

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting: 8th December 2015

Report of: Director of Adult Social Care and Independent Living
Brenda Smith

Subject/Title: Adult Social Care Fee Rates

Portfolio Holder: Cllr Janet Clowes – Care and Health in the Community

1. Report Summary

- 1.1 The Council has operated with an Adult Social Care external provider's fee structure that it inherited from the County Council, which has remained at the same level since April 2009. The Council last reviewed its fee structure in 2013/14 with the support of RedQuadrant, where it was determined that the current fee level was reasonable and fair. During 2015/16 there have been an increasing number of queries and informal challenges from a variety of providers requesting a fee increase and a related increase in the number of providers unwilling/unable to provide care to the Council at the rates being offered. The Council commissioned an independent review of its adult social care fee structure, RedQuadrant were successful with their tender and began their work in May 2015.
- 1.2 The Care Act 2014 adds an additional requirement for Councils to formally consider the cost of care locally. This additional requirement in effect bolsters the previous more informal arrangement where Councils were required to evidence the fair price for care as it determines its local fee structure. Where Councils do not take into account the local costs of care they are more likely to be subject to formal challenge from providers. There have been a number of additional national recommendations that seek to sustain and improve the care market, including those from the UK Home Care Association and the Unison Ethical Care Charter, which encourage those commissioning care to develop and strengthen the local market for care.
- 1.3 This area of the Council's activity is one of the largest contracted services that the Council commissions in the external market, with the Council currently spending in excess of £80m on externally commissioned care which caters in a variety of forms for approximately 5,600 Adult Social Care residents. The local care market is vibrant and strong across Cheshire East, with approximately 67% commissioned privately and only approximately 33% commissioned by the Council. The

commissioning structure adopted by the Council is vital to ensuring the continued vibrancy of this market, and the fee structure adopted by the Council is an important element of the commissioning approach and structure. In developing the care market locally the Council needs to pay due regard to the quality of care in addition to the price of that care.

- 1.4 The purpose of this report is to update Cabinet with an outline of the review undertaken by RedQuadrant, their recommendations, the impact of those recommendations both in care terms, economic terms, financial and budgetary terms, and also on the providers and their sustainability. It is important to note that during the review process the Chancellor of Exchequer announced changes with regard to the National Living Wage that required the Council, with RedQuadrant's support, to consider the impact in respect of the proposed fee structure. This has been a significant issue for the Council and will be for other Councils due to the nature of wage levels generally in the care market. The Council has committed to requiring its contracted suppliers to move towards paying the living wage and the fee structure assumed by RedQuadrant takes into account that commitment within their proposals.

2. Recommendations

2.1 That Cabinet:

- (a) Endorse the two Care Home Fees and Home Care Fees reports produced for the Council by RedQuadrant attached to this report as Appendix 1 and 2.
- (b) Endorse the increased fee rates proposed by RedQuadrant in full, with an estimated cost of £5.3m.
- (c) Endorse the timeline proposed in this report which culminates in the implementation of the new rates beginning in January 2016.
- (d) Commission and authorise the Director of Adult Social Care to explore with providers the impact of the fee structure remaining at its current levels until January 2016.
- (e) Commission the Director of Adult Social Care to recommission the home care provision to the Council, seeking to co-produce a new arrangement between the customers and residents, providers, advocates and the Council.

3. Reasons for the Recommendations

- 3.1 The Council is required via the Care Act 2014 to assess the viability and sustainability of the fee structure locally, and to take account of the local fee structure when making its own recommendations about its future fee structure.

- 3.2 The Council has operated a fee structure for six years without an increase, which has seen the Council drop to a low fee structure when compared with our comparator Councils.
- 3.3 The impact of the Chancellor of the Exchequer's announcement in the summer regarding the National Living Wage has resulted in both the Council providers recognising the need for action in respect of the fee structure. It will be necessary for all Councils to consider the impact of the National Living Wage on their local fee structure. It is clear locally that the impact of the National Living Wage, and the associated increase in the wage levels paid by other local employers, is impacting on care providers and the consequential impact has resulted in a more substantial recommended increase in the required fee rates noted in this report.
- 3.4 The care market across the Council area has become established and vibrant with a flourishing private and social care market. Providers have, through their discussions with RedQuadrant and the Council, stressed the difficulty the current fee structure is having on their businesses. RedQuadrant held a number of consultation sessions with providers in June 2015 where they stressed the importance of the care economy on the Cheshire East area and their desires to see this important area of the borough's economy enhanced and developed. In order to do this it is recognised that this will include an on-going and developing fair price for care that will allow them to reward and recognise their workforce.
- 3.5 The model for care is changing both locally and nationally, with a number of initiatives combining to drive a requirement for a fundamental review of the commissioning approach to the whole care market. The home care fee review and the summer consultation highlighted a number of opportunities locally that need to be considered and developed. For example moving to an outcome based commissioning approach from the current more traditional time and cost model was something both the Council and a number of providers were keen to explore. Increasing integration of the social care market with that of the health care market is another important feature that will help to improve the overall care outcomes for our residents. Because of the nature and complexity of the market, the number of providers the interactions between different agencies and providers it is suggested that a fundamental review begins now but is allowed a period of time through to at least the middle of 2016/17 before proposals are finalised and brought before the Council. These proposals would be co-produced between the Council, the various agencies and partners, their advocates, providers and of course the residents and customers themselves.

4. Residential and Nursing Home Fee Levels

- 4.1 The report from RedQuadrant is attached as Appendix 1, which details the approach taken in assessing the fee structure, the comparative information available and detailed feedback considered from a range of

providers. RedQuadrant highlight in their report that the final recommendations are quite different from the draft recommendations, because of the feedback from providers about the local cost of care. Taking account of the local costs of care is an important part of the Care Act 2014, the fact that the draft and final recommendations are different helps to demonstrate the collaborative approach to the assessment of the local costs of care.

- 4.2 The attached appendix contains a variety of extracts of the legislation and case law which relates to the setting of care fees. Through the consultation, the feedback from the larger care providers has been to stress the importance of the Care Act 2014, which came into force on 1 April 2015, and the requirements upon the providers themselves and the Council to assess the local market. This has resulted in additional and valuable consideration and assessment by RedQuadrant, alongside the impacts of the National Living Wage.
- 4.3 In deriving a 'bottom up' cost of care RedQuadrant have taken into account the recent expert national advisers, Laing Buisson and their costing model for care homes, adapted for the factors affecting the local market . The various assumptions which have been modelled include:
- Average bed base for a home
 - Occupancy
 - Staffing levels
 - Residential staffing levels
 - Nursing staffing levels
 - Management
 - Other staffing levels
 - Pay rate assumptions
 - Other staffing assumptions
 - Other non pay costs
 - Maintenance
 - Capital/Profit
- 4.4 During the consultation process a number of the assumptions adopted in the draft report were challenged, along with the associated differential impact as not reflective of local conditions. In particular the nursing pay levels quoted initially of £11.92 per hour were challenged as unrealistic. This has been increased to £13.30 per hour and a number of the other assumptions used were modified in the light of this feedback.
- 4.5 In making its recommendations RedQuadrant have advised the Council of a number of factors which it should consider as part of its deliberations. These include the fact that the current fee levels paid by the Council are low and becoming increasingly low compared to the bottom up calculations, the impact of the National Living Wage, that the care market in the area is large and diverse with high utilisation levels and the Council purchasing approximately 33% of the total market, that the Council is able to make placements at the current fee rates on most occasions and that there has been no increase since 2009, with a

widespread disappointment amongst providers at the lack of an increase for 2014/15 when one was expected.

- 4.6 RedQuadrant has made a number of recommendations in respect of Care home fees, with the following proposed fees (excluding the element paid by the NHS for Free Nursing Care):

Type of care	2014/15	2015/16	% in	2016/17	2017/18
Residential Care	£376.74	£414.54	10.0	£431.13	£448.35
Residential Care (EMI)	£467.10	£490.28	5.0	£509.88	£535.36
Nursing Care	£433.07	£450.45	4.0	£468.44	£477.82
Nursing Care (EMI)	£467.10	£471.80	1.0	£483.63	£517.44

- 4.7 The estimated financial impact on these fee increases, based on current placement levels is £3.0m for 2016/17 and a further £1.5m in 2017/18.

- 4.8 The use of residential care as a service response is one which the Council is seeking to avoid unless this is the only appropriate option to meet needs. It is recognised that for most people receiving care and support in their own home is the preferred option. For some people the residential service option has been the service response to meet the particular needs in the absence of services available in the community. As new developments continue and more intensive response services in a crisis are made available it is expected that for some people the need for residential care will be removed. In developing new approaches to care, therefore, it is possible that reductions in residential and nursing care could be achieved. If a reduction of 12% in residential care and 6% for nursing care was achieved this could save an estimated £300,000. If those reductions could be increased to 20% and 10% respectively an estimated £470,000 could be saved from the overall levels of expenditure. The overall budgetary impact is considered in the financial section of this report.

- 4.9 One key area of work currently being planned is for commissioners across health and social care to work with all key partners to develop a strategy for care home services, both residential and nursing, based on a number of key principles including ensuring the commissioning of a model of service fit for the future with a clear focus on the outcomes for the resident.

5 Home Care Fee Levels

- 5.1 RedQuadrant has adopted a similar approach to the review of the Home Care fee structure, with the same Care Act 2014 requirements applying to this market. The review included assessing the agency home care market, the direct payment system for individuals who wish to purchase their own care and the payment system to personal assistants. A similar approach to the review completed with the care home providers was undertaken, with workshops with providers, sharing a draft report,

discussion with those providers that wished to provide additional information plus consideration of comparative information.

- 5.2 In addition to taking into account the implications of the Unison Ethical Care Charter RedQuadrant utilised the research of the United Kingdom Homecare Association (UKHCA) in building the 'bottom up' costing of home care.
- 5.3 RedQuadrant compared the Council with fifteen other Councils, who are part of the Council's nearest statistical neighbours as identified by CIPFA, utilising the Personal Social Services Expenditure return (PSSEX) from 2013/14 which was the latest data available at the time the report was written. The principle finding was that activity was lower than the comparators and gross costs were also lower than the comparators, implying that fee levels were lower than the comparators.
- 5.4 In building the 'bottom up' costs, costs have been modelled utilising the National Living Wage, the impact of National Insurance levels quoted by the UKHCA, travel time and mileage costs.
- 5.5 One of the major issues that have been explored as part of the review has been the indirect costs of the Home Care agencies and what is termed by the UKHCA as Staff Support Costs. The UKHCA have assessed these staff support costs at 27% until April 2016, reducing to 25.5% thereafter. This level of overhead includes a wide range of costs including for example, management, office costs, training (inductions etc.) and so forth. This was an area of contention during the period of consultation with providers arguing that their indirect costs had risen considerably having to incur additional expense meeting the requirement of the new national Care Certificate. In developing the bottom up cost RedQuadrant have allowed 22% plus 3% for the profit margin leaving 25% overall.
- 5.6 In later years the National Living Wage will continue to impact on the fee structure, requiring increases by the Council, this will also impact on the differential pay rates applied across the care market structure, which is an issue the Council has been considering with its own pay structure.
- 5.7 The Home Care pay structure has three distinct elements, the payments direct to home care agencies, the allocated amounts for direct payments to the customer where they choose to purchase their own care and the allocation of payments to personal assistants where these are employed directly by the customer or someone on their behalf. The nature of each of these service types provided is different and the proposed pay structure takes the different nature into account. Agencies recruit, train and employ care staff, require a level of infrastructure and require that the carers they employ have to travel from one customer to the next during their working day, which needs to be factored into the pay levels. Customers who employ personal assistants directly, typically via a direct payment, do not have the infrastructure or overheads, are not required to

cover travel time etc. so do not need the same levels of pay to sustain the employment.

- 5.8 Within the home care fee review there are a number of additional service types, the first example being for a service called Shared Lives and the second for all the residents who receive care from the Extra Care facilities, with night sitting and care being a third. These services together with the rates for Direct Payments and Personal Assistants are still being considered and decisions will need to be taken for an April implementation. The service levels within these service areas are relatively small in comparison to the main home care services and the increases will be incorporated into the overall budget allocations detailed within this report.
- 5.9 The Council has recently taken a decision to cease the commissioning of 15 minute home care calls unless a resident specifically requests this. In order to manage the market in terms of capacity and quality, cases are being reviewed on a phased basis with 20% of the provision having already shifted away from a 15 minute call. In order to estimate the impact of the continued move away from 15 minute calls, it has been assumed that all 15 minute calls will be replaced by a 30 minute call. An estimate of the anticipated impact has been included below, assuming that initially the 20% movement increases to 50%.
- 5.10 The Council's current fee structure has a variety of elements, including a rate for the south of the borough and another rate for the east area, plus a weighting for short periods of care (less than an hour). As personalised care is the priority for the customer and commissioning for outcomes is the direction of travel for the Council, it is intended that the future arrangements for home care commissioning will be to commission where possible a block number of hours per week and for the customer and the home care provider to agree how these will be delivered. The brief for RedQuadrant therefore requested one rate across the Borough with all elements being pro-rated to the hour where this is required. The table below shows the impact of this.

Time	South	East	Blend	Proposed	%Difference
15 mins	£5.52	£5.77	£5.63	£3.83	(32%)
30 mins	£7.67	£8.03	£7.82	£7.66	(2%)
45 mins	£9.92	£11.41	£10.67	£11.49	8%
60 mins	£11.22	£12.55	£11.97	£15.32	28%

- 5.11 The financial impact of the above increases have been modelled on the current patterns of care that change from period to period but are reasonably constant to provide an indication for costing purposes. The above increase will cost an additional £2.3m in 2016/17 and a further £1.1m in 2017/18.
- 5.12 One key feature that was raised at the workshops in June 2015 was a desire from providers, residents and the commissioners to develop a new

model of care based on outcomes for the resident. Following the implementation of this fee structure a new model of care will be co-produced between all the various interested parties. This should allow a more sustainable level of care to be developed and one that helps to demonstrate improved value for money overall.

6 Time Line and Consultation

- 6.1 The Council received the final reports from RedQuadrant on 19 October and is keen to achieve an approved fee structure at the earliest opportunity because of the challenges from the providers. The table below demonstrates the time line seeking approval, briefing both the providers and the residents/customers.

Meeting	Date
Overview and Scrutiny	25 November 2015
Cabinet Pre-Agenda Briefing	17 November 2015
Provider Forums	Late Nov/Early Dec 2015
Cabinet	8 December 2015
Customer Communications	8 January 2016
Implementation of revised fees and charges	6 February 2016

7 Financial Implications

- 7.1 The Council has not increased its Adult Social Care fees since it came into existence in 2009. Over the first six years of the Council many other Councils have increased their fees, particularly when the pension incomes have been increased by the Governments. In benchmarking terms the Council has moved from near the top of the tables to near the bottom now.
- 7.2 The impact of the Living Wage on the Adult Social Care market will be significant, requiring all Councils, in line with their Care 2014 requirements, to increase their fee structures and levels. It is the view of RedQuadrant that once Councils assess their local requirements they will need to increase their fees, with a substantial national impact across the country.
- 7.3 In assessing the impact of the proposed fee structure locally the finance team have used information from the social care systems. The units of commissioned care (e.g. volume of hours; number of care packages) can vary from period to period, so whilst the information included within this report is as accurate as possible the full impact does change, including the impact on individual providers, who will have a different mix of residents that they are caring for from period to period.
- 7.4 The budget setting for 2016/17 (Pre Budget Report) includes a proposed allocation of £5.1m for fee increases. The initial assessment by the finance team is that the increased fee structure will cost the Council

£5.3m in 2016/17 with a further increase due to the Living Wage of £2.6m in 2017/18.

- 7.5 Taking all relevant factors into account at this stage it is anticipated that the fee structure will be achievable within the overall budget envelope (subject to Council approval in February 2016).
- 7.6 During 2015/16 it is proposed that the fee structure will come into operation in January 2016, which will leave four 4 weekly periods remaining for the year. Assuming a constant level of care this will cost the Council an additional £1.6m during 2015/16. This has been factored into the outturn forecasts for the Adult Social Care Directorate.
- 7.7 It is proposed to recommission home care during the remainder of 2015/16 and into 2016/17, where the aim is to redesign the home care offer working with residents, partners and the providers. The newly designed offer will seek to improve the outcomes of our residents focussing on an outcome based model of care. This review will incorporate a review of the differences between agency provided care with that provided by personal assistants.

8 Legal Implications

- 8.1 The Care Act 2014 requires Councils to consider the fee structure applicable to their local area, taking into account the circumstances of the local market, its viability, sustainability and ability to provide sufficient appropriate care provision to the Council's residents at the proposed fee level. The approach taken by RedQuadrant, including the period of consultation, feedback and reflective increases, has enabled the Council to comply with the requirements of the Act.
- 8.2 Before setting its fee structure, the Council has carried out a period of consultation. The legal principles that must be adhered to in relation to consultation are that:
- a. Consultation must be undertaken at a time when proposals are still at a formative stage;
 - b. It must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response;
 - c. Adequate time should be given for the purpose of consultation;
and
 - d. The product of consultation must be conscientiously taken into account when the ultimate decision is taken.
- 8.3 The Council has complied with its duty to consult by taking the following approach. The Council requested that RedQuadrant include within their consultation draft report a clear indication to providers that, should the Council decide to adopt the RedQuadrant proposals in full; the Council

will rely upon the period of consultation undertaken by RedQuadrant.

- 8.4 This report recommends that the Council accepts the RedQuadrant recommendations in full in relation to Residential and Nursing Home Fee Levels and Home Care Fee Levels. Whilst the final proposals from RedQuadrant are different from their initial proposals shared with the market, it is suggested that this represents a low risk of challenge, as the changes have all been increases. Additionally, the Council intends to share the final report with providers and discuss the reports with them via face to face provider forum meetings.

9 Wards Affected

- 9.1 All wards affected.

10 Local Ward Members

- 10.1 All ward members.

11 Policy Implications

- 11.1 The proposals if accepted support the delivery of the Medium Term Financial Strategy (MTFS).
- 11.2 This proposal is in keeping with the requirements of the Care Act 2014 which requires the Council to assess the viability and sustainability of the fee structure locally.

12 Implications for Rural Communities

- 12.1 The proposal will support those in rural communities to continue to access care services in a range of locations across Cheshire East.

13 Risk Management

- 13.1 Ensuring adequate services in the independent sector market to meet current and future needs of local residents is critical.
- 13.2 By taking account of the local fee structure when making its own recommendations about its future fee structure the Council is mitigating this risk, both for the Council and residents.

14 Background and Options

- 14.1 As outlined earlier in the report the Council competitively tendered to appoint a suitably qualified consultant to undertake an independent assessment of social care fees paid by Council. Red Quadrant Consultants have consulted with providers and due regard has been given to the costs incurred when supporting people in care services.

14.2 Have having commissioned an independent review of fees if the council were to operate contrary to the recommendations, it must be able to show a rational basis on which to depart from it.

15 Access to Information

15.1 The background papers relating to this report can be inspected by contacting the report writer:

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