate/determine whether a home can meet the needs of people with dementia, hence the need for the Council and Health colleagues to identify with provider representative's a set of standards that homes need to be able to achieve to demonstrate that they can provide dementia services. The intention of introducing any new system is to ensure it is not too onerous on either the provider or council officers. However, it will need to be evidenced based and stand up to external scrutiny.

29. *I think that extra payment for dementia client should be made. However, £35 per week does not cover the extra costs in staffing levels that are required to handle this category of client. £35 covers the cost of around 4 hrs per week of care (not taking into account additional training required). Even if each dementia client were to gain one hour extra care per day, this would result in additional fees of £52 per week extra. Clients in this category often require extra time from carers so providing at least one hour per day extra is essential. Care homes should see the training of the carers in this category an investment in providing this service. But this would only make sense if the payments covered the costs."*

30. *Although we agree in principle, the Dementia Payment would still remain too low as the Council would expect implementation of new training, more staff*

hours, paperwork by staff and Managers which would then result in the payment Dementia Payment not covering costs involved.

31. *This is acceptable.*

32. *We agree that there should be an enhanced payment for Dementia Care to cover the significant extra costs associated with dementia care. The council is required to pay for actual costs so this must not be confused with a 'quality' payment.*

Council Officer Response: The proposal to introduce a dementia payment must be linked to a home being able to demonstrate that it has the skills and resources to meet need. It is proposed that a home demonstrates that it has the minimum standards before these payments would be made for people with a diagnosis of dementia.

We do not believe that £35 is enough to cover the additional costs with delivering dementia care.

What is the cost of the council's own provision of dementia care at Staveley? Can you please provide a breakdown of costs.

Council Officer Response: This exercise is not about comparing costs with the provision of Derbyshire County Council Services, rather it is about the provision of dementia specific services in the independent sector.

33. *Prior to agreement of this proposal, we feel that homes would need to see a costed example on meeting the dementia care standards, is this going to assist homes to meet this standard, or is meeting the standards going to be beyond the financial per capita investment required per resident within the homes.*

34. *Unable to comment without first seeing and understanding the costs associated with the new dementia care standards.*

35. *We support this proposal.*

36. *We, as provider, are informed that we have to meet the needs of those who we care for. The payment should be made once a diagnosis of dementia is in place the payment should be made.*

37. *I think this is an excellent idea and will reflect the impact of staff teams getting the dementia support right for people. I agree that homes must demonstrate and evidence how they do this against dementia care standards and self- assessment. Other criteria such as engagement with Advocacy*

Aware, Dignity in Care awards, CQC rating and the revised CQC Essential Standards could also provide a benchmark for providers.

- 38. *This is an excellent idea as a lot of work is going on the care/nursing homes to improve quality of care for resident with dementia.*
- 39. *This is a welcome move for Homes delivering dementia care; recognising that specialised care is needed for those who are diagnosed with dementia, an incurable disease that affects such a high percentage of the elderly clients.*
- 40. *We are pleased with this proposal, but feel that the new set of dementia care standards would need to be very clear and achievable for services.*
- 41. *This is an excellent idea and could go towards amenities and activities specifically aimed at improving the lives of residents living with Dementia. However, I don't think this should be an easy premium to achieve and I think it should be monitored appropriately so that it is not abused. For example, care homes could put proposals of what the money is to be spent on, i.e So many extra hours for their activities coordinator etc. I also think homes should ensure that all staff have specific Dementia training.*
- 42. *yes I agree to this proposal*
- 43. *This is acceptable. We feel that the extra payment will help to contribute towards the extra time spent caring for residents with dementia.*
- 44. *This is a good start to support better care but really needs to be more.*
- 45. *We welcome the rate but feel it should start sooner.*

We agree with the proposal

- 46. *Acceptable*
- 47. *We would enthusiastically support, as Dementia Champions, any fee regime which recognises the additional care needs of residents with dementia. We would also work with the council to ensure that any current residents who would fall into this category are appropriately recognised and fees adjusted accordingly.*

Council Officer Comment: The feedback from providers to the suggestion of introducing a Dementia Care payment was welcomed by providers. However, many providers expressed a view that the proposed level of £35 per person per week is not enough and would like the level to be reviewed in line with the proposed dementia standards. It is recommended that; the proposal to develop

dementia care standards with care providers is implemented, that work is commenced with GPs to ensure, where applicable that clients have an up to date diagnosis of dementia and that the proposed rate of £35 is considered further.

7. It is proposed to refresh the current Quality Premium Payment Scheme for 2015/16. A new set of criteria will be introduced to continue to promote quality standards. It will also include flexibility to accommodate any proposals by CQC to introduce a new 'star rating system'. Please comment on this proposal.

1. *Agreed*
2. *QPP should be paid for promoting quality care within the home. Please explain why the responsibility to collect third party payments is a requirement of the provider when electing to register for QP? What basis does this have on quality care?*

Council Officer Response:

When the Council first introduced the Quality Premium Payment it was linked to the Council introducing net payments whereby homes are requested to collect the client contribution to the care fee. This was and remains one of the minimum standards for being eligible for this quality payment.

3. *I think it should be based on the CQC standards being met.*
4. *This seems fair.*
5. *Seems good idea.*
6. *Yes this will ensure that homes providing better quality care are suitably rewarded.*
7. *We await your proposals.*
8. *This is also welcome.*
9. *I don't know what new set of criteria will be, however, it would be great to have a flexible accommodation of CQC proposals because right now it is a nightmare to comply with conflicting regulations of Local Authority and CQC.*
10. *Whilst we naturally welcome any attempt to increase standards within the care sector it would be impossible to comment on any new Quality Premium Payment Scheme without first knowing the proposed structure? However, I would trust that the council are fully aware that they are required to set out*

how they intend to fund any increase in proposed standards and not to simply set the fee then the standards (as in point 6)."

11. *It would make sense that any quality premium scheme operated by the Local Authority be revised to be suitable and compatible with the upcoming CQC changes and implementation of star ratings.*
12. *WHY change the system? It has worked for years, developed for years; it does not require major change.*
13. *It seems to be the way these days to change everything, PCT to CCG, same can different label! And costing more (also not working).*
14. *Subject to agreement on the standards proposed and subject to fair and even handed implementation together with consistency, this principle is fine.*
15. *I agree with these proposals*
16. *I think refreshing the criteria would be a good thing, if it is going to follow the CQC star rating system it becomes heavily dependent on the star rating system being reliable; fair and accurate and reflecting maturity and development of services rather than superficial box ticking on a one off day.*
17. *I am a big fan of the QP as it means we have a tiered system of care in Derbyshire. I do not agree that payments should be based on CQC standards as these are different from the council's contract framework and there is lots of ambiguity and overlap between the two sets of guidelines, rules and outcomes.*
18. *Quality premium is a good way to ensure care homes are going above and beyond the expectations of care.*
19. *The star rating system is good if it is to be based on a number of factors and not just a 1 day inspection carried out by 1 person.*
 - *It needs to encompass information such as:*
 - *The views on opinions of the residents and their families*
 - *Staff knowledge and understanding*
 - *Information from the Council & CQC*
 - *Information obtained by a spot inspection*
20. *The star rating should not be seen as an opportunity for care homes to be able to charge massively inflated fees likened to the hotel star rating system*
21. *The Quality Premium Payment has been an amount of £21 since April 2009 and we feel that this amount should be increased to reflect inflation as £21*

would have bought a lot more in 2009 than it does now some 5 years later and is insufficient to enable providers to invest in the provision of a high quality service as your Fee and Market Analysis 2013 paper states.

22. *Whilst we are not against a review of the standards to meet this Quality Premium, that review needs to ensure that any cost implications of new standards are included in a recalculation of the new Quality Premium rate.*
23. *Will this, as above, be done in conjunction with other quality audits such as the Dementia above, the CQUIN for the CCG etc. Adding yet more paperwork, audit and inspections to the already growing mountain will take further time away from the nursing elements and input further admin costs to the business.*
24. *Think aligning QP with CQC star ratings is a great idea as long as there is consistency and objective goals. Raising standards of care is something care providers should be passionate about. However, it is important that government and social services are realistic on what can be achieved on the fees they pay. Care staff are still grossly underpaid for the work they do and this will not change until fees increase proportionately.*
25. *Yet again more and more paperwork will be required for this proposal by Managers already stressed by the mountain of paperwork and form filling required by CQC and the Council.*

This will inevitably lead to Managers again being taken away from the first priority of care of residents.
26. *Managers should have more time to devote to residents than form filling.*
27. *This is acceptable but only if providers are fully aware of the audit criteria and expectations.*
28. *We agree that the DCHA must be involved and the DCC should have approval from the DCHA before such revised scheme comes into effect.*
29. *This is also an opportunity to look at rewarding homes separately for carrying out the DCC's responsibility of invoicing clients for their pension contributions towards the fee, which is a significant cost for providers and has absolutely nothing do with quality care.*
30. *We recognise that the Council have the right to implement their own standards with a QSF – however, we do feel very strongly that, in accordance with the working in Partnership agenda, this should be via a consultation process about what is realistically attainable within the sector.*

31. *We would like to see the new criteria before able to comment.*
32. *We fully support this proposal.*
33. *How are we able to comment without the new criteria having been seen?*
34. *The Quality Premium Payment scheme should be important to all providers, not only because it attracts an additional payment from DCC. It should underpin all aspects of service delivery and practice and easily evidenced through feedback from stakeholders, monitoring visits, quarterly returns and other professional stakeholders' data.*
35. *What isn't clear from all the information provided is whether providers have the capacity to apply for the quality premium and dementia payment? I would support this as it would be another example of good homes going that extra mile to ensure that that service users are at the centre of service delivery and foster an ethos of continuous improvement.*
36. *New proposals always have their difficulties and interpretation, and some homes authorities such as CQC and Contracts do not have same interpretation. We prefer a star rating system than current method by CQC.*
37. *It is understandable that the criteria for assessing the Homes for the Quality Premium Payment Scheme need to be reviewed regularly in order to promote quality standards. I do not understand how the "flexibility" to accommodate any proposals by CQC to introduce a new star rating system will be included into the new set of criteria and what will this "flexibility" mean for the Homes that are under the Quality Premium Payment Scheme.*
38. *We feel that this is a fair proposal, as long as the refreshed Quality Premium Payment Scheme standards are clear and achievable, and we feel that it is a good idea to incorporate any proposals made by 'CQC'.*
39. *I think the star rating is a good idea. I think a quality premium home should have at least the Bronze Dignity Award, with a group of Dignity Champions (who understand the role and have helped to achieve the award) who hold regular Dignity Champion meetings. Also I think the homes should work in conjunction with Peak & Dales Advocacy Service and have a volunteer Advocate who visits the home frequently and unplanned. The home should achieve a 4/5* food hygiene rating with HPBC. Also the home should meet a high standard of infection control award, say, over 90%.*
40. *Any way in which we can improve quality care for all our elderly, I would support.*
41. *This is acceptable.*

42. *This is acceptable.*
43. *The star rating is problematic to old homes such as ours but hopefully the Council will have a flexible attitude to the way this can be achieved.*
44. *In principle we support the Quality Premium Payment Scheme for 2015/15.*
45. *Acceptable.*
46. *We would support any proposal to support recognition for high quality care within the sector, whilst recognising the need to agree interim arrangements until all homes have been re-inspected under the new regime.*

Council Officer Comment: The majority of providers acknowledged the continued importance of the quality premium payment and would support a refresh of the standards as long as they were given the opportunity to be consulted on the content and that any changes did not result in greater workload without any financial benefit.

8. We have attached a number of documents that summarise the information used to help determine the proposed fee rates. Having considered these documents and the proposal made is there any further information or comments you wish us to consider?

1. *No*
2. *Nil*
3. *Only that you have chosen to highlight the few authorities who pay less than you. No mention of the many who pay substantially more. Particularly Dementia care. Also little thought has been given to research as previously mentioned.*

Council Officer Response: We have where possible benchmarked with local authorities that surround Derbyshire. Detailed breakdown of fee levels is not freely available for all Local Authorities

4. *Any fee increase is certainly needed.*
5. *It seems that the Council has factored the appropriate considerations into their proposal.*

6. *With regard to Q 7 &8 - we already have an endless list of requirements including training, which is costly equipment. Maintenance etc which have increased several fold in the last few years not just since 2011. The summary of findings does not take this at the increased "household" costs into account. I suspect that this will become an impossible list of requirements.*
7. *See item 1.*
8. *No, there is already a lot of information to digest so far.*
9. *Finally I only wish to take issue with the comment made on the second page of Mrs McElvaney's letter which states that: 'The lack of verification for the data supplied (as no financial statements were supplied and no other way of verifying the data has been offered)'*

This is simply not true. I personally spoke to a member of your accounts team regarding our submission to clarify points and at no time was I asked to provide any further supporting documentation beyond what had already been provided. We entered into the consultation process fully expecting to have a member of your team come to our office to validate our submission yet despite such an apparently low number of returns this was not done?"

Council Officer Response: I am sorry that you feel that this is incorrect, the Council made a number of requests to gain access to accounts and evidence to support claims made in the original submissions.

10. *No further comments*
11. *DCHA submitted its proposals, Brian Rosenberg (Chair of DHCA) made sure that it all had supporting evidence. DCC seems to simply disregard this.*
12. *I believe in the multi band system it is more suitable to meet the needs of the service user.*
13. *Dementia payment MUST be now it cannot be put off. Small homes such as mine without the additional income of top up fees struggle financially. Do not take it away in another form, such as restructured quality payment.*
14. *Contracts and payments take too long to be processed, I can, have and am waiting months for payments to come through, we fund the service users and are not compensated for it, but when payment has to be taken back it is done straight away.*
15. *No other comments other than to reiterate, repeat and support the response from the Derbyshire Care Providers Association Ltd dated 15 May 2014.*

16. *No further comments*
17. *N/A*
18. *No further comments*
19. *No further comments*
20. *We hope that the Council will continue to carry out consultations regarding this issue as and when the need arises.*
21. *A most significant FACT is that the Derby City Council, in the cabinet paper proposing the Residential and Nursing Care Home fee rates for 2014/15, had a section referring to rates paid by surrounding authorities which stated that the amount charged by Derbyshire County Council was £454.93 pw. When we enquired as to the source of that information we were told that "The figure was provided by a Finance Officer at Derbyshire County Council". Clearly therefore your finance department is aware that cost of residential care is greater than the rates you are proposing!*

Council Officer Response: The purpose of this exercise was to determine the usual costs that we would expect to pay in the Independent Sector.

22. *As a member of the Derbyshire Care Providers Association, I have been able to view their response regarding this proposal. For the reasons set out within the response from the DCPA (formerly the DCHA), we are in agreement with their view that this proposal should not be adopted by the Council as it is flawed; insufficiently reflective of the actual costs of care due to the way that the costs data has been applied; will lead to a dangerous shortfall between the 'usual cost' and the actual costs of care; will negatively impact upon the sustainability of quality within the sector and the provision of services; and will lead to significant inequality amongst certain categories of care needs.*
23. *We feel the figures should be revisited and a more thorough and fair revision of the costs be performed and a more realistic proposal returned for further discussion.*
24. *No – see earlier comment*
25. *Why has it taken 3 years to come to come to a decision that should have been evident previously that Care Homes could not survive on the amount of fees paid, as we already know to our cost, in forcing us to close our Nursing home due to poor fees paid*

26. *It is also evident that some Council Homes have closed and could not survive either, even though Council funded residents are paid at a higher fee rate than residents funded elsewhere.*
27. *The price per bed used for the return on investment does seem exceptionally low and is reflective of poorer quality stock which is unlikely to be 'fit for the future'. Stock which is of a high standard demands a significantly high price per bed.*
28. *There are many problems with the calculations of the data, working out the return of capital etc as per the Derbyshire Care Providers Association response to the DCC.*
29. *The fee is far from sufficient and is likely to destabilise the market further.*
30. *We recognise the gesture that the local authority are making in making retrospective fee rate increases.*
31. *The documents provided were both detailed and comprehensive and we are grateful for the effort and contribution in putting these together. It would be helpful to get this all agreed and settled in a timely manner.*
32. *I feel that the amount paid consider more the needs of the County Council to cut costs, and not reflect the ideals of pay enough to lower costs and allow care homes to develop, update and pay more to carers. Derby City Council still pay nearly £10 more, and even then we are underfunded - too much pressure on care homes not enough support.*
33. *The only questions that I have are whether occupancy levels will be used to determine any of the additional payments. As a provider one always strives for 100% occupancy but of course there are weeks where circumstances beyond your control impact on resident numbers (not including poor inspections etc) and/ or there are no new referrals being processed. As a commissioner I may ask the question why a home was only able to sustain for example 50% occupancy throughout a quarter and would look to see if quality premiums / dementia payments were made and if so monitor the service more closely to ensure that low occupancy is not related to service delivery.*
34. *With regards to how the final figures were calculated, just a comment that the application of a 7.5% return on capital value based on a small sample of care homes for sale... appears quite unrealistic due to perhaps poor trading history or poor quality service or low registration numbers, which impact on long term viability. Value of a care home is related to EBITDA and other factors.*

35. No - document is very clearly laid out.
36. *"I have just been looking at my fees for the, and the fee rates of homes in my area, My new fees will be 540.00 single and 435.00 shared, I will not be able to accept social services fee rates without a top up, as you can see it is very unlikely that any one will be able to pay a top up of a single room so I will be looking to take more private fee payers. In order to provide good quality care I need to set fee levels, I am a small home, and I don't think you can put us in the same boat as big group of homes. I also feel that residential homes should be charged differently to homes registered for Dementia, I have talked to managers in the area who are Dementia registered and there fees are £ 595.00, £ 550.00 £540.00 The which is close by and only takes residential charges charges £ 535.00 The nursing home takes Dementia £1035.00 many of our residents if they were assessed would probably fall into lower band nursing, but I do my best to care for them to the very end. I do feel social services fees for dementia are way behind and what happens is you then have to charge private payers more to compensate. hope this helps and does not seem too negative*
37. None at present.
38. *I think that the proposals are fair.*
39. *I have read the information provided to determine the proposed fee rates and I accept the outcome.*
40. *We feel that we are not satisfied with the rates being proposed and would like them to be higher*
41. No
42. *We happily welcome any increase to the fee structure but nevertheless we feel that a higher amount would be greatly appreciated as this would further enhance the quality of care we provide for our service users (see Laing and Buisson in 1).*
43. None at present

Council Officer Comment: Feedback received from Providers acknowledged the level of work that had gone into understanding the usual costs of care, however some felt that the calculations used and financial assumptions did not match with their own views of the costs of running a care home. A number of providers expressed dissatisfaction with the proposed fee rates and felt that Council should consider paying more.

Derbyshire County Council

Equality Impact Analysis Record Form 2014



Department	Adult Care
Service Area	Contracting and Compliance
Changes or proposals	Care Home Fee Rates
Chair of Analysis Team	Colin Selbie
Date of Analysis	10 July 2014
Version	0.1

1. Prioritising what to impact assess

a. Description of current service arrangements

The activity subject to this review is the determination of usual costs for the Council of making placements in residential and nursing homes in Derbyshire.

The proposals made by the Council to identify the usual costs of care could have a significant impact on the equalities on different groups in the community. It is therefore necessary to consider what, if any negative consequences there may be and where appropriate take appropriate action to minimise/remove these adverse outcomes.

The Council supports over 1925 people in independent residential care home placements and a further 1010 in independent nursing care home placements. The Council also supports 600 people within its own care homes. The majority of placements are for older people; 1431 in residential care and 822 in nursing care and it is these placements that this EIA will focus on. The Council makes placements in to over 150 Care Homes in Derbyshire

b. Details of proposals or changes

It is proposed to increase fee rates for care home placements made by the Council with payments being backdated to April 1st 2011.

It is proposed that backdated fees will not be paid to a home during any period of suspension of new placements due to poor performance.

It is proposed that backdated fees will not be paid to homes that have gone in to administration or been sold.

It is proposed to introduce a new fee rate for people with a diagnosis of dementia to be paid to homes that are able to demonstrate that they can provide high quality dementia care.

It is proposed to discontinue with the Standard Residential Older Persons fee rate no new placements have been made against this fee rate for a number of years. It is proposed that the 70 placements still on this fee rate would all be transferred on to the 'higher' Residential Older Persons fee rate.

It is proposed to review the current Quality Premium payment scheme for Care Homes to ensure that it still promotes quality.

C. Rationale for proposed changes

The proposed increase in fees of care home placements in Derbyshire follows a detailed review of the Actual Costs of the provision of care in Care Homes in Derbyshire.

The proposal to not pay backdated fees for the period a home had a contract suspension on new placements for performing poorly was made to ensure that public money is not seen to be used to support the poor performance of a home which may for instance include substantiated safeguarding investigations.

The proposal to introduce a new fee rate for people with dementia reflects the increased prevalence of dementia in our society. The proposal to link payment to a medical diagnosis of dementia is to ensure that the decision about whether someone has dementia is not made by a homeowner or social worker. Because the Council is committed to ensuring needs are effectively met it is proposed that only homes that can evidence that they can meet a set of quality standards would be able to be in receipt of the dementia payment.

The proposal to discontinue with the lower rate for placements for older people reflects the Councils view that people in care are more likely to have more complex needs when this fee rate was originally introduced.

The proposal to review the Quality Premium standards is to ensure that the additional investment being made by the Council into care home placements is having a direct benefit with evidenced improvements.

2. The team carrying out the analysis

Name	Area of expertise/ role
Colin Selbie (Chair)	Group Manager, Derbyshire Contracting and Compliance Team
Debbie Fairholme	Service Manager, Derbyshire Contracting and Compliance Team
Paul Stone	Technical Manager, Corporate Finance
James Matthews	Assistant Director, Derbyshire Adult Care

3. Existing information and consultation based feedback

a. Sources of data and consultation used

Source	Reason for using
Joint Strategic Needs Assessment	Identify Derbyshire Need
Derbyshire Observatory	Identify Derbyshire Need
Derbyshire Dementia Strategy	Identify Derbyshire Need
Provider Feedback on Costs of Care	Help identify Care Costs
Other Local Authorities Care Fees	Benchmarking.
Care Home Sales and % Return on Capital	Identification of Return on Capital
Consultation on Proposals	Help inform final Decisions about Fee Rates
Council Management Information Systems	Understand the current and past market conditions -Numbers of placements, third party payments, self-funders, care home vacancies

4. Known impact on different protected characteristic groups

- a. From existing data and information – who is likely to be adversely affected, how, and to what degree? Will anyone gain or benefit from the proposals?

<i>Protected Group</i>	<i>Findings</i>
Age including children and families, older people	<p>The Council's view is that the proposals for the introduction of a new 'usual cost' of care will have a positive impact on care home provision in Derbyshire by promoting choice and quality of provision.</p> <p>If, the proposed fee rates are not implemented by the County Council then it is possible that the Care Home Market may:</p> <ul style="list-style-type: none"> • Provide less choice of accommodation – which could mean people having to choose a home which isn't located near to their family • Result in an increase in out of county placements • Result in an increase in number and size of third party contributions • Providers may decide to reduce quality of care and provision to maintain their profit margins. • The introduction of a new Dementia Quality Premium rate that Providers can apply for will ensure that there are: <ul style="list-style-type: none"> • Improved level of service. Care tailored to meet the needs of residents.
Disabled people including mobility, sensory, learning, mental health, HIV, and also include carers and relatives	<p>An increase in the basic care rate for placements people with disabilities will have an impact on placements we make across the adult age ranges including those with a disability.</p> <p>Only placements that are only in receipt of the basic rate will be impacted. Placements that are in receipt of fees that have been individually negotiated to ensure that the needs of people who require complex support/care arrangements are met will not be subject to any change. The fees for specialist placements are often substantially more than the basic 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.</p>

Gender (Sex) including men and women, boys and girls	This proposal is related to reviewing the usual costs for care home placements in Derbyshire which impacts on all placements regardless of gender.
Gender reassignment – including impact if any on Transgender people	<p>This proposal is related to reviewing the usual costs for care home placements in Derbyshire which is not specific to gender reassignment.</p> <p>However, providers should not be prejudicial in their attitudes and should not limit client choices as identified above. This should be addressed by Providers operating in accordance with Care Quality Standards, Derbyshire's Terms and Conditions and a commitment by care providers to sign up to Derbyshire's respect and dignity award.</p>
Marriage and civil partnership – also include impacts on lone parents and unmarried couples	There could be a demand for people to have access to shared living space. In line with Care Quality Commission Regulations for living space, Providers should ensure flexibility of bedroom arrangements to enable couples, including same sex couples to share living space.
Pregnancy and maternity – including new mothers/ parents	No, this proposal is specifically related to residential care fee rates for older people
Race – including all racial groups, including impact if any on Gypsies and Travellers	<p>This proposal is related to the basic fee rates for Care Home placements which impacts on all placements regardless of race.</p> <p>It is important for the Council to ensure that appropriate services are available and that prejudicial attitudes do not limit client choices.</p> <p>This should be addressed by Providers operating in accordance with Care Quality Standards, Derbyshire's Terms and Conditions and a commitment by care providers to sign up to Derbyshire's respect and dignity award.</p>
Religion and belief including non-belief, including religious minority communities, Humanists	<p>This proposal is related to reviewing the usual costs for care home placements in Derbyshire which is not specific to meeting the specific religious needs of our clients.</p> <p>However, providers should not be prejudicial in their attitudes and should not limit client choices.</p>

	Providers are encouraged on behalf of clients to provide an environment that is responsive to their religious needs. For instance access to a quiet room that can be used for prayer or contemplation.
Sexual orientation – including the impact if any on LGB people	<p>This proposal is related to reviewing the usual costs for care home placements in Derbyshire which is not specific to sexual orientation.</p> <p>However, providers should not be prejudicial in their attitudes and should not limit client choices as identified above. This should be addressed by Providers operating in accordance with Care Quality Standards, Derbyshire's Terms and Conditions and a commitment by care providers to sign up to Derbyshire's respect and dignity award.</p> <p>Information provided from Lesbian, Gay Bisexual and transsexual (LGBT) Groups has indicated that there could be a demand for people to have access to shared living space. In line with Care Quality Commission Regulations for living space, Providers should ensure flexibility of bedroom arrangements to enable couples, including same sex couples to share living space.</p>

Non-statutory

Poorer and disadvantaged communities and groups, including people who experience financial exclusion	This proposal to increase the fee rates for Care Home Placements will have a positive impact on poorer communities as the Council will continue to be able to contribute towards the full costs for care without the need for third party top ups.
Rural communities	The situation for those who currently live in rural areas is likely to stay the same as it is likely that the proposed fee rates will maintain the market at the current level so ensuring that the current level of service access is preserved.

Impact on employees of Derbyshire County Council or prospective employees

Derbyshire Adult Care will manage the proposed increase and backdating of care home fee rates. Contract and Compliance Team members will manage the introduction of new Dementia Care standards and the refresh of the Quality Premium standards. No negative effects on employees of DCC are anticipated at this stage.
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- b. From existing customer and other feedback – who is likely to be adversely affected, how and to what degree? Will anyone gain or benefit?

Protected Group	Findings
Age	No comments specifically related to this section
Disability	A small number of Providers state within the consultation feedback detailed in Appendix XX that the proposal to implement a dementia fee rate in 2015 is too long a delay and that the payment should introduced sooner.
Gender (Sex)	No comments specifically related to this section
Gender reassignment	No comments specifically related to this section
Marriage and civil partnership	No comments specifically related to this section
Pregnancy and maternity	No comments specifically related to this section
Race	No comments specifically related to this section
Religion and belief including non-belief	No comments specifically related to this section
Sexual orientation	No comments specifically related to this section

Non-statutory

Poorer and disadvantaged communities	Providers who are unhappy with the current and proposed fee rates have advised that they would continue to pass on their costs as part of a private 'third party' payment which could disadvantage families from poorer communities. No provider stated that if the proposed fee increase and backdating of fees was implemented that they would reduce their 'third party' payments.
Rural	No comments specifically related to this section.

Employees or prospective employees

No negative effects on employees of DCC are anticipated at this stage.
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- c. Are there any **other** groups of people who may experience an adverse impact because of the proposals?

No, the proposals made to increase fees for care home placements should have a positive impact on provision of care for eligible clients of Adult Care.

d. Gaps in data

What are your main gaps in information and understanding of the impact of your policy and services? Please indicate whether you have identified ways of filling these gaps.

Gaps in data	Action to deal with this
None identified, however the original survey undertaken of care home costs was poorly responded to and some of the information provided was limited in value.	If, a similar exercise is undertaken in the future the need to have full transparency of provider's accounts would be beneficial to the analysis.

6. From the consultation you have carried out specifically in relation to proposed changes, what views or issues have been raised by those who have responded? (Include both their views and any issues they have raised which alludes to the likely impact)

a) Please summarise the consultation which has been carried out

<p>On the 7th April 2014 a letter and supporting information detailing the Council's determination of a proposed standard base fee rate was sent to all Care Homes in Derbyshire. Homes were asked to participate in the consultation on the findings of this exercise to determine fee rates for the years 2011/2012. 2012/2013 and 2013/2014.</p> <p>Over 150 homes were contacted to ask for their views against recommendations for the provision of Care Home fees in Derbyshire. Forty eight responses were received. Up to 70 homes were represented by these returns as some of these responses were from organisations that own more than one home in the Derbyshire.</p>
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b) Please summarise the feedback received. This should make clear where those who have responded have highlighted any potential adverse impact as well as their opinions on the proposals.

<p>Half of the responses received have expressed agreement to the proposed fee changes, a number of these responses welcomed the Council's intention to increase the fees and to include an element of backdating the payments however a number noted that the proposed fee level was in their opinion too low. More detailed responses were received from a small number of Providers who have disagreed with the financial values used by the Council to determine the fee rates and are of the view that the weekly rate should be greater than the proposed level. Appendix 3 provides a full summary of the consultation feedback.</p>

7. Are there any ways of avoiding or reducing likely possible adverse impact on any groups of people, what are those actions, and how will they assist?

1. The Council is proposing to increase fees in line with analysis undertaken of the actual cost of care of a small number of homes. The Council will continue to have measures in place to monitor the Care Home provision in Derbyshire to make sure that services are safe, of a high quality and treat people with dignity and respect.

- Providers have to comply with Care Quality Commission essential Standards.
- The council operates robust contract monitoring; the aim is to visit every home once every two years.
- As part of their contract monitoring role the Contracting Team liaise with other stakeholders as well as building up good communication with providers to monitor the viability of care home providers.
- The Council maintains a data base on each care home listing vacancies. This is supplemented by a detailed listing of the services available at each home including whether third party top ups are charged. This information is provided to prospective new care home clients and their representatives to assist them when deciding on where to live.
- Clients and/or their representatives are advised when the Council has major concerns about the quality of care at an individual home, and offer to assist the client to find alternative provision if they so wish.

2. New Terms and Conditions for placement in Regulated Care Homes will be implemented. They will promote amongst other things:

- That homes in conjunction with families, field work teams, and health explore the most appropriate ways in which black and minority ethnic communities can remain in touch with cultural groups and clubs. This may include facilitating visits to or from specific groups and clubs to operate services and activities from within the community care centres and extra care schemes.
- The promotion of making available appropriate meals appropriate to meet the cultural and religious needs of residents of the home.
- Promotion of respect and dignity to ensure services are personalised and are responsive to meet clients' religious, cultural and lifestyle preferences.

8. Main conclusions and Recommendations

CONCLUSIONS

Based on the analysis the following is believed to be of importance and should be noted by decision-makers:

- The proposals to implement fee increases will likely have a positive impact on the quality of provision in Derbyshire Care Homes.
- However, failure to increase Care Home fees as described may contribute to poorer quality of provision, increased requests from providers for private 'third party' financial top ups, greater inequality of provision as clients without access to additional funds could be unable to fund the private top up.

RECOMMENDATIONS

It is recommended that:

- The Council proceeds with the proposals to increase and backdate the care home fee rates in Derbyshire.
- The Council proceeds with the proposal to introduce the Dementia Fee Rate and continue to promote Quality Provision in the Care Sector.
- The Council continues to monitor the Care Home provision in Derbyshire to make sure that services are safe, of a high quality and treat people with dignity and respect.

9. Action planning, target setting and monitoring

9. Action planning in response to the completed analysis

<i>Objective</i>	<i>Planned action</i>	<i>Who</i>	<i>When</i>	<i>How will this be monitored?</i>
What you want to achieve	What you intend to do	Responsible person or department	Timing of action	Monitoring and review arrangements
Monitor the proposed implementation of the proposals to increase and backdate	Regular updates from AC finance on progress to make payments	Adult Care Finance and Contracting	Initially Weekly then Monthly as Near Completion	Financial Management Information Reports
Implement the new standards for Dementia Care	Develop new Care Home standards	Adult Care Contracting with input from Local NHS and Provider representatives	By April 2015	Report to Adult Care SMT
Implement review of Quality Premium Standards	Develop new standards and then require providers to apply against these new standards	Adult Care Contracting with input from Local NHS and Provider representatives	By April 2015	Report to Adult Care SMT
To ensure that Derbyshire Care Homes provide safe, high quality services that meet Derbyshire's respect and dignity challenge	To continue to monitor care home provision in Derbyshire to ensure that the proposed additional funding contributes to the continued improvements in Care Homes	Adult Care Contracting with input from Local NHS and CQC	On-going – timetable of visits to care homes	Report to Adult Care SMT,

10. Monitoring and review arrangements

Please outline what steps will be taken to monitor and review the implementation of proposals if they are agreed here:

The Group Manager for Contracting and Compliance in Adult care will monitor the Action Plan

11. Conformation that equality impact analysis (EAI) completed and read

Name of officer signing off EIA as completed

Date:

This Equality Impact Analysis has been read by

Name	Date	Position

Where and when published e.g. with Cabinet Report, on DCC website

Decision-making processes

Attached to report (title):

Date of report:

Author of report: Colin Selbie, Adult Care

Audience for report: Cabinet

Web location of report:

Decision in relation to report

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Details of follow-up action or links to further EIAs

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Updated by:

Date: