

Division(s):

CABINET - 19 JANUARY 2013

CARE HOME FEES

Report by Director for Social & Community Services

Introduction

1. The services that care homes provide within Oxfordshire play an important role in helping to meet the needs of vulnerable adults. The Council has to ensure that there is sufficient capacity within the social care market to meet its current and future commissioning requirements.
2. The cost of adult social care and how it should be funded has for many years been the subject of discussion and much media attention. These discussions have taken place at both a national and a local level and in many respects have focused on the cost of care home services.
3. At a local level the council has stated that we are keen to ensure the sustainability of care home services in Oxfordshire to meet the assessed needs of vulnerable adults. We have also said that we are committed to work alongside providers to ensure that the same is of the highest quality. The council is also working to support more people to live at home in the community so that they do not need to go into a residential care home. Working with the District/City Councils and Housing Associations, we have embarked on a major expansion of Extra Care Housing. We are also discussing other housing options which help support people to live in their own homes.
4. In relation to care homes services for older people it has largely been providers who have expressed concern that prices paid by local authorities do not reflect the true cost of care. They have also argued that there is a "cross-subsidy" from care funded privately by individuals and families. Disagreements over fee rates are not new however, over the last two years there have been a number of legal challenges made by care home providers against the way that some local authorities have undertaken their annual reviews of the rates they pay for the services delivered.
5. This report is now brought to Cabinet to
 - (a) describe the process the Council has undertaken to review the amount it pays for care homes this year and
 - (b) agree the Target Banding Rates to be applied for 2012-13 and 2013-14.

The Council's Obligations

6. Under Section 21 of the National Assistance Act 1948 the Council has an obligation to make arrangements for providing "residential accommodation for persons aged 18

or over 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;....”

7. Local authorities are required, in the exercise of their social services functions, to “act under the general guidance of the Secretary of State” (section 7 of the Local Authority Social Services Act 1970). In this respect the relevant Local Authority Circular LAC (2004) 20 provides guidance and sets out what individuals should be able to expect from a council that is responsible for funding their care, subject to the individual's means, when arranging a care home place for them.
8. The Guidance intends to ensure that when councils with social services responsibilities make placements in care homes or care homes providing nursing care, that, within reason, individuals are able to exercise genuine choice over where they live. Individuals have the right to move in to more expensive accommodation than they would otherwise have been offered in certain circumstances (if they chose to pay a ‘top-up’).
9. The general rule is that if, following an assessment, it is agreed that an individual needs care in a care home, the individual concerned can express a preference for particular accommodation (“preferred accommodation”) within England and Wales and the council must arrange for care in that accommodation, provided:
 - (a) The accommodation is suitable for the individual’s assessed needs
 - (b) To do so would not cost the council more than what it would usually expect to pay for accommodation for someone with the individual’s assessed needs. This is often referred to as the ‘usual cost’.
 - (c) The accommodation is available.
 - (d) The provider of the accommodation is willing to provide accommodation subject to the council’s usual terms and conditions for such accommodation
10. If an individual requests it, the council must also arrange for care in accommodation more expensive than it would usually fund provided a third party or, in certain circumstances, the resident, is willing and able to pay the difference between the cost the council would usually expect to pay and the actual cost of the accommodation (to ‘top up’). These are the only circumstances where either a third party or the resident may be asked to top up.
11. As stated above one of the conditions associated with the provision of preferred accommodation is that such accommodation should not require the council to pay more than they would **usually expect to pay**, having regard to assessed needs (the ‘usual cost’).
12. With regard to the usual cost the Guidance states that this cost 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. Furthermore in setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors.

13. In general the law requires authorities to follow the path charted by the Secretary of State's guidance, but with liberty to deviate from it where the local authority judges that there is good reason to do so. A local authority must consider any such guidance with great care, and only depart from it if it has cogent reasons for doing so, which it is able to articulate convincingly.
14. There is also non-statutory guidance in this field (Building Capacity and Partnerships in Care). This guidance is a relevant consideration for the Council in this exercise. The approach set out in this non-statutory guidance is, in relevant respects, similar to that set out in the statutory guidance, and it does not add to factors mentioned above.
15. In summary we have to provide residential or nursing care to those that need it. We have to meet individual preferences. People can choose to top up, or pay an additional amount, for a more expensive care home of their choice. Local Authorities have to set a rate for care annually. What we pay must be sufficient to meet assessed needs, and we must have due regard to the actual costs of providing care and other local factors.

Purchasing Care Home Services for Older People in Oxfordshire

16. At the end of October 2012 Oxfordshire County Council funded 1,713 older people in care home placements. 499 of these were in placements covered by a block contract with Order of St John and 1,214 were in spot placements.
17. 1,006 of the spot placements were permanent placements with 701 being in the nursing and 305 in the residential homes (a 70:30 split). The remaining spot placements were of a temporary or short-term nature.
18. There are 105 care homes in the county offering a total of c.4,500 placements. This means that 60% of places are occupied by private payers.
19. This council has traditionally set Target Banding Rates on an annual basis in order to spot purchase care home placements for older people. The Target Banding Rates indicate the target funding level that the council will seek to pay for an individual person following an assessment of their needs. There is therefore a relationship between the rate paid (target banding rate) and the level of need.
20. Officers from the council then use this guide to secure a care home placement at a funding level as close to the Target Banding Rate as possible. Within the process there is flexibility to fund above the target Banding Rate should a person's assessed needs require additional funding to meet the same. We also pay above the target Banding Rate where there is no alternative and we urgently need to find suitable accommodation that will meet someone's care needs.
21. The rates in place at 1st April 2012 covered 5 care categories.

Residential Care Home (Care without nursing)

| | |
|------------------------------------|---------------|
| Social Care - Substantial | £350 per week |
| Social Care - Extensive/Specialist | £403 per week |

Nursing Care Home (Care with nursing) *

| | |
|---------------------------|---------------|
| Social Care - Substantial | £473 per week |
| Social Care - Extensive | £527 per week |
| Social Care - Specialist | £612 per week |

*The figures quoted for care with nursing include the single-rate Funded Nursing Care and Incontinence Payments

22. Each year these banding rates are reviewed and decisions made about any change that should be made from one year to the next.
23. In practice the lowest banding rate is not currently used by council staff making new placements. However we have historical placements made at the Social Care – Substantial Rate.
24. Our assessment is that we have council funded placements in nearly all 105 care homes in Oxfordshire. However we estimate that only 25 care homes will accept people placed under spot arrangements and paid for at the level of our target banding rates.
25. In summary the council purchases approximately 40% of the available care home places in Oxfordshire. We set a range of (target) rates to reflect different levels of need. In practice the actual amount paid can vary from these rates.

Recent Legal Challenges

26. In other parts of the country there have been a number of legal challenges made by care home providers against the way that their local authorities have conducted their annual price reviews.
27. In December 2010 there was the Pembrokeshire Judicial Review. In the latter part of 2011 there were two cases of note that have been specifically about the process of setting of fee levels by local authorities; namely the Sefton Council case and a case involving Leicestershire County Council.
28. The Sefton case highlighted the importance of ensuring compliance with Government guidance, thorough consultation and proper equality impact assessment when setting care home fees. The Leicestershire case restated the Sefton decision. More recently a decision involving Port Talbot Council confirmed that the level of resources available to the council could be taken into account by a council when deciding on the level of uplift to offer on payment rates.
29. These cases have specifically reminded councils of the government's expectations on local authorities when setting their fee levels and conducting annual price reviews. The courts have not stipulated what the rate of pay for care should be.
30. Some of the key themes that have arisen from these cases include
 - (a) A need for councils to assess the actual cost of care in their local area.
 - (b) A need to consult with providers to hear their views on the same
 - (c) A need to consider local market factors
 - (d) A need to carry out an Impact Assessment as part of the decision making process.

31. In summary there have been a number of successful legal challenges made by care providers against Local Authorities. These challenges focus on the process by which the council sets its rate including whether they have consulted appropriately with care homes. A range of factors have to be considered in setting the rate including the cost of providing care and the resources available to the council.

Consulting with the Care Home Sector

32. Oxfordshire County Council has carried out its own consultation with care home providers. In December 2011 the Director wrote to all contracted care homes to advise them of the approach that would be taken to the annual review of the Target Banding Rates. This communication explained that he would be
- (a) Writing to providers to seek information about their operating costs.
 - (b) Offering to discuss operating costs with a number of providers on an individual basis.
33. At the same time and alongside this work to help identify provider operating costs he would consider a number of the usual associated market factors, including:
- (a) Market Share
 - (b) New developments within the care home sector in Oxfordshire
 - (c) The Financial Health of the Care Homes Sector
 - (d) The quality of care available
 - (e) Average Length of Stay
 - (f) The numbers of new placements that need support each year
 - (g) User Experiences
34. On 21 February 2012 officers from the council met with the Chair of the Oxfordshire Care Home Association and other representatives to hear their views on how best to conduct the consultation about operating costs and to hear about the cost pressures they were facing. .
35. The Association highlighted to officers their view that there was a 20% gap that had developed between the cost of providing care and the Council's Target Banding Rates in the last 5 years. This was as a result of cost pressures that had arisen over the same period.
36. In view of these discussions in March 2012 the Director again wrote to all care home providers and made several key proposals to the sector.
- (a) From 1st April 2012 we offered to uplift our payment rates for existing placements in care homes by 3%.
 - (b) We also offered to uplift our target banding levels for new spot placements in care homes by 3% from the same date.
 - (c) We proposed to continue to discuss and agree the cost of individual placements on a case-by-case basis with providers where appropriate in order to meet the costs of services for those most vulnerable.
 - (d) During the 2012/13 financial year we proposed to undertake a review of the cost of purchasing care home services to inform the Council's decisions on the target banding levels to be used from April 2013

37. We advised providers that the council's proposal to uplift its current rates and target banding levels by 3% was an **interim proposal** pending a more thorough review and consultation as to the costs of care.
38. We believed this proposal to increase payment levels by 3% to be both reasonable and affordable in the current financial climate; payment levels have subsequently been raised to reflect this commitment.
39. To help us understand the cost of care and to set this at a rate that reflects local circumstances we had to consider the options available for care home fee modelling. The choice was between using the Laing & Buisson model (nationally recognised healthcare Consultants) or developing a model of our own that reflected the actual cost of care. We also had available to us the model currently being developed by the Association of Directors of Social Services (ADASS).
40. We included the Laing & Buisson model in the consultation process as a readily available toolkit that care homes could complete to help inform our decisions. At one of the Care Home Association meetings we encouraged providers to come forward with their costs so that these local costs could be used to inform the Laing & Buisson model. We also highlighted a Council concern around the Return on Capital used in the model.
41. In addition, during the period of consultation, the Association of Directors of Adult Services had convened workshops of interested parties to develop a new costing model.
42. The outcome of the consultation is covered below together with a commentary on the cost models available.
43. To ensure that there were a number of opportunities to obtain feedback we
 - (a) Met face to face with representatives from Oxfordshire Care Homes Association on three occasions (21st February, 19th March and 23rd April 2012).
 - (b) Embarked on an open consultation process that asked all care home providers to comment on our proposals and take part in a review of the cost of providing care home services in Oxfordshire. This formal consultation exercise was organised through the Council's website and ran from March 2012 to the middle of May 2012.
 - (c) Asked care home providers to upload (onto the website) their cost structures to support responses contained in the questionnaire; the format to be used being the industry recognised costing tool that has been used by Laing & Buisson (Healthcare consultants) for a number of years.
 - (d) Reminded providers of the consultation and the opportunity to take part.
 - (e) Offered to meet individual providers on a confidential basis to discuss operating costs and set up meetings at 4 venues (Witney, Oxford, Banbury and Abingdon) on 4 separate dates between 20th April and 18th May 2012 in order to do the same.
 - (f) Reviewed the local market factors associated with care home provision in Oxfordshire.

Feedback from the Consultation Process

44. There has been a disappointing response to the consultation exercise.
45. There are 105 care homes that provide services for older people in Oxfordshire. 19 of these homes are operated by The Orders of St.John Care Trust and contracted to the council through a long-term development arrangement that runs through to 2026. They, therefore, fall outside of this price review arrangement as provisions for price increases are contained within the contract in place.) There are therefore 86 homes potentially affected by the council banding rates.
46. Only 14 out of 86 providers responded to the web based consultation. 10 of these responses came from providers operating within Oxfordshire with 4 responses coming from care home providers located outside Oxfordshire.
47. In addition a further 11 care home providers from Oxfordshire attended confidential individual meetings to discuss operating costs. Less than half of the 11 providers were willing to share their costs. The council has consequently received a total of 5 sets of operating costs.
48. Where providers shared their costing information this was compared to both the Laing & Buisson model and the Association of Directors of Adult Services model. Direct comparison of cost headings was not always possible and a judgement was made by County Council officers as to which cost heading, expenditure should fall. A summary of the costings for Nursing homes are shown in the table below.

| | Cost Model | | Provider Costs | | | | |
|-----------------------|-------------|-------------|----------------|-------------|-------------|-------------|-------------|
| | L&B | ADASS* | Home A | Home B | Home C | Home D | Home E |
| Beds | 50 | 48 | 49 | 60 | 50 | 30 | 30 |
| Costs per week | | | | | | | |
| Staff Costs | 384 | 370 | 434 | 474 | 324 | 462 | 601 |
| Repairs & maintenance | 37 | 15 | 21 | 15 | 58 | 15 | 19 |
| Non-staff costs | 88 | 65 | 105 | 156 | 83 | 344 | 86 |
| Capital Costs | 213 | 118 | 229 | 77 | 297 | 131 | 32 |
| Total | £721 | £568 | £789 | £721 | £762 | £952 | £738 |

(NB: * Association of Directors of Adult Services cost model still being developed)

49. From the information received we can conclude that:
- There were limited responses to the consultation overall
 - Few Care Homes were prepared to provide full or detailed costs
 - Of those provided the average nursing cost was £781 with a range of £721 to £952
 - There was only 1 residential rate at £800 with no detailed costings
 - In terms of payroll costs - Hourly rates for care staff were comparable across all providers, averaging at £6.70 with a range of £6.40 to £7.12. The blended rate in the updated Laing & Buisson model is £6.44 to £7.33, hence a comparable rate. The Association of Directors of Adult Services model suggests a care staff hourly rate of £6.90.

- (f) Hourly rates for Nursing staff were also comparable averaging at £12.21 with a range of £11.22 to £13.72. This is comparable to the blended rate in the Laing & Buisson model.
 - (g) The expenditure on management, administration and reception staff in Oxfordshire is higher than the Laing & Buisson model.
 - (h) Expenditure on Repairs & Maintenance, non staff expenses and cost of capital is difficult to align
 - (i) In all cases, the cost is higher than the Laing & Buisson model updated by County Council officers.
 - (j) In all cases, the cost is considerably higher than the Association of Directors of Adult Services model.
50. The information received gave a consistent message on staffing costs which ties into the updated L&B model. However the usefulness of the remaining information is limited by the number of responses and lack of responses from residential care homes.
51. Overall the general view from those providers that took part either through the consultation process or through individual meetings is that:
- (a) The County Council's approach to consultation and the open dialogue is helpful.
 - (b) The council should increase its Target Banding Rates. This is because providers feel there are cost pressures in all areas of their business and past fee decisions have not kept up with operating pressures.
 - (c) Whilst the cost structures we received did suggest cost of provision above that which the council currently pays, providers appeared to acknowledge the financial position that the council is in. There also appears to be a general acceptance of a two tier approach to fee levels (private fee levels and local authority fee levels) although some providers consider this is morally wrong while others are happy to accept the council's residents.
 - (d) Our decisions have a much greater impact on those homes that are prepared to accept council rates and those that have a high proportion of council funded residents in situ.
 - (e) Providers are looking for ways to diversify their services. Several were discussing options for providing day services or building/designating wings for specialist service and are looking for guidance from the council on what our future commissioning needs are.
 - (f) Concerns that there had been little or no increase in our banding rates in the past.
 - (g) Perceived unfairness that council get the benefit of the increased client contributions (through increased pensions) but did not pass this on as part of the Target Banding Rate.
52. Despite the Care Homes Association suggesting that a 20% increase is needed to it did not provide any evidence of substance that can stand up to interrogation to support this claim.

53. In summary there was an extensive consultation running over several months. The consultation was inclusive of all care home providers and was conducted by letter, web based consultation and face to face meetings. A 3% increase in the fee level was made for 2012/13 as an interim measure while the consultation took place. In all, 16% of care home providers participated in the consultation and only 6% of care home providers were willing to share their costs with us. Costs at those 6% of homes appeared to be higher than either the banding rates of the County Council or the actual fees agreed by the council.
54. We do not know why the majority of providers did not come forward with their costs, despite ample opportunity to do so in confidence.

The Oxfordshire Care Home Market

55. As stated above, recent legal challenges have also emphasised the need to take into account local market factors when considering price changes.
56. We already monitor closely developments within the Oxfordshire care homes market through regular reviews, performance information and on-going day-to-day contact with individual homes and organisations as part of our quality monitoring work. The following is a summary of our views:
- (a) Firstly we expect to continue to purchase nursing care home services in the future. Alongside this we anticipate purchasing fewer residential care home services and instead we will look to alternatives such as extra-care housing and care at home. This is something that we have shared with the care homes sector on a number of occasions and has been set out in our Business Strategy for some time.
 - (b) In terms of **market share** we estimate that we purchases about one-third of all care home places in Oxfordshire. We estimate a further 9% of places are purchased by Oxfordshire Primary Care Trust or by other local authorities meaning that just under 60% of all places are purchased privately. Whilst this means that we are in volume a minority purchaser of places it also suggests that the council is the largest single purchaser.
 - (c) **Changes within the care homes market** - Over the last few years there has been good interest in developing new care home services and extra-care housing in Oxfordshire. In respect of the latter the council already has 406 extra care housing flats available, a further 55 units opening in early 2013 and a strategy agreed with District/City Councils to develop a total of 1,000 units by 2015/16
57. During 2011 we estimated that a number of providers added c.200 beds through the development of new homes or through extensions to existing homes. We are aware of further developments that are planned in the future.
58. The danger here is that if supply outstrips demand then vacancies may increase creating an imbalance between expenditure and income for some care homes.

59. A further concern is that if new developments concentrate on the private market then the proportion of the market that the council can access to support its vulnerable adults may reduce.
60. How we are purchasing - The following table shows the placements made from 1st April 2012 to 20th November 2012 and the average price paid. The table shows that we are paying above the target rate for all levels of need. It also shows that we are not using the lowest rate – Residential – Substantial.

| Category | Target Band Price (inc +3%) per week | Placements | Average Purchase Price per week |
|----------------------------|---|------------|------------------------------------|
| Res - Substantial | £360 | 1 | £680 |
| Res - Extensive/Specialist | £415 | 93 | £555 |
| Nursing - Substantial | £487 | 4 | £696 |
| Nursing - Extensive | £542 | 101 | £600 |
| Nursing - Specialist | £630 | 69 | £701 |

61. The **financial health of the sector** is regularly checked by the Council as part of our response to managing risk and business continuity in the current financial climate. In terms of sustainability our assessments suggest that the current financial health of the sector is similar to that of 12 months ago. More recently the council has changed its system for monitoring the financial viability of providers. Recent analysis is showing that of those providers checked nearly all are rated secure, stable or normal.
- (a) Secure - Companies in this sector tend to be large and successful public companies. Failure is very unusual and normally occurs only as a result of exceptional changes
 - (b) Stable - company failure is a rare occurrence and will only come about if there are major company or marketplace changes.
 - (c) Normal - This sector contains many companies that do not fail, but some that do.
62. Despite the situation in Oxfordshire there are of course concerns nationally about the financial health of some providers particularly following the demise of Southern Cross in 2011. We are therefore maintaining a review of care home services in the county to monitor their financial viability and sustainability.
63. Our general view is that **the quality of care** in Oxfordshire is good and that there is a good foundation of quality care home providers in the county. We have reviewed the Care Quality Commissions latest checks on the Essential Standards of Care that are published on its website. These cover the areas of
- (a) Treating people with respect and involving them in their care.
 - (b) Providing care, treatment and support which meets people's needs
 - (c) Caring for people safely and protecting them from harm
 - (d) Standards of staffing
 - (e) Standards of management.
64. In nearly all homes in Oxfordshire, the Care Quality Commission is reporting that when last checked all standards were being met. In December 2010, a local benchmarking study on length of stays in care homes with 6 other authorities suggested that people live in care homes in Oxfordshire for longer than in other parts

of the country. Furthermore people in Oxfordshire had the longest length of stay in care homes. On average this is 5 months longer than the average authority in the study (an extra 20%).

65. The council is concerned that **some people may be entering a care home setting too early in their life**. In 2011, the Council funded about 492 new permanent placements. , 109 (over 20%) of these were people who had originally funded their own care but who now required support from the council. Further analysis suggests that a number of these people may not have needed care home services when they first went into a care home as determined by our eligibility criteria for social care. With this in mind we are actively looking to encourage people who fund their own care to look at alternatives to care home placements at the time of potential admission.
66. For council funded residents the length of stay in a care home is approximately 2.92 years.
67. We are committed to help people stay in their own home. We anticipate the number of our permanent care home admissions to reduce and have reported to Oxfordshire's Health and Wellbeing Board that we expect to make no more than 400 permanent care home admissions during the next 12 months. Of these we expect 100 to be into block beds, with no more than 300 placements being purchased through spot arrangements.
68. Peoples' **experience in a care home** generally appears to be positive. Across Oxfordshire, people are generally happy with services they receive. Of a survey of 546 social care clients in February 2012 the questionnaires returned in respect of care home services indicated that overall 91% were satisfied with services (71% of them being extremely or very satisfied), and only 2% were dissatisfied.
69. This has been further emphasised by a recent report from Oxfordshire's Local Involvement Network that found that residents were well looked after, safe and secure with input from external agencies such as GPs and other professionals.
70. In summary there is a thriving care home market in Oxfordshire with new entrants coming in all the time. The council places approximately 500 people in to care homes every year, although its strategy is to support more people at home or, for those that require it, nursing care. Currently supply and demand are reasonably well balanced. The quality of care is good and people are satisfied with the care that they receive.

Considerations

71. We find it disappointing that our consultation process has generated such a limited response. Indeed whilst there has been a near unanimous view from a few respondents that the council should increase its banding rates the low number submitting cost structure returns would in the council's view not provide a robust argument for substantially increasing funding to the sector above that already given.
72. Furthermore although the cost structures we did receive indicated cost of provision above that which the council currently pays, providers appeared to acknowledge the financial position that the council is in.

73. The County Council's service and resource planning process has identified that there are significant pressures on the older people's budget. As a result we need to focus resources for the benefit of an increasing number of vulnerable people. Increasing our spending on care home services goes against our stated business strategy for the future.
74. Of interest is that a legal case this year suggested that local councils could take into account the availability of resources when determining the outcome of a price review. Given the financial pressures that we face now and will face in the future we believe that increasing spending in this service area for 2012/13 beyond the increased expenditure this year is unsustainable.
75. However these are clearly challenging times for both providers and purchasers and it is important to the council to make sure that there is a sufficient provision to meet existing and increased future service demands. Sustainability appears to be the key but the care homes market is itself responding to demographic changes with new services being planned and developed.
76. One area of vulnerability may be some of our smaller homes as Laing & Buisson identify the operation of an efficient home starting at 48-50 beds capacity. But smaller more homely establishments clearly have a place in our commissioning strategy and they may be more viable if they have lower overheads and less debt due to how long they have operated.
77. What this suggests is that we need to recognise that whatever cost model is used the resulting figure generated is only an aid to discussion about what is an appropriate banding level or price to pay. In any model there are local variations that will inevitably be challenged by both sides as each drives to obtain the best outcome. In this respect the existence and use of a costing model does not in itself generate a solution to the question about what is the true cost of care.
78. We propose that we should simplify the banding rates to delete the currently unused rate of Residential-Substantial. The care received by people living in care homes or needing future care will not be affected.
79. The Laing & Buisson model is based on broad assumptions. The Council has tested the model through the consultation process. It has attempted to test the assumptions by gathering local information that may inform the model. It is argued by the Council that as payroll costs are broadly similar, there is no need to change the model for these. As stated above, the remaining cost information received via consultation is difficult to interpret in order to apply relevant local cost elements to the model. Furthermore the Council would question whether the rate of return on capital within the L&B model is appropriate for circumstances in Oxfordshire. Given that the Council does not seek to encourage new build, the costs that need to be covered are the repayment of existing build costs and an element of profit.
80. The ADASS model is only for Residential Care. It makes the assumption that the allowance of £108 for Full nursing care can cover the additional costs of a Nursing establishment. The update Laing & Buisson model suggests that the cost of nursing care is staffing & medical supplies which amounts to £117 and that is broadly

comparable. Although consistent on staffing costs with the Laing & Buisson model and the provider returns, the Association of Directors of Adult Social Services model assumes lower running costs particularly on utilities.

81. The Association of Directors of Adult Social Services model addresses the rate of return issue by allowing an element of profit 6% and recognising a funding cost. The funding cost takes a new build cost of £60,000 per bed and applies a 6% interest rate and 2% depreciation to this. This build cost is similar to Laing & Buisson but Laing & Buisson includes a start-up loss element and applies a rate of return of 12% on build cost. As new build is not being considered, the start-up loss element is not required so the Association of Directors of Adult Services approach seems reasonable. In addition the Association of Directors of Adult Social Services model allows a profit assumption of 6% on total cost. The Association of Directors of Adult Social Services model is cumulatively allowing a 12% rate of return but the basis for the calculation is different.
82. On balance the ADASS model is preferable as it offers a cost of capital that reflects the council's market view of no growth. The council has used the ADASS model with a £6.70 hourly rate to arrive at a weekly residential cost of £452. The Funded Nursing Care element is then applied to arrive at a Nursing Rate of £560.
83. However whatever model is used providers are looking at reasonable cost while councils have to consider finite resources, affordability and achieving best value for money. Inevitably there will be a difference between these goals at the time of making a placement.
84. Local market conditions in terms of supply and demand will have a legitimate impact on price. Local factors may also generate a situation that genuinely allows the local authority to purchase service at a lower than cost price. If expansion outstrips placements then there may be an increase in the number of vacant beds available (unless these are taken up through demand resulting from demographic changes). Inevitably this will add to operating pressures for some providers as they experience vacancies and changing income levels.
85. The result may be that in the future the council may be able to more easily access beds at a lower than cost price as providers seek to generate income. The counter argument is that some homes will go out of business and the market may end up being dominated by providers aiming only at the private market.
86. The Service & Community Impact Assessment indicates that should a significant increase in the care homes budget be made then there will be less money available to spend within Adult Social Care. The impact on vulnerable people of having less money to spend on other types of support (including support to support people in their own homes) will have a greater negative impact on vulnerable and disabled people than a care home fee level increase.

Financial and Staff Implications

87. If the Council sets the residential banding rate at £452, then the cost to increase all Care Home placements below that rate to the new level is £3,169 per week or £164,800 per annum.

88. If the Council sets the lowest nursing banding rate at £560, then the cost of increasing all current placements below £560 to that level is £4,620 per week or £240,300 per annum.
89. If the Council were to accept the above recommendations the total cost therefore is £405,000 per annum.
90. Across the Council, inflation is given to all budgets including Adult Social Care budgets and income budgets. A balanced Council budget is then achieved by seeking savings from Directorates. So, although Adult Social Care received an inflation allowance on expenditure and demography for additional clients, at the same time to balance the Council's budget Adult Social Care was given a savings target of delivering spending reductions of £35m a year by 2014/15. So effectively all the funding given to Adult Social Care is offset by required efficiency savings.
91. This leaves Adult Social Care with a dilemma. That is, whether an increase for inflation, and higher banding rates, should be given to Care Home providers, or whether the funding should instead be spent on supplying a Social care service to a wider client base.
92. Despite the above
 - (a) We have reaffirmed our intention to maintain a significant level of investment in care homes in our draft Older Persons Commissioning intentions. We aim to make 400 placements a year.
 - (b) We are working on making available financial advice to self-funders so that their personal funds can be invested in such a way that it will sustain them for the rest of their time in care. This is good for them, good for us and good for care homes.
 - (c) Where a care home is experiencing particular hardship or financial problems we will review their financial standing as part of our Safeguarding and Business Continuity strategies to determine appropriate action.
93. We have been mindful of the above points when coming to a conclusion about Banding Rates for 2012/13 and 2013/14
94. We reaffirm our view that care homes in Oxfordshire have an important role to meet the needs of vulnerable adults. We also recognise that the Council has an important role to ensure that there is sufficient capacity within the social care market to meet its future commissioning requirements.

RECOMMENDATION

95. **The Cabinet is RECOMMENDED that in view of the above:**
 - (a) **for 2012/13 and for Care Home Placements in Oxfordshire to:**
 - (1) **Confirm the 3% uplift agreed as an interim payment for all existing placements in care homes from April 2012.**

(2) Confirm the 3% uplift agreed as an interim payment for all new placements in care homes from April 2012.

(b) for 2013/14 to:

- **Revise our Target banding Rates from April 2013 and**
 - (i). Delete the Residential-Substantial Target Banding Rate**
 - (ii). Increase the Target Banding rate for the Residential-Extensive Specialist Category to £452 per week for new placements.**
 - (iii). Increase all existing weekly Residential payment rates that are currently paid below £452 per week to £452 per week**
 - (iv). Delete the Nursing - Substantial Target Banding Rate**
 - (v). Increase the Nursing-Extensive Target Banding Rate to £560 per week**
 - (vi). Increase all existing weekly Nursing Extensive and Substantial rates that are currently below £560 per week to £560 per week.**
 - (vii). Retain the Nursing-Specialist Target Banding Rate at £630 per week**
 - (viii). Continue to use these rates as a guide to secure a care home placement at a funding level as close to the Target Banding Rate as possible.**
 - (ix). The above to apply from April 2013 and for care home placements in Oxfordshire.**

(c) To consult the care home providers in Oxfordshire on the above points (b) (i)-(ix); and

(d) To review the Equality Impact Assessment once the outcome of the consultation is known. Fee setting is a function to which section 149 of the Equality Act 2010 applies, and the Equality Impact Assessment is the method by which the Council will have due regard to the needs set out in section 149.

JOHN JACKSON
Director for Social & Community Services

Background papers: None

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