

## **CABINET - 15 March 2016**

### **Care Home Fees 2016**

#### **Report by Director of Adult Social Services**

#### **Introduction**

1. The services that care homes provide within Oxfordshire play an important role in helping to meet the needs of vulnerable adults. Oxfordshire County Council makes a significant investment in care home services on an annual basis and it is the largest single purchaser within the County.
2. The cost of adult social care and how it should be funded remains the subject of discussion and media attention.
  - (a) On an annual basis I have brought reports to Cabinet with recommendations about changes to our Target Banding Rates.
  - (b) At a national level there is guidance available regarding The Care Act 2014. Some of the provisions which were due to come into force in April 2015 have been delayed until 2020, namely the care account and cap on care costs for individuals.
  - (c) From April 2016 employers must pay the National Living Wage for all workers aged 25 and over.
3. In relation to care home services for older people, providers have generally expressed concern that the prices paid by local authorities do not reflect the true cost of care. During the last several years there have been a number of legal challenges in other parts of the country made by care home providers against the way that some local authorities have undertaken their annual reviews of the rates they pay for services delivered.
4. This report is 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 2016-17

#### **The Council's Obligations**

5. The Care Act 2014 Act created one main legal framework by replacing most of the existing Adult Social Care legislation and incorporating good practice into a single statute focused on individuals, families, their wellbeing and what they wish to achieve in their lives.
6. From 1<sup>st</sup> April 2015 the Care Act requires implementation of the reforms in providing care and support. The expected introduction of individual care

accounts and the cap on care costs spent by individuals is now delayed until 2020.

7. Local authorities' fundamental obligations are to meet the care needs of an individual who is assessed as being eligible for care and support. In order to satisfy this duty the local authority may arrange accommodation in a care home or in premises of some other type.
8. The local authority must ensure that the individual has a genuine choice in the accommodation offered; and must ensure there is more than one option and that at least one option is available and affordable within a person's personal budget.
9. A person must also be able to choose alternative options, including a more expensive setting, where *a third party or in certain circumstances the resident is willing and able to pay the additional cost (this is commonly known as a 'top-up' payment)*. However, an additional payment must always be optional and never as a result of commissioning failures leading to a lack of choice.
10. The Guidance also states that Local Authorities should have regard to ensuring a sufficiency of provision to meet the anticipated needs of people in their areas; and not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care.
11. The Care Act also lays down the responsibilities of the Council in relation to National Minimum Wage, The Statutory Guidance for Section 5 of the Act states that, when commissioning services, local authorities must "...allow for the service provider ability to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff."
12. In summary we have to arrange care and support in care homes for those that need it. We have to continue to meet individual preferences. People can continue to choose to top up, or pay an additional amount, for a more expensive care home of their choice. 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, including the National Minimum Wage. 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. We are required to comply with Government guidance, consult with the sector and undertake an equality impact assessment when setting care home fees.
13. Members will be aware from previous reports to Cabinet that as part of the fee setting process this Council has responded to requirements to
  - (a) Assess the actual cost of care in Oxfordshire.
  - (b) Consult with providers to hear their views on the same
  - (c) Consider local market factors

(d) Carry out an Impact Assessment as part of the decision making process.

14. The remainder of this report describes how we have gone about this.

## **Purchasing Care Home Services for Older People in Oxfordshire**

15. At the end of January 2016 Oxfordshire County Council funded 1612 older people in care home placements, of these 418 were in placements covered by a block contract with The Orders of St John Care Trust and 1194 were in spot placements.

16. 1010 of the spot placements were permanent placements with 717 being nursing and 293 in residential homes. The remaining spot placements were of a temporary or short-term nature.

17. There are 105 care homes for older people in the county offering a total of c.4,400 placements. This means that c.64% of places are occupied by private payers.

18. 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.

19. 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. 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. In this way the Council fulfils its obligation to ensure that the placement meets the individual's unique assessed needs.

20. The rates in place at 1st April 2015 covered 3 care categories.

Residential Care Home (Care without nursing)

a. Social Care - Extensive/Specialist £473 per week

Nursing Care Home (Care with nursing) \*

b. Social Care - Extensive £584 per week

c. Social Care - Specialist £656 per week

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

21. Each year these banding rates are reviewed and decisions made about any change that should be made from one year to the next.
22. Our assessment is that we have Council funded placements in nearly all 105 care homes in Oxfordshire. However we estimate that only 10 care homes will accept people placed under spot arrangements and paid for at the level of our Target Banding Rates. This is a reduction from the 26 care homes that accepted people placed under spot arrangements from the last year.
23. We believe that this reduction is partly associated with the purchasing undertaken by Oxford University Hospitals NHS Foundation Trust for the purposes of Delayed Transfer of Care Reduction. OUHFT have purchased 110 beds in a range of homes in Oxfordshire including those regularly used by the Council. This work has supported the management of delayed transfers of care but has inevitably reduced the range of beds available for purchase by the Council.
24. In addition, the Council's placement staff are reporting that there continues to be increased pressure regarding pricing and purchasing ability. The Council is aware that several new homes opening in Oxfordshire are aiming their business at private fee payers, with rates quoted as being in excess of £1000 per week for both residential and nursing care.
25. In summary the council purchases approximately 36% 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 in order to meet the individual's assessed needs.

### **The Proposal for 2016-17**

26. For 2016-17, the Council has again applied the Association of Directors of Adult Social Services (ADASS) cost model to calculate Target Banding Rates. This model was tested thoroughly for the 2013-14 Target Banding Rate setting and has been updated and used on an annual basis since then.
27. The reasons for using this model were covered in depth in the 2013-14 report but the key reason is that the model offers a cost of capital that reflects the Council's market view of no growth.
28. The Council has reviewed the banding rates generated by the model and applied an inflationary uplift to these rates, allowing for inflationary pressures. The composite inflation rate applied is 3.94%.
29. This is higher than the 2.27% rate required to bring all staffing costs up to the minimum wage of £7.20; and higher than CPI, which as at October 2015 was -0.1%. For this model the Council hasn't used the negative CPI figure, instead using zero inflation as an alternative. The hourly rate for Care staff is based on a review of jobs advertised locally.

30. The model includes an increase of 12% for registration fees, this is in accordance with option 1 of the Care Quality Commission proposals which have recently been consulted on. The increase will be amended, if required, depending on the outcome of the consultation when this is announced which is expected to be in March 2016.
31. The ADASS model is applicable to Residential Care and makes the assumption that the allowance for Funded Nursing Care can cover the additional costs of a nursing establishment.
32. The Council has used the ADASS model with a £7.58 hourly rate for care staff to arrive at a weekly residential cost of £491. The Funded Nursing Care element of £112 is then applied to arrive at a Nursing Rate of £603.
33. The revised Target Banding Rates we have proposed were adjusted as follows:

Target Banding Rate	Current (less FNC) £	Inflation	Revised £	FNC* £	Target Banding Rate 2016-17 £
Residential	472	3.94%	491		491
Nursing Extensive	472	3.94%	491	112	603
Nursing Specialist	537	3.94%	548	112	660

\*This is the 2015-16 rate and this will be revised on publication of the rate effective from April 2016

34. These Target Banding Rates will be used as the basis for agreeing the fee with the care home but, as stated above, the actual rate paid by the Council may differ in order to meet a person's specific or more complex needs.

### **Consulting with the Care Home Sector**

35. As in the previous years, Oxfordshire County Council has carried out its own consultation with care home providers. In December 2015 the Council wrote to all contracted care homes to advise them of the proposed alteration to the Council's Target Banding Rates and invited comments.
36. The Consultation offered 2 options:  
 Option 1: No Change  
 Option 2: Update the target banding rates by inflation
37. At the same time and alongside this work to help identify provider operating costs we 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

38. To ensure that there were a number of opportunities to obtain feedback we:

- (a) 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 24<sup>th</sup> December 2015 to 29<sup>th</sup> January 2016.
- (b) Asked care home providers to upload (onto the website) their cost structures to support responses contained in the questionnaire
- (c) Reminded providers of the consultation and the opportunity to take part.
- (d) Offered to meet individual providers on a confidential basis to discuss operating costs and set up meetings at 2 venues (Oxford and Banbury) on 2 separate dates in January 2016. (Care home providers were offered the opportunity to attend on a different date of mutual convenience if the dates offered were unsuitable.)
- (e) Reviewed the local market factors associated with care home provision in Oxfordshire.

39. The Council also contacted the Oxfordshire Care Home Association and the Oxfordshire Association of Care Providers to invite their comments.

### **Feedback from the Consultation Process**

40. There are 105 care homes that provide services for older people in Oxfordshire. 17 of these homes are operated by The Orders of St. John Care Trust and contracted to the Council through a long-term development arrangement. They, therefore, fall outside of this price review arrangement as provisions for price increases are contained within the contract in place. There are therefore 88 homes potentially affected by the Council banding rates.

41. There was a disappointing response to the consultation this year, with fewer responses than last year. 7 providers either responded to the web based consultation or submitted other responses. Only 1 care home took the opportunity to meet with the Council. In total the costs for 13 homes were submitted. However of these, 5 sets of costings were for homes not for Older People, these need to be dealt with outside of the remit of this report and are not shown in Annex A. Of the remainder, 2 costings provided all the background assumptions of how the costs were derived. One provider met with Council staff and gave a very detailed critique of the Council's model and provided additional data.

42. The summary of costs received from providers is anonymised and shown at Annex 1. This excludes the returns provided for Physical Disability homes. The range of costs for Residential placements is from £604 to £928 per week. The range of cost for Nursing placements is £774 to £1,056 per week. These are considerably higher than the banding rate.

43. The consultation response from providers is available in the Members room. Overall the general view from those providers that took part through the consultation process can be summarised as:

Comment	Response
(a) 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. Providers have suggested increase ranging from 4% to 7% to 13%	The Target Banding Rates have been increased to reflect inflationary cost pressures.
(b) The Council should apply inflation to all current placements not just to the Target Banding Rates as all placements are subject to annual cost pressures, in particular the impact of the National Living Wage	See (c) below.
(c) The practise by OCC of having zero annual fee increases on fees of patients who are above the target banding rates is highly questionable. These individuals have been jointly (by ourselves and OCC) assessed and reviewed as having higher need than those covered by the "target" rate. Given that virtually all of these additional needs are met by labour based solutions, this is even more important in a time of high wage inflation.	The Council recognises our obligations under the Care Act to allow providers to meet their statutory obligation to pay at least the national minimum wage. Therefore, we will be reviewing our position on this matter. It will be necessary to undertake further consultation regarding this.
(d) All costs will increase due to the impact of National Living Wage due to wage differential	The Target Banding Rates have been increased to reflect inflationary cost pressures and note ( c) above.
(e) Funded Nursing Care does not cover nursing costs and there are medical costs incurred that are not reflected in the model.	The NHS makes a contribution towards the nursing costs of a place in a care home with nursing. The funding level is set nationally and the Council has no control over this.
(f) Concerns that negotiating for	We believe that the system we use is

<p>fees above the Target Banding Rates (where the resident's needs warrant this) is time consuming, and therefore costly, for care homes. There is no clear process for negotiation and requests for higher fees are frequently refused.</p>	<p>effective and allows us to make appropriate individual placements when required based on individually assessed needs. However, the Council is beginning work to review the purchasing system in place and how this can be done more effectively.</p>
<p>(g) The costing for the proposal accounts for an extremely small amount of the money raised by the council tax precept that is meant to be ring fenced to help alleviate some of the funding problems in Adult Social Care.</p> <p>It amounts to less than 10% of the share that should go to elderly residential care if one uses a simple arithmetic sharing of the activities funded in "Adult Social Care in Oxfordshire and is about 1% of the Social Care precept.</p>	<p>The Council recognises our obligations under the Care Act to allow providers to meet their statutory obligation to pay at least the national minimum wage. Therefore, we will be reviewing our position on this matter. It will be necessary to undertake further consultation regarding this.</p>
<p>(h) Critique of 2015-16 consultation, Provider contends that costs submitted showed cost was 44% higher than OCC fee yet no adjustment to fee was made rendering the consultation pointless</p>	<p>The evidence submitted by providers as part of the consultation was insufficient to substantiate this point.</p>
<p>(i) Data derived from advertisements is not accurate as higher wages may be offered at interview. Should use National minimum data set figures which averages at £7.72 for Dec 2015</p>	<p>The National Minimum Dataset includes workers from all care sectors and can be used to generate indicative average figures. The Council has based the rate used in this calculation on actual advertised figures in Oxfordshire, and there is not sufficient evidence from the consultation that these levels are incorrect.</p>
<p>(j) Difficult to retain staff in a home which has an OCC client/private client mix; those homes with more private clients can pay higher wages</p>	<p>The ADASS costing model reflects the National Living Wage. In addition, the Council recognises that there are workforce issues affecting care home providers. In response, the Council's workforce program includes specific references to the recruitment and retention of care home nurses. The Council did not receive sufficient</p>



	information from the consultation to substantiate whether it is true across Oxfordshire that homes with more private clients pay higher wages.
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44. The Council has also received a response from the Oxfordshire Association of Care Providers regarding the Council's proposal. This response in full is as follows:

45. *"Whilst the increases are welcome, they do not reflect the current costs of delivering care in Oxfordshire. Fees have not kept pace with increasing costs both inside the County and the external pressures nationally. Despite these increases, I fear OCC will still be priced out of the market and be unable to source the number of beds it needs to sustain a healthy care home provision."*

46. Separately to the consultation process, some providers have already contacted local authorities to discuss increases in contracted prices. In Oxfordshire these letters cover all client groups and range from increases of 3.65% to 7.8%.

47. In summary, we carried out a consultation inclusive of all care home providers that was conducted by letter, with web based consultation and face to face meetings. In all 7 providers were willing to share their costs with us. Costs at those homes appeared to be higher than either the banding rates of the County Council or the actual fees agreed by the Council.

48. Whilst we do not know why the majority of providers did not come forward with their costs, despite ample opportunity to do so in confidence, it is reported by those providers that did come forward that providers feel the Council has not fully considered information supplied by providers in previous years. We are also aware that providers do engage to negotiate fees when specific placements are being made, it may be that providers feel this is a more effective way to engage on costs that directly affect their business.

49. The Council has reviewed the consultation responses and has increased the cost element for Ancillary staff. This is to apply the same level of staffing oncosts as for direct care staff.

50. The Revised Target banding rates for 2016-17 are therefore:

	15-16	less FNC	Net	% increase	Banding 16-17	FNC	with FNC
Residential	472		472	4.35	493		493
Nursing extensive	584	112	472	4.35	493	112	605
Nursing Specialist	639	112	527	4.35	550	112	662

## The Oxfordshire Care Home Market

51. The Care Act places a duty upon local authorities to be aware of the suitability and sufficiency of the local care market. In September 2014 the Council published a Market Position Statement in relation to the care home market which describes and considers these factors:

<https://www.oxfordshire.gov.uk/cms/sites/default/files/folders/documents/news/2014/CareHomesMarketPositionStatement.pdf>

52. We already monitor 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 as part of our Market Position Statement.
- (b) In terms of **market share** we estimate that we purchase about 36% of all care home places in Oxfordshire. We estimate a further 9% of places are purchased by health partners or by other local authorities meaning that c.55% 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 with minimal closures.

53. Two care homes in Oxfordshire closed during 2015. These were 17 bed and 11 bed residential homes. The Council was informed that the proprietors took the decision to close due to vacancy levels and external factors. The Council is also aware that one dual registered (nursing and residential) care home took the decision to cease the provision of nursing care and run all beds as residential, linked to difficulties in nurse recruitment and retention..

54. Care home providers have reported to the Council that workforce is becoming a particular challenge, in particular the recruitment and retention of nurses. One dual registered care home cites this as the reason for ceasing to provide nursing care. We are also informed by other providers that nurse recruitment requires significant effort and management time, and that nurse salaries must be highly competitive in order to retain staff.

55. One area of vulnerability may be some of Oxfordshire's smaller homes. Laing & Buisson, who undertake considerable analysis of the sector, identify the operation of an efficient home starting at 48-50 beds capacity. These homes may be more viable if they have lower overheads, or they may be more vulnerable if they experience dis-economies of scale. Smaller more homely establishments clearly have a place in our commissioning strategy

and, as identified in the Service & Community Impact Assessment, we will continue to monitor this area.

56. The Council recognises that workforce is a particular risk for adult social care provision. Working alongside provider organisations, Adult Social Care has been implementing a workforce strategy to attract employees into the care sector, within which care home nurses is seen as a priority area, The low unemployment in Oxfordshire means that the sector may be disproportionately hit by any increases in wages in other sectors, This is an unknown and will emerge as living wage is bedded into the labour market.
57. The Council is aware that several planning applications for new care home developments are at various stages currently and it appears that there remains interest from private providers in developing new sites in Oxfordshire. Although indications are that new developments are increasingly focusing their business models on private fee payers.
58. A further concern is that if the current trend of new developments concentrating on the private market continues, the proportion of the market that the Council can access to support its vulnerable adults may reduce.

### How we are purchasing

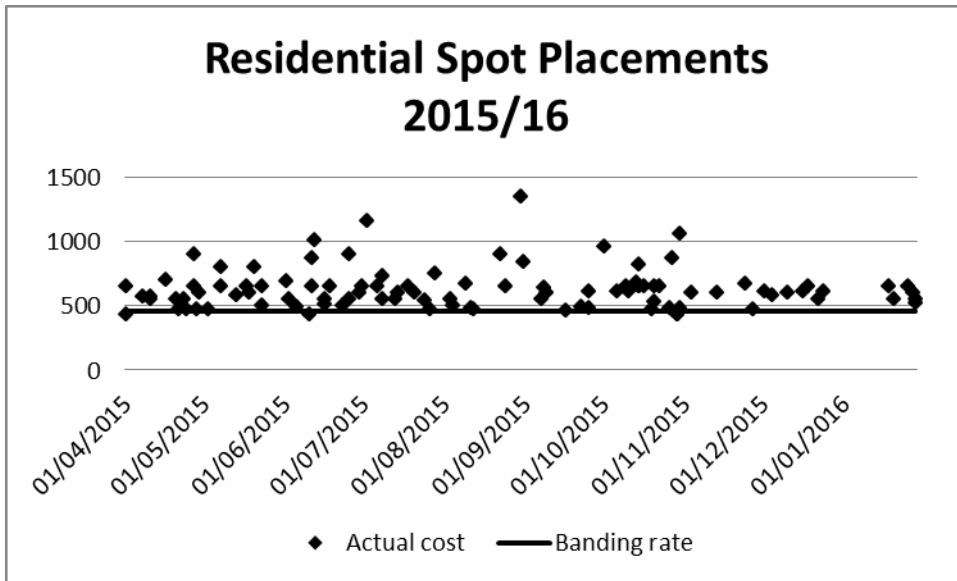
59. The following table shows the spot placements made in care homes in Oxfordshire for older people from 1<sup>st</sup> April 2015 to 31<sup>st</sup> January 2016 and the average price paid (including Funded Nursing Care where this was applicable). The table shows that we are paying above the target rate for all levels of need.

Category	Target Price	Band	Placements*	Average Purchase Price per week
Residential	£458		101	£628
Nursing - Extensive	£569		95	£684
Nursing - Specialist	£640		110	£757

\* Includes placements for people who originally funded their own care

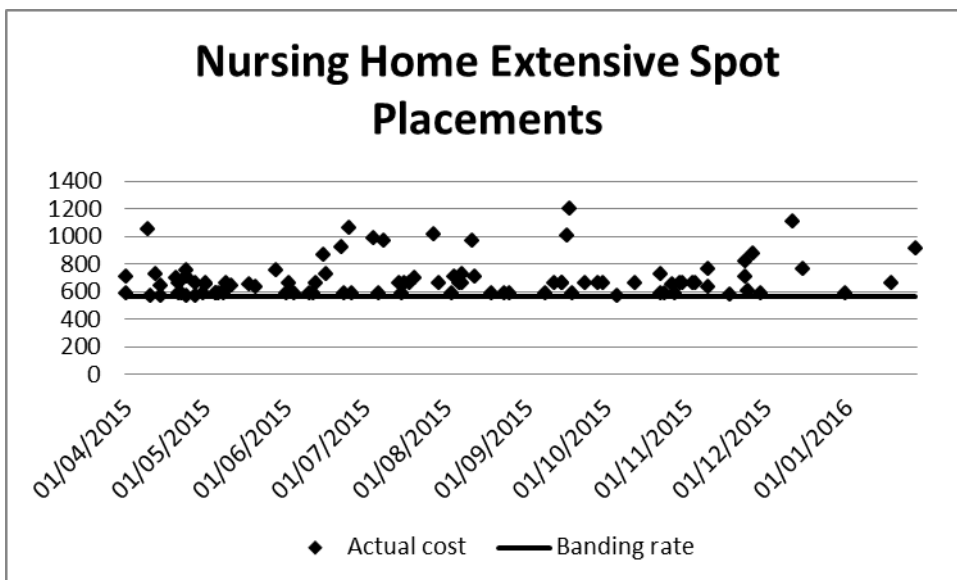
60. An analysis of the placements for 2015-16 is shown in the graphs below. Graph 1 shows that current residential placements are higher than the Target Banding Rate. The Target Banding Rate is set for the client group that is 'frail elderly' with substantial/critical needs. The needs of clients are varied, including dementia, and this is reflected in the individual placement rates.

Graph 1: Residential Placements made in 2015-16 compared to banding rate



61. Graph 2 shows that Placements for Nursing – Extensive are being made at and above the banding rate. Further analysis of this data shows that approximately one third of these placements are made at or below £605 (which is proposed as the 2016-17 banding rate). This concurs with the principle of using Target Banding Rates as a tool against which to agree individual rates for specific needs.

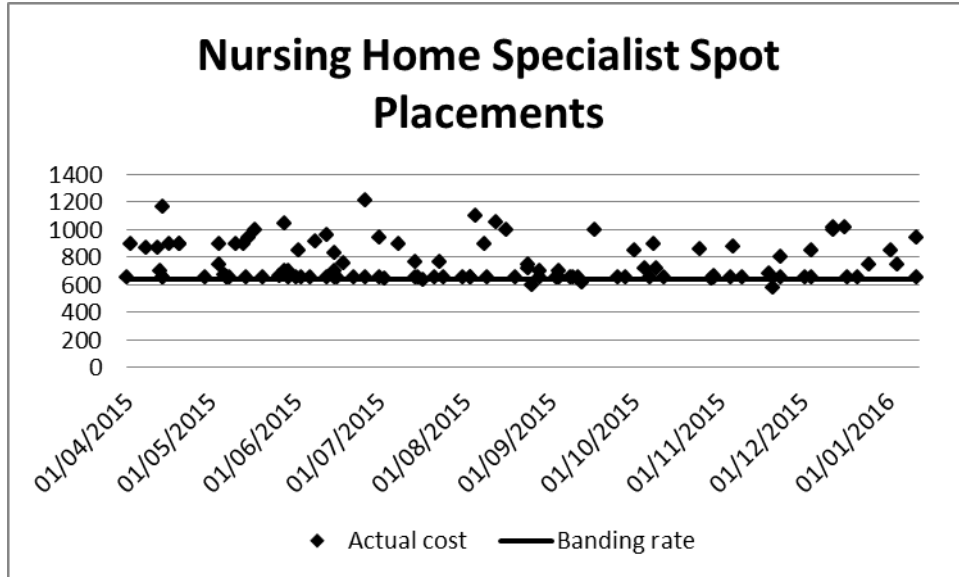
Graph 2: Nursing – Extensive placements made in 2015-16 compared to banding rate



62. Graph 3 shows that the extent of the variety of rates for clients who fall within the Nursing Specialist category. The model is not designed to reflect

the individual higher needs of clients and variation from the model is to be expected.

Graph 3: Nursing – Specialist placements made in 2015-16 compared to banding rate



63. The **financial health of the sector** is regularly reviewed by the Council as part of our response to managing risk and business continuity in the current financial climate. In terms of sustainability we consider that the current financial health of the sector is similar to that of 12 months ago. There remains interest from providers in developing in the market and only 2 closures of 28 beds in the past year.

64. Our general view is that there is a good foundation of quality care in Oxfordshire. 60% of care homes are rated as 'good' or 'outstanding', however for those care homes rated as 'requiring improvement' or 'inadequate' the Council continues our quality monitoring work to support these homes in developing their standards and best practice.

65. '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 502 social care clients in February 2015 the questionnaires returned by older people in care home services (82) indicated that overall 94% were satisfied with services (64% of them being extremely or very satisfied), and only 3% were dissatisfied.'

66. The Council remains concerned that **some people may be entering a care home setting too early in their life**. In 2015-16 (1<sup>st</sup> April 2015 to 31<sup>st</sup> January 2016), the Council funded 473 new permanent placements, 58 of these were people who had originally funded their own care but who now required support from the Council. To support people as they make

decisions about organising care for themselves or a family member, the Council continues our relationship with the Community Information Networks and My Care My Home. Both of which provide information and support for people in making the right decision for their own personal circumstances.

67. For Council funded residents the length of stay in a care home of people resident at the end of September 2015 was 2 years 9 months. 37% of people had been in a placement for more than 3 years. The length of stay was consistent for both residential and nursing placements
68. In summary we believe there is a thriving care home market in Oxfordshire with new entrants coming in all the time. We are aware that a number of new developments will be opening in the next 12 months. We are not aware of any forced closures due to financial reasons. From 2015-16 the Council aims to place approximately 520 people into care homes every year, although its strategy is to support more people at home or, for those that require it, nursing care. Our conclusion is therefore that currently supply and demand are reasonably well balanced. The quality of care remains good and people are satisfied with the care that they receive.

### **Considerations**

69. The consultation process has once again generated a low response. Indeed 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.
70. However the cost structures we did receive indicated cost of provision above that which the council currently pays.
71. 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.
72. The Council also looks to our comparator authorities for verification that our Target Banding Rates are comparable. Based on information submitted by local authorities to the Department of Health, Oxfordshire's average unit cost for care homes for older people is £666. This figure includes all placements including block contracts, and the Council's costs to make these placements, hence the figure is higher than our Target Banding Rates. This data set is the only national produced data and is therefore the only basis for comparison, the data shows that Oxfordshire is:
- 15<sup>th</sup> highest in the Country (out of 152 authorities)
  - the highest in our comparator group (authorities most demographically similar to Oxfordshire, 16 authorities)

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- 2<sup>nd</sup> highest of 32 shire authorities
- 4<sup>th</sup> highest of 19 authorities in the South East
- 5<sup>th</sup> highest of 16 neighbouring authorities (defined as any authority in the shires surrounding Oxfordshire.)

73. 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.

74. One area of vulnerability may be some of our smaller homes as Laing & Buisson, who undertake considerable analysis of the sector, identify the operation of an efficient home starting at 48-50 beds capacity. The majority of homes responding to the consultation were smaller than 48 beds which may give rise in part to the higher costs. 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.

75. The care home provider who met with Council officers represent a sector of the market that accept a high proportion of Council funded residents. This provider stated that they are disproportionately affected by the Council's funding decisions and that negotiating individual rates (where this is necessary) is extremely time consuming.

76. 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 and that the fee must reflect the needs of the person. In any model there are local variations that will inevitably be challenged by both sides as each drives to obtain the best outcome. The cost of care will also vary from home to home, by its size and operational arrangements and by the funding and business model on which the service is based. 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. Indeed despite our best efforts to engage with the sector we would conclude that given the number of responses received we are still unable to determine what the actual cost of providing care in Oxfordshire is. That is why the ADASS model we have used is the most accurate measure although we have modified it slightly to reflect the issues set out in the paragraphs above.

77. 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 a 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. We have recognised these issues in our Service and Community Impact Assessment.

78. 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.
79. The Care Act places a responsibility on the Council to be mindful of the sustainability of the market. The Council considers that the approach of Target Banding Rates which can be moved to enhance the care provided based on the needs of the individual helps fulfil this Care Act requirement.
80. The Service & Community Impact Assessment is attached as Appendix 2. This report should be read in conjunction with that Impact Assessment. The Service & Community Impact Assessment concludes that should a significant increase in the care homes budget be made then there will be less money available to spend elsewhere 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**

81. The recommendation on Target Banding Rates needs to be considered in terms of the budget that has been agreed by the Council in February 2016. The Budget agreed an allowance for increases in Commissioned services and the proposal in this report is affordable within that funding.

If the Council sets the Residential banding rate at £493,  
If the Council sets the Nursing Extensive banding rate at £605  
If the Council sets the Nursing Specialist banding rate at £662

Then the cost is £78,000

82. This is affordable within the budget that the Council set on February 16<sup>th</sup> 2016.

The Council will apply these revised banding rates to any provider currently being paid below the new Target Banding Rate.

Cabinet may wish to note that

- (a) The revised basic wage rate we have used in the calculation is £7.58 per hour and this has been compared to local advertisements for Care Staff. The hourly rate used in the model exceeds the National Living
- (b) We have reaffirmed our intention to maintain a significant level of investment in care homes for Older Persons as part of our



Commissioning intentions. We aim to make 520 new placements a year most of which are likely to be for nursing care.

- (c) We are 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.
- (d) 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.

83. In our consultation we put forward a view that our preferred option was not to increase payment rates this year. However we have reviewed all the above information and have listened carefully to the comments and responses made throughout the consultation period. We have been mindful of the above points when coming to a conclusion about our Target Banding Rates for 2016/17.

84. Providers have asked that the Council further considers the application of an inflationary payment for existing placements, to reflect the impact of the introduction of the national living wage on providers. Given that the Council has responsibilities under the Care Act to allow providers to meet their statutory obligations to pay this wage, we will undertake further work to assess this matter. It is likely that this will include further consultation with providers.

85. 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

### **Equalities Implications**

86. It is felt that there will be limited impact from the recommended outcome due to the way that the current care home market is performing and the new service developments that are planned or are taking place

### **RECOMMENDATION**

87. The Cabinet is RECOMMENDED that in view of the above:

for 2016/17 to revise our Target Banding Rates from April 2016 and

- (i). Increase the Target Banding rate for the Residential-Extensive Specialist Category to £493 per week for new placements.
- (ii). Increase all existing weekly Residential payment rates that are currently paid below £493 per week to £493 per week
- (iii). Increase the Nursing-Extensive Target Banding Rate to £605 per week

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- (iv). Increase all existing weekly Nursing Extensive that are currently below £605 per week to £605 per week
- (v). Increase the Nursing-Specialist Target Banding Rate to £662 per week
- (vi). Increase all existing weekly Nursing Extensive and Substantial rates that are currently below £662 per week to £662 per week
- (vii). Increase the above rates to reflect the increase in Funded Nursing Care once this is announced later in April 2016.
- (viii). Increase all other existing Care Home placements to reflect the increase in Funded Nursing care once this is announced later in April 2016
- (ix). 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.
- (x). The above to apply from April 2016 and for care home placements in Oxfordshire.
- (xi). The Council undertakes a review to understand the impact of National Living Wage

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Background papers: All Consultation responses are available in the Members Library

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