

Cabinet

Date of Meeting: 9 June 2020

Report Title: COVID-19 - Emergency temporary financial support to the Social Care external Market

Portfolio Holder: Councillor Laura Jeuda- Adult Social Care & Health

Senior Officer: Mark Palethorpe – Executive Director People

1. Report Summary

- 1.1. Cheshire East Council has a statutory duty under the Care Act 2014 to ensure that there is a sustainable care market in the local authority area, to promote the efficient and effective operation of the market and not to undertake any actions which threaten the sustainability of the market.
- 1.2. The current COVID-19 pandemic has placed unprecedented demands on care providers not only from a financial perspective but also in terms of their legal and moral duty of care to their staff and service users.
- 1.3. The purpose of this report is to inform Cabinet of measures in place to date to support care providers and to seek approval for temporary and limited financial support to mitigate against the financial pressures. This would help to ensure that providers are able to continue to provide care to service users during the current crisis and would minimise the risk of market failure resulting from financial insecurity. The recommendations set out in this report draw on the findings of a survey undertaken with care providers which are set out in Appendix A.
- 1.4 Cheshire East is proposing to invest a total of £2.021 million as an emergency one off cash injection into the local care market to support care

providers response to the current COVID-19 pandemic so that they are able to continue to provide a good quality and safe service to Cheshire East residents.

2. Recommendations

That Cabinet

- 2.1. Note and approve the actions and mitigations already taken as set out in 5.3 of this report.
- 2.2. Approve the provision of temporary financial supporting fund as set out in recommendations 2.3 and 2.4 to providers delivering the services set out in the addendum of this report.
- 2.3. Approve the one off emergency funding payments to care homes set out in 5.4.1 of the report.
- 2.4. Approve the one off emergency funding payments to domiciliary and Complex care providers set out in 5.4.2 of the report.

3. Reasons for Recommendations

- 3.1 In accordance with the Care Act statutory duty to promote an efficient and effective care market, the Council has a legal responsibility to intervene in the event of provider failure to ensure that the needs of all service users continue to be met, regardless of whether their care is commissioned by the Council or they are self funded. This can result in Commissioners having to make arrangements with an alternative provider at short notice and generally at an increased cost.
- 3.2 On 13th March 2020 the Association of Directors of Adult Social Services (ADASS), the Local Government Association (LGA) and the Care Provider Alliance (CPA) issued joint guidance for local authority commissioners¹ which summarised the pressures on social care providers arising from COVID-19.
- 3.3 The guidance came from a shared ambition to ensure that providers are supported to maximise availability of care and support and to remain operationally and financially resilient during COVID-19. It recommends a number of measures that local authorities can take to mitigate pressures including increasing fee rates or offering a lump sum payment.

¹ <https://www.adass.org.uk/covid-19>

- 3.4 The financial support recommended in this report will ensure that providers are supported to maximise availability of care and support and to remain financially resilient during the COVID-19 pandemic and ensure that Cheshire East Council is enacting its statutory duty.
- 3.5 Most Councils in the area have now set out their financial support to care providers. The measures taken vary from authority to authority but can be summarised in the table below which is taken from research undertaken by the North West Finance Leads (NWFL). 20 local authorities responded to the NWFL survey. Please note that each authority has offered a number of different measures.

Method of Financial support	Number of local authorities adopting method		
	Accommodation with Care	Care at Home	Complex Care
Temporary fee increase (ranging between 5% and 10%)	6	6	5
Targeted support e.g. PPE, sickness, agency costs and other	18	17	17
Direct purchase and distribution of PPE	17	16	17
Redeployment of staffing capacity	8	7	8
Advanced payment to support cashflow	11	10	10
Payment for reduced occupancy or support for reduced capacity	11	14	11
Top ups of Statutory Sick Pay (SSP) for staff who are sick or self isolating	5	5	5
Other	7	2	0

- 3.6 The majority of authorities are offering some form of targeted support for costs and support with purchasing PPE. Many are also offering advanced payments to support cashflow and payment to compensate for reduced occupancy or capacity. In cases where the authority has increased fees

paid to Providers this has typically been between 5% and 10% of current fee levels.

- 3.7 In order to understand the financial pressures on care providers, a survey was sent to all care providers operating in Cheshire East for a two week period at the end of April 2020. The findings of the survey are attached as Appendix A but in summary the survey found that average weekly additional costs directly related to COVID-19 on agency staff, overtime, cleaning, IT for each of the individual care sectors is as follows:

Accommodation with Care - £14,132

Care at Home – £683

Supported Living - £4,839

- 3.8 The figures above do not take account of the additional costs resulting from payment of Statutory Sick Pay for staff who are self isolating or shielding. The survey found that the average number of days lost per provider since 23rd March 2020 are as follows:

Accommodation with Care – 208

Care at Home – 48

Supported Living – 126

- 3.9 The survey also highlighted a range of other additional unforeseen costs for care providers including increases in the price of food, staff transport costs due to public transport being unavailable, cost of supplying additional uniforms for infection control purposes, additional recruitment costs and reduced income due to a reduction in private clients and ability to provide other services such as day services.

- 3.10 There are growing concerns which have been highlighted in the national media about the long term financial viability of care providers resulting from increased costs and loss of revenue due to COVID-19. This is a particular concern for care homes which have lost a significant proportion of residents to the infection and have therefore been left with low occupancy levels. Appendix B to this report contains case studies of two local care homes that find themselves in this position. The case studies highlight the implications for residents and the Council if these homes were forced to close due to financial difficulties.

- 3.11 The costs associated with COVID-19 represent a significant additional pressure on a sector that was already fragile due to significant underinvestment due to austerity cuts over successive years. There is a

very real possibility that the pandemic could act as a tipping point that puts a number of care providers out of business.

- 3.12 It is recognised that for some care providers the funds may not fully recompense for the financial losses incurred as a result of the pandemic. However, it is anticipated that the monies will be welcomed by providers and could help tip the balance in terms of long term financial sustainability

4 Other Options Considered

- 4.10 If the Council were to do nothing further to support care providers during these unprecedented times, there is a real risk of market failure and the Council could be seen as failing in its statutory duties under the Care Act to promote the efficient and effective operation of the care market and meet the eligible care needs of the adult population. Where a care provider fails the Council has a duty to intervene to ensure that all service users including self funders continue to have their needs met and this can result in significant additional cost to the authority. Doing nothing is, therefore, not considered a viable or desirable option.
- 4.11 Some local authorities have opted to underwrite minimum occupancy levels by providing funding for empty care home beds resulting from excess COVID-19 deaths and closure to new admissions. The cost of this is likely to be prohibitive due to the high number of care homes in Cheshire East and, therefore, this option was not considered to be financially viable.
- 4.12 Officers also considered a one-off payment equivalent to a percentage uplift on provider's fees. However, as some care providers have significantly higher rates than others, particularly in the Accommodation with Care sector, it was felt that this would not be an equitable approach and could unfairly penalise providers who are willing to accept Council rates.

5 Background

- 5.1 Thousands of people across Cheshire East rely on the care sector to provide them with the support they require to live their everyday lives. Nationally, two thirds of people living in care homes for the over 65's are over 85, with around 70% living with dementia. Over a quarter of a million people under 65 also receive support, whether for Mental Health, for Physical Support or Support Living with Learning Disabilities. This can be through Supported Living arrangements, Accommodation with Care, Direct Payments or through wider community support services. More locally, we have 92 homes (Residential and Nursing) across Cheshire East; 59 Care

at Home Providers (8 of which are Prime Providers) and 73 Complex Care Providers.

5.2 Current position

5.2.1 At the time of writing, 28 local care homes have active outbreaks of COVID-19. Some of these are in a 28 day quarantine period whereby they have are waiting to see whether other residents display symptoms before the outbreak can officially be declared over. Where an outbreak is confirmed the Council's Quality Assurance team work in partnership with the commissioned Infection, Prevention and Control team, the Clinical Commissioning Group, Public Health England and the Care Quality Commission to ensure that the appropriate support is in place for the care home and that they are following all relevant guidance and procedures and that sufficient Personal Protective Equipment is supplied.

5.2.2 Sadly, in Cheshire East as at 7th May 2020 there had been 143 deaths of care home residents either confirmed or suspected to be related to COVID-19 and 3 deaths among care home staff. Some care homes have been particularly badly affected. For example, there have been 30 service user deaths at The Woodlands care home in Poynton and 24 in Eden Mansions care home in Styal.

5.2.3 Care homes have also seen high numbers of staff with confirmed or suspected COVID-19. As at 6th May 2020 52 staff working in care homes had been confirmed as having COVID-19 and a further 51 were displaying symptoms. This has resulted in the need for providers to employ agency staff at a significant expense.

5.2.4 There have been fewer issues in the Care at Home and Complex care sectors, however, providers report additional costs relating to the need to pay Statutory Sick Pay (affecting those providers who are not eligible for Government support as they have over 250 employees) to staff who are self isolating or shielding, additional PPE expenditure and travel costs resulting from the lack of public transport. As at 6th May 2020, a total of 95 staff working in Care at Home and Complex Care were suspected of having the virus.

5.3 Support currently provided

5.3.1 Cheshire East Council started to undertake preparatory work in responding to COVID-19 with social care providers back in February 2020. Every contract was reviewed and a commissioning strategy was put in place to respond to the COVID-19 pandemic as stated in the following paragraphs.

- 5.3.2 Collaboration and Communication :- There was a recognition that the situation would be fast moving and would create an uncertain operational environment. To respond to this, we worked with the social care providers to create channels that gave them the ability to raise issues and get answers back quickly, and to be able to solve problems collaboratively both with commissioners and each other.
- 5.3.3 A weekly mutual aid call takes place with each segment of the care market – Accommodation with Care, Care at Home and Complex Care. The purpose of these calls is to ensure that issues and problems get heard and solutions are sought. These are currently working well, particularly within the care at home segment, where providers are working much more collectively to support the care and support needs of service users requiring that service.
- 5.3.4 At the start of the COVID-19 pandemic the commissioning team undertook daily calls to all providers however, once the situation became more serious and we started to see an increase in outbreaks the team had to implement and operate a risk-based approach to all providers. The rationale for this approach is that providers have told us they want to focus on delivering the best possible care for the residents. All other commissioned Adult Social Care and Public Health services receive a twice weekly or once a week call unless they inform us that they need support.
- 5.3.5 A weekly briefing is sent to all care providers operating in Cheshire East (whether commissioned or not) which summarises the latest guidance, processes and support available to providers. In addition a Care Provider portal has been established on the Council's website to store information for providers.
- 5.3.6 All providers understand the need to inform the Council of any issues, suspected or confirmed COVID-19 cases and any PPE requirements and there is a well established process for this which is understood by providers.
- 5.3.7 Business Continuity Plans -The Commissioning team worked with the social care providers to ensure that we had an up to date copy of all business continuity plans and these were analysed to ensure we could identify and risk assess services.
- 5.3.8 Cashflow- To mitigate against the pressure on cashflow for providers, a commitment was made in March that Cheshire East Council would continue to pay for 'commissioned' care and would not claw back and hours that were undelivered due to the COVID-19 pandemic. We also committed to ensuring prompt payments.

5.3.9 Hospital retainer-When a service user is admitted to hospital , Cheshire East Council continues to pay the provider for 7 days. This is to enable the package to remain open and facilitate a fast discharge with their original provider. This offer has been extended to 14 days to align with the infection period of the virus.

5.3.10 Hospital discharge- To facilitate the implementation of the COVID-19 hospital discharge guidance several actions were taken. We block booked 26 beds across the Borough and these are funded by the NHS. In addition to this the current beds commissioned to support winter pressures, 9 beds were also extended. The rapid response (care at home) contracts were also extended and enhanced. We also undertake a daily vacancy count and at the time of writing have 151 beds available across the Borough.

5.3.11 Infection control– As a Council we recognised the need for increased usage of personal protective equipment (PPE) and the difficulty in supply. To mitigate this, we have and will continue to purchase the relevant PPE, and we distribute this to all services that are running low on supplies. This has been an additional cost to the council, circa one million pounds, a sum not budgeted for within this financial accounting year.

5.4 Proposed support

5.4.1 It is proposed that the emergency funding to care homes is calculated based on £400 per bed located in Cheshire East. This includes privately funded as well as Council commissioned beds and would only be payable to care homes within the Borough. It is anticipated that care homes outside of the Borough that house Cheshire East residents will benefit from funding from the host local authority. This element of the funding would cost in the region of £1.644 million based on 4,110 care home beds located in Cheshire East.

5.4.2 It is proposed that the emergency funding to domiciliary and Complex care providers is calculated based on £200 per commissioned care package to providers who deliver a commissioned service within Cheshire East. This is to include Prime Providers and any providers who are on Cheshire East Council commissioned frameworks and any who are not currently on a commissioned framework. The rationale for the lower level of funding to this part of the sector is due to less financial pressures resulting from COVID-19 as evidenced by the Council's survey. This element of the funding would cost in the region of £377,200 bringing the total funding to £2.021million.

5.4.3 It is proposed that the temporary funding set out in this report is a one-off payment to be used diligently and sparingly in accordance with the

parameters set out in this report and that providers are required to evidence how these fund has been spent in respect of supporting the COVID-19 response. The Council will reserve the right to claw back any unused funds from providers. Each provider will be issued with an appropriately worded letter confirming the financial support emergency fund value and including specific conditions as to its use, with a requirement to provide a return setting out how the support was spent and clawback provisions requiring repayment if the conditions are not complied with.

5.4.4 The emergency funding does not include provision for service users who receive a Direct Payment to purchase their care and support. It is proposed that requests for additional support are dealt with on an individual case by case basis according to need.

5.4.5 This report is addressing the temporary financial support to the care market to mitigate against the financial pressures associated with Covid 19. It should be noted that this is separate to the £600 million recently announced by the Government for COVID-19 care homes specific support for the explicit purpose of infection, prevention and control.

5.4.6 It is anticipated that the additional financial support recommended in this report will be used by providers to fund the following:

Sick pay- Providers face increased cost pressures due to higher sickness absence rates among there workforce: they have to pay Statutory Sick Pay (SSP). Employers are unable to claim SSP from the Government except for some temporary arrangements announced in the Spring Budget, which will only be available to organisations with 250 or fewer employees. This is one area not currently mitigated by the Council, therefore, the additional funding will support providers in this undertaking. We will expect that providers use the emergency funding to maintain full pay for those individuals who are sick, shielding or self-isolating. If this is found not to be happening the Council will review the financial support to the provider.

5.4.6.1 Workforce availability – Providers are facing higher workforce absence rates through medically-recommended self-isolation, sickness and family caring responsibilities. Care providers will need to be able to deploy their staff flexibly and to hire new staff quickly. They face increased cost pressures from higher use of agency staff and paid overtime/additional to other staff members.

5.4.6.3 Agency and additional recruitment costs – The Council has participated in the national and regional campaigns to encourage people into the care sector, and has also produced a local campaign to support our providers. In addition, we have created the job matching service which also signposts people into the care sector. Despite this, we do not

mitigate against the additional agency costs and additional recruitment costs that providers are experiencing. This is another factor where this additional financial support will be required to support providers.

- 5.4.6.4 Void loss – In response to the survey a number of providers have contacted the Council to warn of a growing risk of closure due to financial viability issues relating to lost income from empty beds due directly to COVID-19. In some cases homes are suffering losses of approximately £40,000 per week. The additional financial support recommended in this report could be by care home providers to mitigate against these losses.

6 Implications of the Recommendations

6.1 Legal Implications

- 6.1.1 The proposed financial support will not constitute a contractual fee uplift and will sit outside each provider's contract as an emergency grant fund. The payment does not constitute a contractual variation and this will be made clear in the conditions which will attach to the support.
- 6.1.2 Each provider will be required to accept the funding by signing a letter which will confirm the financial support emergency fund value and include specific conditions as to its use, including a requirement to provide a return setting out how the support was spent and clawback provisions requiring repayment if the conditions are not complied with.
- 6.1.3 The support is unlikely to breach EU state aid rules as it is funded by (and will be applied in accordance with) central government emergency funds which themselves are compliant.
- 6.1.4 In summary the legal risks are mitigated and acceptable.

6.2 Finance Implications

- 6.2.1 When the budget was set by Council on 20th February 2020, it included an estimated spend on all external care for 2020/21 of £116m. The services that this fund will be allocated include the following types of commissioned providers:-
- Care at home services (Domiciliary Care)
 - Accommodation with Care (Residential & Nursing homes)
 - Complex Care Services (Supported Living)
 - Extra Care Housing

The estimated spend for 2020/21 on providers eligible for payments from the fund is approximately £101.5m. This excludes any client contributions and is the Gross payments to the providers.

- 6.2.2 The estimated cost of the emergency funds for Accommodation with Care providers is £1.644 m, this is based on £400 per bed for all 4,110 beds within the Cheshire East boundaries, this is for both Self Funding and Council purchased beds. The estimated cost for the emergency funds for the Care at Home, Complex Care and Extra Care providers is £377k, this is based on £200 per commissioned care package for 1,886 care packages. The total estimated cost of the recommendations in this paper is therefore £2.021m.
- 6.2.3 The cost of the emergency fund payments will be met by the Adult Social Care budget. There is a significant risk that this budget could be forecasting overspends later in the 2020/21 financial year as a result of this additional cost, which may necessitate the need for future realignment of the 2020/21 budget at a point in time. This position will be kept under review and reported to members as part of the budget monitoring process.
- 6.2.4 The distribution of the fund will not be means tested, it reflects a general increase in levels of spending across the care sector and does not discriminate between providers based on size or organisational size or structure.
- 6.2.5 To address the fact that funding allocations will not be means tested the Council will seek assurance from its providers that this emergency fund is used to support front line services and staff, covering genuine additional costs linked to the COVID-19 pandemic. Funding not used in this way should be returned to the Council and not be used to contribute towards additional profits or dividends to shareholders. Conditions will be placed on the funding requiring providers to apply the funds for specific purposes and provide a return setting out how the funds were spent.
- 6.2.6 The emergency fund is intended purely as a fund to enable providers to maintain their contracted services during this challenging time. It will be made clear that the money has been released under highly unusual and extenuating circumstances and does not constitute a contractual fee uplift. Consequently, providers will be reminded that they must continue to mitigate against the adverse cost consequences of COVID-19 and will be expected to work to their contracted payment rates.

6.3 Policy Implications

6.3.1 The recommendations in this report align with guidance issued by the Association of Directors of Adult Social Services (ADASS), the Local Government Association (LGA) and the Care Provider Alliance (CPA) on 13th March 2020 to ensure market sustainability.

6.3.2 It also supports the recommendations in the Department of Health and Social Care's COVID-19 Action Plan for Adult Social Care.

6.4 Equality Implications

6.4.1 An Equality Impact Assessment has been undertaken and is appended to this report as Appendix C.

6.5 Human Resources Implications

6.5.1 There are no HR implications for Cheshire East Council staff. However, the additional support proposed by this report will support care providers to ensure that they have sufficient staffing levels to provide a safe and good quality service to the residents of Cheshire East.

6.6 Risk Management Implications

6.6.1 There is a significant increased risk of provider and/or market failure during the COVID-19 pandemic. The impact of market failure would be devastating for those individuals who receive care and support but for the Council, financially would be very costly due to the need to commission emergency provision at short notice.

6.7 Rural Communities Implications

6.7.1 The additional support proposed in this report will support care agencies who provide care and support to people living in rural communities.

6.8 Implications for Children & Young People/Cared for Children

6.8.1 There are no direct implications for children and young people.

6.9 Public Health Implications

6.9.1 By maintaining the established approach and supporting providers with financial assistance will help to manage and prevent any further outbreaks of COVID-19.

6.10 Climate Change Implications

6.10.1 There are no direct implications for Climate Change resulting from the provision of financial support.

7 Ward Members Affected

7.1 All Ward members are affected.

8 Consultation & Engagement

8.1.1 The information and recommendations contained in this report draw on feedback from local care providers that has been collated by a number of methods including a survey on additional costs, weekly Mutual Aid calls, letters and emails from care providers.

8.1.2 The findings from the consultation are set out in Appendix A and demonstrates the need for additional financial support from the Council to sustain care provision.

9 Access to Information

9.1 Further information can be found at:

ADASS Social care provider resilience during COVID-19: guidance to commissioners

<https://www.adass.org.uk/covid-19>

Gov.uk - Coronavirus (COVID-19): adult social care action plan

<https://www.gov.uk/government/publications/coronavirus-covid-19-adult-social-care-action-plan>

10 Contact Information

10.1 Any questions relating to this report should be directed to the following officer:

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Addendum

List of Services

Accommodation with Care – Long Term, including care providers who are on the Council's Dynamic purchasing System and those who aren't

Care at Home – including Prime Providers, Framework Providers and other Care at Home providers

Complex Care – including those that are on the Council's Dynamic Purchasing System and any which aren't

Extra Care Housing care provision