

ISLE OF ANGLESEY COUNTY COUNCIL	
Report to:	Executive Committee
Date:	16 March 2015
Subject:	Independent Sector Care Home Fees for 2015/16
Portfolio Holder(s):	Councillor Kenneth P Hughes
Head of Service:	Alwyn Rhys Jones (Head of Adult Services)
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Local Members:	Various

A –Recommendation/s and reason/s
<p>The Local Authority is required to review independent sector care home fees annually to coincide with Central Government’s changes to benefit and pension levels which come into effect on 07/04/15. In setting fee levels for independent sector care homes, we need to show that we have fully considered the costs of the provision in determining our standard care fees. This is done in collaboration with the other Authorities in North Wales and the Health Board by utilizing a Regional Fee Methodology.</p> <p>In order to set the weekly fees for Nursing and Residential Care, the Council has taken account of the factors noted below:-</p> <ol style="list-style-type: none"> 1. In accordance with the law and statutory guidance under section 21 of the National Assistance Act 1948, the Council is required to make arrangements for the provision of residential accommodation for people aged 18 and above who, due to their age, illness, disability or any other circumstances, need care and attention that is not otherwise available to them. Section 26 of the Act permits Councils to make such arrangements with the independent sector. <p>In discharging these functions, the Council is also required to operate under the Government’s Guidelines and Directions – the most relevant being the Choice of Accommodation Directions and “Fulfilled Lives and Supported Communities: Commissioning Framework Guidance and Good Practice” (2009). Standard 10 of the Commissioning Framework Guidance requires the Council, as a commissioner, to have understood the costs of social care services delivered directly and contracted, and to have acted to promote the sustainability of the service. Case law has clarified that commissioners should “understand” provider costs and act to promote the sustainability of the service, but this provision does not</p>

require Councils to set a fee which fully reimburses the providers for their costs; that commissioners investigate the true costs of providing care; that the nature and degree of those investigations are matters for the Council/Director of Social Services to determine.

2. The welfare of residents/service users should be considered – that services operate safely and effectively to promote the welfare of residents/service users;
3. The outcomes for the independent sector should be considered which could include factors such as the risks of closures and job losses, difficulties in recruiting and retaining staff, lack of staff training/development, lack of resources for the building itself, further loans.
4. Throughout the work of developing the methodology, considerable emphasis is placed on enhancing quality of care provided for care home residents and the numbers residing therein. This has included a review of the number of care, domestic and management hours required to support residents based on staff rota statistics from a number of care homes across the region. However, the responses to the Staffing Survey held in October 2014 varied across the four categories of care, namely, General Residential Care, EMI Residential Care, General Nursing Care and EMI Nursing Care.
5. The regional data was compared and contrasted with the Wales Care Forum data and information on staffing hours in the 2012 Version of the Laing and Buisson Toolkit.

The North Wales Methodology has recommended an increase of between 1.69% and 1.88% across the 4 categories of care. The following fees will be set for 2015/16 (see Appendix 2):

Category	2014/15 Fee	2015/16 Fee	Increase £	Increase %
Residential (Adults)	£458.16	£465.90	£7.74	1.69
Residential (EMI)	£501.69	£509.72	£8.03	1.60
Basic Nursing Care (Social Care Element)	£514.40	£523.83	£9.43	1.83
Nursing (EMI) (Social Care Element)	£538.38	£549.00	£10.15	1.88

The North Wales Social Services Improvement Collaborative (NWSSIC) has approved, in a meeting on 27/02/15, a 1.7% in the core fee (up to £549) and 0% above that threshold for adult placements in high cost/low volume residential and nursing homes arranged through the North Wales Regional Commissioning Centre.

NWSSIC recommends a 0% increase in 2015/16 fees for residential placements for children and young people arranged through the North Wales Regional Commissioning Centre as further discussions will need to take place with individual providers to rationalize high weekly fees for every child/young person placed.

In consulting with local providers on the fees, two homes providing EMI residential care have challenged the fee levels and stated that the increase does not meet the true staffing costs in their homes. The Council therefore needs to further investigate the accounts of these homes in order to establish the true cost of the provision in order to set fees for specialist EMI Residential Care.

The Executive Committee is requested to:-

1. Adopt the North Wales Fee Methodology as implemented hitherto by the Authorities in North Wales as a basis for setting fees in Anglesey during 2015/16 (Appendix 2).
2. Approve the recommendation to increase fee levels as noted in the above table.
3. Increase fee levels for high cost/low volume placements (i.e. Learning Disability/Mental Health/Substance Abuse and Physical Disability) arranged through the North Wales Commissioning Centre, namely an increase of 1.7% in core fees (up to £549) and 0% above that threshold for every resident in high cost placements as agreed with the other North Wales Authorities and as approved by NWSSIC.
4. Approve an increase of 0% (as approved by NWSSIC on 27/02/15) in high cost placements for children and young people arranged through the North Wales Regional Commissioning Centre.
5. In line with other Authorities, authorize the Social Services and Finance Departments to respond to any requests from homes to explore their specific accounts and to utilize the exercise as a basis to consider any exceptions to the agreed fees.
6. Enable the Department to agree exceptions which can be met within their budgets in consultation with the portfolio holder.

B – What other options did you consider and why did you reject them and/or opt for this option?

Care Forum Wales (CFW) makes submissions to the North Wales Regional Fees Group annually to increase fees for the Care Homes Sector. The Forum's submission for 2015/16 and the response of the North Wales Fees Group can be seen in Appendix 1.

It is considered that the fee proposals arising from the Methodology used across North Wales are affordable in the challenging financial climate currently faced by Local Authorities.

The methodology (Appendix 2) includes an analysis of the fees paid per resident/week under three main headings:

- Hotel;
- Other
- Staff costs

Nursing Homes Fees

Nursing home fees include two elements as described below:-

- The Local Authority's contribution (the **social care element**);
- The contribution by the National Health Service (referred to as **Nursing Care Contribution funded by the NHS – FNC**) and paid by the Betsi Cadwaladr University Health Board has been revised on a national level by the Welsh Government in 2013/2014.

The Nursing Care Sector in Wales has challenged the FNC rate paid by Health Boards in Wales and a High Court ruling is expected in the near future.

C – Why is this a decision for the Executive?

Local Authorities need to set care home fee levels in line with the national policy outlined in the Commissioning Guidelines published by the Welsh Government. This decision has financial implications for the Local Authority's budget and in terms of affordability in the prevailing financial climate.

CH – Is this decision consistent with policy approved by the full Council?

This decision is in line with the approval to work with other Local Authorities in North Wales and to implement the North Wales Fee Methodology to set fees annually.

D – Is this decision within the budget approved by the Council?

During 2014/15, an increase of 1.7% on core fees across the care categories was approved which entailed an additional cost of £146,181 for the County Council based on the number of residents receiving financial assistance at the time. It is estimated that the additional cost will be similar in 2015/16 based on the percentage increases recommended across the four categories of care.

Based on the departments current underspent position the additional spend is expected to be met within existing budgets, with consideration to a potential bid for the use of contingency reserve in-year dependent on other costs pressure faced by the department in 15/16.

DD – Who did you consult?		What did they say?
1	Chief Executive / Strategic Leadership Team (SLT) (mandatory)	✓
2	Finance / Section 151 (mandatory)	✓
3	Legal / Monitoring Officer (mandatory)	✓
4	Human Resources (HR)	✓
5	Property	
6	Information Communication Technology (ICT)	
7	Scrutiny	
8	Local Members	
9	Any external bodies / other/s	Care Forum Wales Owners of Residential and Nursing Homes on Anglesey All other Local Authorities in North Wales and the Betsi Cadwaladr University Health Board with regard to the implementation of the North Wales Fee Methodology

E – Risks and any mitigation (if relevant)		
1	Economic	Sustainability of the local nursing/residential homes sector Mitigation: Implementation of the North Wales Arrangement with regard to fee setting in order to ensure consistency in determining the annual fee increase
2	Anti-poverty	
3	Crime and Disorder	
4	Environmental	
5	Equalities	
6	Outcome Agreements	
7	Other	The risk of legal challenge from the Care Homes Sector is mitigated by adopting a North Wales Approach to fee setting and through implementation of the North Wales Fee Methodology

F - Appendices:
Appendix 1 – The Reponse of the North Wales Fee Group to the presentation by Care Forum Wales
Appendix 2 – Implement the North Wales Fee Methodology

FF - Background papers (please contact the author of the Report for any further information):

Fulfilled Lives, Supportive Communities – Guidelines and Good Practice for the Commissioning Framework
Dignity in Care Programme for Wales
Sustainable Social Services for Wales: Framework for Implementation in Wales

Care Forum Wales – initial thoughts on fee discussion for 2105-16 – From Mary Wimbury, 5th August 2014

- The North Wales fee toolkit was initially developed for the 2012-13 fee settlement by Wrexham, Flintshire and Denbighshire.
- Conwy used the same toolkit but different staffing hours to match the previous evidence-based calculation in the county.
- The toolkit involved extensive discussion with providers and we were happy with the broad structure of the toolkit, and that our views were taken into account, while being clear that we did not feel all the figures took appropriate account of the true cost of providing care.
- For 2013-14, some changes were made and there was some consultation and discussion around our submission.
- In 2014-15, we felt there was a lack of dialogue and a lack of certainty that our submission had been considered and thus were unclear that *“Commissioners have understood the costs of directly provided and contracted social care services and have acted in a way to promote service sustainability.”* as required by Standard 10 of the Welsh Government Commissioning Guidance. In the meantime Gwynedd and Anglesey have also adopted the toolkit.
- Looking forward to the 2015-16 I hope that we can return to a more detailed dialogue. In particular we would like to see addressed:

CFW Submission August 5 th 2014	Status 30 th January 2015
<p>The minimum wage increase of 3% from 1 October 2014 to be included and the additional burden of pensions auto-enrolment. Our assessment last year was that that added about 1% to staff costs and we will review that for this year’s submission</p>	<p>The NMW increase dated October 2014 has been reflected within 15/16 fees.</p> <p>The issue of pension auto-enrolment is something that has been considered. The view is that the current hourly rate within the applied fees for 14/15 is already based on an hourly rate in excess of the minimum wage and should cover pension contributions of if they are applicable.</p> <p>Individual care home proprietors may wish to make local representation if they feel that this is not the case.</p>
<p>The use of CPI rather than RPI: 55% of the basket of goods used to calculate CPI are not purchased by the sector and included in the toolkit e.g. clothes, alcohol and spirit, sports and leisure activities and entertainment. An alternative approach would be to use individual inflation lines for food, fuel etc. and we highlighted last year insurance as a particularly high</p>	<p>CPI is the standard method used by the Government and will continue to be used to update the methodology.</p> <p>A figure of 1.2% (October 2014) has been applied to</p>

<p>inflation area for the care sector, which was not taken into account.</p>	<p>15/16 fees.</p>
<p>For the second year running no inflation was applied to the Return on Capital line. This is despite the Building Costs inflation index being 1.7% last year and 3% the previous year. We also remain unconvinced the <u>initial calculation was appropriate</u>.</p>	<p>This element of the care fee methodology will remain unchanged for 15/16, on the basis that whilst land and building may have increased the return on investment rate of 12% is in excess of returns on offer at present compared with other investment opportunities.</p>
<p>We would also like to see staffing hours reconsidered and adjusted in particular in light of pressure from CSSIW in this area.</p>	<p>A regional staff survey was completed between October and December 2014. The result of the survey varied considerably lowering confidence in the data.</p> <p>The survey tended to indicate that basic residential care hours were higher than those included in the 14/15 fee calculations. The survey staffing hours for other categories of care did not appear to differ considerably from 14/15 fee calculations, though returns for EMI nursing were surprisingly lower than those reflected in 14/15 calculations.</p> <p>Regional commissioners are aware that care bed pressures are increasingly focussed on nursing and EMI nursing capacity, which is compounded by the number of nursing homes currently in administration.</p> <p>The view of the regional care fees group is that bolstering basic care fees to the detriment of nursing and EMI nursing rates would not reflect market trends and pressures from the perspective of either commissioner or provider.</p> <p>CFW are asked to provide evidence of CSSIW 'pressures'.</p>
<p>Finally, we would like to see the 'nursing gap' addressed. The Health Board has undertaken a</p>	<p>The Judicial Review process covers this element.</p>

<p>calculation for FNC and been clear that it is not paying for a 24/7 nursing presence. The local authorities also indicate that they are not able to pay for a nurses time when she is not undertaking nursing tasks. This leads to a clear gap in funding Paragraph 37 of the NAFWC 25/2004 NHS Funded Nursing Care in Care Homes - Guidance 2004 which clearly identifies that there should be no gap between local authority and NHS provision.</p>	
<p>CFW submission November 10th 2014</p>	
<p>Welsh Government decision to remove funding for NVQ training for over 25s, which will cause significant problems to the sector: we estimate over 70% of those entering the sector are over 25 and provider are expected by National Minimum Standards to have over 50% NVQ trained – this will cause a significant increase in cost which we are currently quantifying;</p>	<p>The Welsh Government provided ‘Social Care Workforce Development’ grant for 15/16 will continue to contribute supporting the QCF training programme as best as possible.</p> <p>Any actual reduction in this grant would need to be assessed at that point in terms of potential impact on care home training.</p>
<p>Occupancy rates are estimated by Welsh Government to be closer to 92-3% across Wales than 95%.</p>	<p>The recent regional staff survey indicated occupancy levels are currently around 94% to 95% for care homes other than basic residential care, where it was around 93%. The latter probably reflecting commissioning priorities of local authorities.</p> <p>CFW are asked to confirm the source of the Welsh Government ‘estimates’.</p> <p>There is also the view that lower occupancy rates are often reflective of quality of care standards.</p>
<p>Higher land fill has increased the cost of refuse collection and higher dependency levels result in higher use of Inco products resulting in a 25% increase in the disposal of Inco Waste</p>	<p>Enquiries undertaken by representatives of the regional care fees group indicated that these costs varied significantly and tended to reflect the effectiveness of the contracts put in place by the care home with the refuse collector.</p> <p>It is thought that CFW could have an important role in</p>

	working on behalf of care homes in obtaining preferential contract rates for such items as Inco products.
Safeguarding decisions where staff are suspended for long periods of time, even if then reinstated with no fault found, cause a significant cost burden.	It is considered unreasonable for CFW to expect this requirement to be included within care fees. CFW need to provide hard evidence of the number of occasions this occurs and the reasons why they came about initially.
In addition BCUHB training given on nutrition which introduced fortification of foods and the use of more oily fish has further increased the annual food bill in the order of £950 Per annum.	CFW need to provide evidence to support the assertion that it is more expensive to provide oily fish and food fortifications against what one would expect within a normal balanced diet. Inflation of 1.2 (CPI) has been included in the 15/15 proposed fees to cover increases in food costs.
Increased burden due to UK government changes meaning homes need to pay statutory sick pay directly.	Janet to provide statement
We are still assessing the cost implications of recent court judgements on sleeping in staff and holidays based on normal hours worked;	This comment is noted. Janet, do we need to say anything else?
Inflationary pressures on care staff due to NHS Wales becoming a living wage employer.	It is noted that BCUHB has indicated that the living wage will be applied in 15/16.
Providers have also indicated it would be helpful to see clearly from the toolkit what is being commissioned in terms of both <ul style="list-style-type: none"> ▪ Activities. 	<ul style="list-style-type: none"> ▪ That activity programmes are expected to be provided via staff costs already included in methodology. It was agreed to explore the provision of training and support care homes to mainstream activity approaches.

<ul style="list-style-type: none">▪ Management time.	<ul style="list-style-type: none">▪ That CFW need to confirm exactly what is referred to here.
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End

Schedule to care fees letter 9th February 2015 - Proposed Fees 2015/16						
The figures below do not include FNC elements accepted by the Health Board						
	Fee 2013/14	Fee 2014/15	Inflation for 2015/16	Indicative Fee	Overall % Increase	
INDIRECT COSTS						
Utilities	26.95	£27.68	1.2 CPI inflation	28.00		
Electric						
Gas						
TV License						
Council Tax						
Water						
Telephone						
Registration (Professional Membership, CRBs etc.)	1.19	£1.22	1.2 CPI inflation	£1.23		
Recruitment	2.29	£2.35	1.2 CPI inflation	£2.38		
Contract maintenance of equipment	3.32	£3.41	1.2 CPI inflation	£3.45		
Maintenance of capital equipment	20.37	£20.92	1.2 CPI inflation	£21.17		
Gardener /handyman	7.60	£7.74	3% minimum wage	£7.97		
Furniture/Fittings including repairs and renewals	12.29	£12.62	1.2 CPI inflation	£12.77		
Training	2.28	£2.34	1.2 CPI inflation	£2.37		
Non prescription medical supplies	3.44	£3.53	1.2 CPI inflation	£3.57		
Insurance	5.74	£5.89	1.2 CPI inflation	£5.96		
Groceries & household provisions	26.5	£27.22	1.2 CPI inflation	£27.55		
Total Indirect Costs	£111.97	£114.92		£116.42		
Other Costs -standard for all categories of care						
Return on Investment	£97.79	£97.79		£97.79		
Additional Expenses (not covered elsewhere)	£16.72	£17.17	1.2 CPI inflation	£17.38		
Sub Total	114.51	£114.96		£115.17		
RESIDENTIAL STAFF COSTS						
Management /Admin	£45.00	£45.86	1.2 CPI inflation	£46.41		
Care Staff	£143.55	£146.28	3% minimum wage	£150.67		
Domestic Staff	£35.48	£36.15	as above	£37.23		
Sub Total	£224.03	£228.29		£234.31		
TOTAL RESIDENTIAL	£450.51	£458.16		£465.90	1.69%	£7.74
EMI RESIDENTIAL						
Local/Central admin costs (e.g. office rent)	£45.00	£45.86	1.2 CPI inflation	£46.41		
Care Staff	£186.26	£189.80	3% minimum wage	£194.49		
Domestic Staff	£35.48	£36.15	as above	£37.23		
Sub total	£266.74	£271.81		£278.13		
TOTAL EMI RESIDENTIAL	£493.22	£501.69		£509.72	1.60%	£8.03
NURSING						
Local/Central admin costs (e.g. office rent)	45.00	£45.86	1.2 CPI inflation	£46.41		
Care Staff	198.74	£202.52	3% minimum wage	£208.60		
Domestic Staff	35.48	£36.15	as above	£37.23		
Sub total	£279.22	£284.53		£292.24		
TOTAL NURSING	£505.70	£514.40		£523.83	1.83%	£9.43
EMI NURSING						
Local/Central admin costs (e.g. office rent)	45.00	£45.86	1.2 CPI inflation	£46.41		
Care Staff	222.73	£226.96	3% minimum wage	£233.77		
Domestic Staff	35.48	£36.15	as above	£37.23		
Sub total	£303.21	£308.97		£317.41		
TOTAL EMI NURSING	£529.69	£538.85		£549.00	1.88%	£10.15