

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting16th March 2017

1. Title of Item/Report

Older People's and Mental Health Care Home Services Fees

2. Record of the Decision

Consideration was given to a report on Older People's and Mental Health Care Home Services Fees.

The Council was required on an ongoing basis to promote the efficient and effective operation of the local market in care homes. It was important that the fees paid for this publicly funded care were sufficient to ensure that the care provided was safe, available at the right time and of the right quality. Provision should be sustainable on reasonable commercial terms.

In order to review and decide on what the Council should set as its usual cost, an exercise to assess actual costs had been carried out. This had sought to enquire into and develop a deeper understanding of what the actual costs of providing care home services in Stockton were, including the local factors that relate to the market in Stockton.

The assessment of the actual costs of providing care within Stockton was aimed at establishing a fair fee for Council funded care home services. The Council may take into account local factors and any other relevant matters, as well as its own resources. Adopting the recommendations would meet providers' costs and see an overall increase in the rates paid.

On 25 July 2013 (following a consultation process with providers) the Council's then Corporate Director of Children, Education and Social Care (CESC), in conjunction with the Lead Cabinet Member, approved the setting of a number of usual costs for care home services for older people for the period of 1 October 2012 to 30 September 2013 and made an offer of a usual cost for the period of 1 October 2013 to 30 September 2014.

The usual cost was essentially the fee or rate the Council was prepared to pay to care home providers for care home services ("the fees").

The decision of 25 July 2013 became the subject of a judicial review pre-action protocol letter sent on behalf of the Stockton and Billingham Care Home Association (the Association). Whilst the Council did not accept the arguments put forward by the Association at that time, in the interests of maintaining the essential relationship with the providers and with a genuine aim of ensuring providers receive a fair fee for care that takes account of the actual costs of that care, the Council agreed to review the decision afresh, subject the following conditions:

a) that each of the (care home) constituent members of the Claimant, who have not already submitted data agree now to provide to the Council a fully completed financial template in the format and for the periods previously required by the Council, to enable the Council to review its decision on the Usual Costs and take account of actual costs of providing care and other local factors. Such complete template to be provided by each (care home) constituent member of the Claimant on or before 22 November 2013.

b) that the [providers] provide such other information to the Council that the [providers] require the Council to have due regard to in order to verify and review the actual costs of providing care and other local factors.

The Council further agreed to backdate any change in fees for older people's care homes resulting from the review of the decision to 1st October 2012, which was the date when the Council received a formal written request. At that, stage fees for mental health homes were not part of the review.

Whilst the Council had not accepted all the arguments made by providers in respect of the sufficiency of fees and the financial burden said to be imposed, and does not agree with the providers contention as to why it had taken so long to conclude the review, it was recognised that to maintain and indeed improve provider goodwill, that once the fee was set (and subject to any scrutiny procedures or legal challenge), immediate steps should be taken to expedite the payment to providers of any backdated fees, so as to alleviate what providers perceive as historic underfunding.

During the review period, the underlying rates that were implemented following the 25 July 2013 decision had been maintained, except in so far as they had been uplifted to keep pace with inflationary pressures. Details of interim payments were attached to the report.

Prior to determining a final recommendation to Cabinet, officers had consulted all commissioned providers, and the Association about the

proposed rates and the Council's approach to enquiring into actual costs. Providers and the Association were each provided with a report draft Cabinet report entitled 'Older People's And Mental Health Care Home Services Fees' along with its supporting appendices which detailed the proposals. The consultation period ran from 1 August 2016 until 30 September 2016 (which includes as extension of time request by the Association).

It would be inaccurate to look at this as a single consultation event, in isolation of the extensive work that had taken place between officers and the Association. However, it did represent a culmination of the work to date.

Comments were received from 3 individual providers and one coordinated response from the Association which represented 17 Care Providers (according to its own statement of membership).

Members took into account the views of providers and to this end a number of changes to the original draft proposals had been made. Clearly, the primary concern of providers was with regard to the fee levels and the need to maintain the standard of quality of care in the borough. Full details of consultation responses alongside views given by officers of the Council to address and respond to these were attached to the report.

A table within the report contained the Proposed Fees (usual costs) for 2012 to April 2016.

Following the consultation and taking fully into account comments made by providers and the Association the Council had adjusted and improved these proposals as well as applying a further year's inflationary uplifts to take account of April 2017 onwards. This was detailed in table within the report.

There were four Mental Health Care Homes in the Borough. Whilst they were originally not part of the pre-judicial review action, they had since become part of the Association and it was agreed that the Council would review their fee level in parallel. In October 2014, the Council made a decision to pay £391.18 from 6th December 2013 based on financial information provided by two homes. This was not accepted by providers. However, these fees had been uplifted by the same indices for Oct 2014, Oct 2015 and April 2016 applied to the Older People's homes without prejudice to the outcome of the further fee review being undertaken. This resulted in fee increases of 1.56%, 1.04% and 2.95% respectively.

As part of the agreement to review the decision afresh the areas covered in paragraph 7.10 following discussion with the providers' representative

had been considered in relation to Mental Health Care Homes.

In the light of all the considerations set out above in the report, the Council was prepared to backdate the Mental Health Care rate uplift to 1 October 2012 as well, even though this request was made secondary by the Association.

The draft consultation report provided the following proposals for 2012 to April 2017. Following the consultation and taking fully into account comments made by providers and the Association the Council had adjusted and improved these proposals as well as applying a further years inflationary uplifts to take account of April 2017. This was detailed in table within the report.

Members had been provided with a copy of the response to the Council proposals from the Stockton and Billingham Care Home Care Home Association.

RESOLVED that:-

1. The fees for older persons care home services set out in paragraph 11.1 of the report be approved.

2. The fees for mental health care home services set out in paragraph 12.5 of the report be approved.

3. Reasons for the Decision

The report presents the findings of the review of actual costs and fees for older people's and mental health care home services fees.

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

N/A

7. Date and Time by which Call In must be executed

Midnight, 24 March 2017

Proper Officer
20 March 2017