LOG OF SBC CONSULTATION RESPONSES

RESPONSE NO.	COMMENT	STOCKTON BOROUGH COUNCIL RESPONSE
1	The fee uplift had not been given since 2008. It has only been backdated to 06/12/2013 based on a letter sent to the council for fee uplift. The subject had been raised in every meeting with the council. If the older people's fees is being backdated to 01/10/2012 then why not the MH one?	Fee increases have been backdated to the date when a formal written request was received as has been the Council's stance historically. However, given that this has been raised in more than one response the Council has agreed to backdate the Mental Health Care Home uplifts to 01.10.12 in line with Older People Care Home Fees.
	It has taken a very long time for the proposal from the Council.	The process has taken longer than both parties would have hoped. It has been a complex and time consuming exercise where legal considerations have been paramount.
	The Grading of the homes as 1,2 and 3 need to be revisited. It is not a fair system and does not take into account the quality of care. The fee should be applied to all the care homes of the Association at Grade 1 as this is the true cost of care.	The Council has revisited the grading differentials. Previously, the same percentage uplift was applied to all homes by comparing a calculated blended rate to the previous blended rate and this was therefore paying recourse to the historic differentials. Following Consultation responses the Council has decided to rebase the costs for all grades based on the information received. The running costs are therefore the same irrespective of grades and it is solely the 'Return on Capital' element that is used to differentiate between the grades. See similar comment re responder no 4 (Paragraphs 57 and 58)
	Is it a co-incidence that the uplift is £5, £6, £7 and so on every year after all the calculations for the various models?	The fees are uplifted year on year based on a specific inflationary index being applied to each cost category including, % increase in Minimum Wage or Living Wage, % increase in the Average Earnings Index and a number of Office of National Statistics Indices (These are all displayed in Appendices 2 and 3 alongside this report).
	Would the uplift be payable only to members of the Association as the others have not really contributed to the discussions or data input?	The uplift would be applied to all homes in the interests of equity and consistency of treatment across all providers.
2	There is no doubt that the sector is critically underfunded: cuts to local authorities' budgets have led to a real-terms cut in spending on adult social care of 8.7 per cent between 2010/11 and 2014/15 (National Audit Office	Noted

	2014), meanwhile demographic pressures have pushed demand for adult social care up by 3 per cent per year. Estimates by the Local Government Association (LGA) currently predict a funding gap across the sector of more than £4 billion by 2020/21, with ResPublica recently forecasting the loss of 37,000 social care beds nationally before 2020/21	
	As endorsed by Care England and many other commentators, the direct cost impact of the NLW alone requires care home fees to increase by a minimum 5% from April 2016 just to preserve an unsatisfactory status quo. However, in addition to this increase, we have already had to fund the National Minimum Wage (NMW) increase of October 2015, plus the impact of general inflation and increases in CQC fees.	The Council uplifted fees with effect from October 2015 to allow for the increase in the NMW and applying indices to the other cost components. A further fee increase was given in April 2016 to allow for the introduction of the NLW. Again indices were applied to the other cost components. These are all displayed in Appendices 3 and 4 alongside this report.
	We are also aware of the Chancellor's plans to increase and to encourage more effective utilisation of the Better Care Fund. We would like to work in partnership with you to ensure any new money for local adult social care is used to maximum effect, as well as urge you to meet our call as a provider for a 7.2% rise in funding going forward, which we consider essential to maintain the continuity of services at our care homes.	Noted
3	I feel our uplift should be back dated till 2008.We have had meetings since 2008 asking for an uplift	Fee increases have been backdated to the date when a formal written request was received as has been the Council's stance historically. However, given that this has been raised in more than one response the Council has agreed to backdate the Mental Health Care Home uplifts to 01.10.12 in line with Older People Care Home Fees.
4	Para 11 to 43. The Council has endeavoured to set out its legal obligations within the Report at paragraphs numbered 14 to 19. However, the summary set out therein fails to draw out the relevant legal obligations which rest upon Providers and omits to address all the relevant aspects of the Care Act and the Department of Health's Guidance: 'Care and Support Statutory Guidance' ('the Guidance') amended 9 May 2016	The brief overview of the law set out in the report is intended to provide an accessible summary of the obligations to which the decision maker must have regard. The Council is mindful of meeting the obligations under the Local Government Transparency Code including the way in which information is presented which should be helpful and accessible to local people and other interested persons. Consequently, the report overview is not

	(previously dated October 2014).	intended to be a substitute for the primary sources such as the Care Act itself, the Statutory Guidance or relevant case law which have been used in the formulation of the proposals and to which the decision maker has had proper regard.
	Para 45. As we have referenced at the outset of this paper, there is important further information which the Association requires and which the Council has agreed to provide, but nonetheless has not been provided. Para 46. During the Association's meetings with the Council, Mr Gray requested that Mr David New provides details as to how the Council had assimilated and calculated the actual costs of the Association members. This agreement was further referenced and acknowledged by Mr New in his email correspondence with Mr Gray ending with Mr New's email of 13 September 2016 sent at 11:32. Para 47. As the Council is aware and as is recognised within the Report at paragraph numbered 26, the Association collected granular detail from its members regarding their costs of care and submitted this to the Council on a confidential basis. As the Council is also aware, the Association has identified a number of errors made by the Council during its review of Providers' costs, regarding omissions, assimilation and consideration of those costs. This is further recognised within the Report at paragraphs numbered 28 and 29, where the Council also recognises that it is essential that the information before it regarding Providers' costs is robust. This recognition further underscores the Council's desire to *"get this right"*. Para 48. During their discussions it was agreed as between Mr Gray and Mr New that the Council would disclose on a line by line basis, each of the Association's members' costs to Mr Gray as assimilated and calculated by the Council. The purpose of this was to enable Mr Gray to interrogate	It was not made clear in writing that the consultee had requested line by line analysis for **each** of their homes. Notwithstanding this there were a number of member homes that were part of the Association where the Council did not have authorities to disclose as it had been provided on a confidential basis. Therefore, Mr Gray was provided with the line by line analysis aggregated for all 15 homes on 13 September. The Council has also subsequently provided the information to Mr Gray based on amended figures following the addressing of issues raised in the consultation for the 11 Member Homes who provided authorisation for him to act on their behalf.

	those calculations and identify any errors and/or reasons for differences between the detailed costs evidence submitted by the Association for each of its said members. By doing so, Mr Gray would be able to identify whether the Council had made any further errors; the errors identified to date by Mr Gray being more generic errors regarding the Council's costs template. The Council agreed to release this granular information to the Association which already had the authority of its members to access and consider this level of commercially sensitive data. By contrast, the Association did not have such authority in relation to non-member Providers in Stockton; hence the Council's agreement to limit the disclosure to members only. Albeit that the disclosure would not relate to all Providers, it would be sufficient to allow the Association to interrogate the Council's approach and calculations (such approach and calculating patterns applying to all Providers). Para 49. Instead, whether intentional or not, contrary to that which was agreed between Mr Gray and Mr New, the Council has limited its disclosure to an assimilated list of the Association's members costs, which it provided to Mr Gray on 13 September 2016 in paper format. It is not possible from this information for the Association to conduct the necessary review and understand how the calculations detailed therein have been arrived at. It is neither possible to understand the calculations, nor identify each individual member Provider's costs from the list the Council has provided. All the Association knows is that it conducted a careful and detailed analysis of each of its members' costs which (as stated) it submitted to the Council, and it cannot reconcile the Council's findings with its own calculations, even after making provision for the assumptions detailed within the Report. The Council's calculations fall significantly below those of the Association's and what its	

	members know to be their actual costs of care. Para 50. The Association assumes that the said schedule of member Providers' assimilated costs do not include Mental Health providers' costs. Without the agreed breakdown of costs and details as to the members to which they relate, this assumption is not known with any certainty. Para 51. It is the Association's position (and notwithstanding the Council's already agreement to disclose this information) that the current circumstances are analogous to those referred to above in the NICE case. That is to say, given the nature and importance of robust information and the need to *"get this right"*, procedural fairness requires the Council to disclose this granular information to the Association; its current non-disclosure sitting as one major exception to the openness and transparency shown by the Council do date in its engagement with the Association over the issue of Providers' actual costs and their calculation. Its non-disclosure places the Association and therefore its member Providers at a materially disadvantage in their understanding as to why the Council has so significantly calculated their actual costs below what they know and have evidenced to be their actual costs. Accordingly, the Association is at a materially and unfair disadvantage in its ability to respond intelligently to the Council's proposals beyond the matters set out within this paper.	
	Para 57 - As against these determined costs, we see that the proposals for Grade 1 are marginally above the determined costs. However, as seen by the calculations contained within Annex 1, the proposals for both Grades 2 and 3 fall significantly below the determined costs of care, leaving insufficient funding for Providers to meet both their actual costs and to cover the necessary levels of ROCE	The Council has revisited the grading differentials. Previously the same percentage uplift was applied to all homes by comparing a blended rate to the previous blended rate and this was therefore paying recourse to the historic differentials. Following Consultation responses the Council has decided to rebase the costs for all grades based on the information received as at October 2012. The running costs (Staff and Non Staff) are therefore the same irrespective of grades and

	determined by the Council. Para 58 - As we have stated herein, the Guidance does not envisage a significant funding gap between care providers' actual costs and the rates paid to them by local authorities. Even if some funding gap were permissible, it certainly is not permissible to the extent being proposed by the Council. Para 59 - The insufficiency as well as the irrationality of the proposals is exasperated when consideration is given to the Council's 'average approach' to both staffing and non-staffing costs, and also to ROCE. This is to say that in its calculation of Providers' costs, the Council has taken an average of these costs across all Grades. Naturally, it costs a Grade 1 Provider more to provide and maintain a Grade 1 service which obtains its Grade 1 status due to its environmental factors. However, by adopting an 'average approach' to its calculations of the costs, the Council is factoring in the costs of the lower grade homes; the effect of which is to bring down the actual costs as it is taken as an average across all grades. The net effect of adopting such an approach is to calculate an actual cost of care which falls below that which it costs to provide and maintain a Grade 1 service. Not only does this result in the proposed rates falling below the actual costs of Grade 1 service provision, but it is also irrational given the stated accepted importance the Council attaches to quality.	it is solely the 'Return on Capital' element that is used to differentiate between the grades reflecting environmental factors. The Council has amended the return on capital calculation to create differentials between grades. The same capital value has been used but it has been proportioned across grades of home based on the last PWC True Cost of Care exercise. In other words grade 1 are 118.91% of the average, grade 2 72.41% and grade 3 49.78%.
	Para 60 - Further still, the Council has not just averaged the costs of care across Grades 2 and 3, but it has taken the average across Grades 1 to 4 and done so across the whole region so as to include areas outside of Stockton. This is not rational, nor does it reflect local factors to Stockton, as there are no Grade 4 homes in Stockton. Grade 4 costings in other regions of the North East are clearly not relevant. Taking them into account, has the further effect of dragging down the Council's	The Council has not used costs for Care Homes outside of Stockton in determining staffing and non staff costs as they are defined in Appendices 3 and 4. The issue regards the calculation of the Rate Of Return is addressed in response to para 70.

	average cost of care calculations.	
	Para 61- As we have previously stated, the Guidance requires the Council to take into account local factors and the Council itself recognises this need within the Report Para 62 - Accordingly and also from a rational point of view, we are unclear as to why the Council has chosen to apply an assumed occupancy level of 92% within its model, when the Report itself states that the average actual occupancy levels across Providers is 83% and the Associations own recent survey of members has an occupancy of 77.8%. To apply an occupancy level of 92% is to fail to reflect the actual position locally; having the effect of irrationally and improperly reducing the Council's calculations of Providers' actual costs. Para 63 Further, as section 5 of the Care Act states, the Council has to have regard to the sustainability of the market, even if that market is not operating efficiently. Para 64. The Council's application of an assumed occupancy level of 92% is not rational, fair, nor appropriate in its calculations of Providers actual costs of care, nor does it adequately provide for market sustainability.	There is currently and has been for some considerable time, a significant oversupply of residential capacity. As part of the Council's market shaping responsibilities, the rate should appropriately incentivise providers to achieve a high level of utilisation. Surplus capacity that exists in the system currently drives a higher unit cost of care and, in consequence, hinders efficiency and value for money. The Council must ensure good value for money, and that cannot be met if the Council is disproportionately subsidising empty beds, by paying for a lower occupancy rate than is the case nationally. Consequently, the Council will not set a cost that acts only to preserve that inefficient part of the market, but instead will use its market shaping responsibilities to work towards a market that is as efficient as that expected nationally, and which does not carry unnecessary surplus capacity In forming our commissioning requirements, we have taken a view that we need a level of capacity in the overall market sufficient to absorb 6 months' worth of new placements without any reciprocal termination of placements in line with usual trends. Fluctuation is created through seasonal and demographic factors affecting demand (such as NHS Winter Pressures). The Council's view based on its commissioning requirements is that 6% spare capacity is sufficient within the Stockton market and that 92% occupancy would therefore be an appropriate target for occupancy and market shaping should be used to move over time towards this figure. There is no evidence to suggest that additional residential capacity will be needed in the next few years, and indeed oversupply is itself a major factor that impacts sustainability of the market at risk. It is recognised that the Council will need to assist homes to diversify their offer, particularly into specialisms, or indeed accept that some homes will not be able to operate efficiently and will close. In the current economic climate however, recognising that market shaping to address the over-supply cannot be achieved over night, with some providers needing time to develop

		and diversify and change business models, including into specialisms, the Council's view is that the 94% occupancy figure should be reduced to 92% as the rate at which a home is currently considered to be operating efficiently. The Council therefore accepts that at least for a time it will continue to fund a degree of oversupply and spare capacity at a rate of 8%. The Council clearly needs to protect residents' welfare, but also needs to avoid using public money to protect and subsidise commercial organisations from the consequences of inefficient running, poor financial performance or simply being an unpopular choice. We have no evidence of market failure based on occupancy, the main shifts in registration over the last 18 months being driven by specific workforce issues such as availability of qualified nursing staff.
	Para 66 - It is incorrect to say that no adjustment for tax is needed. On a Provider's profit and loss sheet, their expenses will include the interest element of a loan, i.e. their mortgage. Accordingly, it is right to say that this element is before tax. However, the repayment element of the loan is made after tax.	The Council accepts this point and has amended the calculations accordingly. The amount used was the principal element based on mortgage repayments between years 3 and 4 of a 20 year term as suggested in the SBCHA response.
	Para 69 - It is further wrong for the Council to base its calculations on the assumption that 100% mortgages are available. They are not. The Association has carried out enquiries into these and has not been able to find any lender who offers 100%	In the residential care market it is recognised that buildings are required to deliver services. Providers have a range of options open to them to fund buildings e.g. mortgage, equity, leasing. The rationale behind using a 100% mortgage was in order to pay providers, in a consistent and reasonable way, for the

	mortgages.	provision by them of accommodation. The Council has reflected that the totality of the capital value needed to be recognised for rate of return purposes given individual homes have differing asset financing arrangements.
	Para 70 - As we have stated above, the Council has calculated its ROR on an average taken across all Grades. Grade 1 homes are assessed as being Grade 1 due to their superior environmental standards. This requires a higher level of capital investment by Grade 1 Providers for this to be achieved. It is therefore irrational as well as a misdirection on actual costs for the Council to apply an average ROR across all Grades (including as we have stated, Grade 4 homes outside of the Stockton locality), thereby bringing down the true reflective ROR figures in each of the Grades, especially in the case of Grade 1. The effect is that is that in the case of Grade 1 homes, the ROR will never reflect their true capital costs in achieving Grade 1 standards.	In classifying care homes, the criteria for assessing the grade of homes varies between LA's. The Council used homes outside of Stockton, in Teesside and North East for capital value purposes as there was a lack of information so instead used a wider area to inform its evidence base.
	Para 71 - There is also then the issue (which we have previously raised) of the Council using sale values to calculate capital values. The Association has already made its position in this regard clear and has already supplied the Council with details of Providers' capital costs; a further copy of which appears at Annex 4 attached hereto. This position being that it is inaccurate to calculate capital values in this way as sale values represent only one of the considerations that need to be taken into account. To save unnecessary duplication within this paper, we therefore refer to the attached email chain between Mr Gray and Mr New at Annex 5 attached hereto, ending with Mr Gray's email of 3 February 2016 sent at 17:15.	The basis used by the Council represents the rate of return required by providers utilising / setting up homes in our area who can do so at the sales values identified. Re Annex 4, it is also worthy of note that 4 of the homes quoted with the highest debt and interest payments were based on loans taken over a very short period e.g. 5 years. It would be unreasonable for the Council to base its fee on such high rates of return which such a short repayment period would command. In its calculation the Council has used a more usual 20 years repayment period. Within Stockton, it is not correct to assume that new/and or replacement home capacity is required now or in the foreseeable future. The Council currently has an oversupply of care home capacity. Therefore, there is no need for the Council to incentivise and encourage new start-ups.
	Para 72 - Further still, even if the Association were wrong (which it is not) and that it is appropriate to determine land values on sales alone, the Council has failed to provide	Due to the confidential nature of the adverts for care homes on the web sites used it is not always possible to identify which home is up for sale. The Council were able to identify three homes and these were provided to Mr

	sufficient information regarding which sales it has taken into account. When the Council first undertook its enquiry into local sales, it provided the Association with details of the homes which had been taken into account. From this, the Association could enquire into and identify (which it did) those homes which had been sold under distress; i.e. at below their market value. However, the details the Council has now provided following its updated review of sales fails to disclose the identity of the homes included. Accordingly, it is now impossible for the Association to identify the homes and enquire into the circumstances of their sale. The identity of these homes needs to be disclosed to the Association so that it can undertake this exercise and thereafter feed its comments into this consultation response.	Gray on 13.9.16 along with the details known of the other homes.
	Para 73 - We also see from the limited information which the Council has provided regarding the sales it has taken into account, that many of those sales have been taken from areas outside of Stockton. As we have already made clear in this paper, the Council is required to take local factors into account. Sales outside of Stockton are irrelevant.	The Council used homes outside of Stockton in Teesside and North East for capital value purposes as there was a lack of information so instead used a wider area to inform its evidence base.
	Para 74 - Even if one were to adopt the Council's approach to calculating capital values, we see that the Council has done so incorrectly. At paragraph 45 of the Report the Council is seen to have applied an occupancy level of 92%. As we have previously said, the Council needs to base its approach on local data. That data demonstrates (as seen at paragraph 30 of the Report) that the local occupancy levels are at 83%. It is therefore quite wrong and irrational for the Council to calculate capital values on the basis of a 92% occupancy level.	Please see comments under para 61 - 64 above as also relevant here.
	Para 75 - Further, at paragraph 37 of the Report, the Council states: "…whilst upgrading physical assets might be beneficial, it is not essential. What matters is the overall quality of care received and in Stockton 63% of	CQC regional ratings.pptx In our consultation document the Council set out a vision that to remain person-centred the

	Older Peoples care Homes and 100% of Mental Health Care Homes have been assessed by the Care Quality Commission as being Good or assessed as such by the Council where homes have yet to be inspected under the new regulations. " Para 76 - At Annex 6 attached hereto, there appears a 'Care Quality Map' which details therein a league table showing where each county in England ranks for their local care quality. This table is derived from the CQC inspection and rating of care services. As can be seen, West Yorkshire is ranked 47th (i.e. at the bottom) on the basis that only 73.2% of its care home services are rated as 'Good', with 26.8% of services 'Requiring Improvement'. We have produced this table to challenge the rational of the Council, when it implies within the Report that the overall quality in care homes in Stockton is at an acceptable level on the basis that 63% have been assessed by the CQC as being 'Good'. Such a result places Stockton below West Yorkshire, thereby rating its quality of care home provision as the worse in the country. Such an outcome resonates with the serious underfunding issues the Association has for a number of years been raising with the Council and its effect upon the market and quality of provision. Clearly such an outcome sits very uncomfortably with the Council's responsibilities to the market arising under the Care Act and the Guidance, as well as with own recognition of the need for the "right quality" of care. The Report is quite wrong and irrational to imply that the quality within Stockton is acceptable. Para 77. - These statistics regarding the poor quality of care in Stockton (which the Association states clearly emanates from serious and persistent Council underfunding) are underscored when one looks at the Council's 'Adult Care Quality Standards Framework (QSF): Phase 2 final report' dated 12 July 2016 and its 'Care Quality	focus of delivering good care home outcomes for people relies on the overall quality of care rather than piecemeal upgrading of physical assets. The consultee does not support that vision and challenges the Council's record on quality based on a *'league table'* drawn from an external website, TrustedCare.co.uk. In fact, inspection ratings at January 2017 produced by the national regulator, the Care Quality Commission (CQC), identifies the split between inspection outcomes by national and local region. It is clear from this that the North East region ranks 1st of 9 regions in terms of overall inspection outcomes, and that Stockton ranks joint 7th of the 12 North East regional authorities. The Council is firmly intent on continuously improving the performance of commissioned services within its market shaping obligations, and has over recent years introduced the Quality Standards Framework (QSF) to drive positive change in a challenging environment. The CQC inspection and the QSF are complementary yet different in their focus. CQC inspection is conducted against national inspection standards, whereas the QSF is a locally defined approach relevant to the Council's local commissioning experience, and its standards are flexed and shaped in light of local experience such as the Council's response to changes in law affecting the Deprivation of Liberty Safeguards. The Council would note that the QSF is currently a voluntary scheme. The Council would make a general observation that there is no firm correlation between level of fee, resource input, and quality of care. Notwithstanding any discussion over the actual fee rate, our experience is that good quality care is determined by key factors such as leadership. At a local level we have significant experience of where on existing rates large and well-resourced provision (eg. In terms of high occupancy and grade of care home) still fails to deliver good quality care in comparison to smaller less well-resourced provision on the basis of leadership, and effective policies and processes. The Council has forged firm and positive relationships

	Commission (CQC) Inspection Outcomes – Quarter 4 2015-16' report. These documents evidence that: the Council's own assessment against its own QSF quality monitoring tool determined that 11 out of 15 Providers required improvements; and that the CQC assessed that 10 of the 25 adult care services inspected in Stockton (i.e. 40%) required improvement or were inadequate.	with local providers in supporting their improvement which is of course in their commercial interest. .
	Para 78 - When considering the state of the market in Stockton, the Council's assessment reflected at paragraph 36 of the Report is misleading at best, and reflects what can only be considered to be a very thin and unsatisfactory analysis of market reality. The Report states: "…in October 2012 Stockton had 37 care homes and there are currently 35, as a consequence of three homes closing and one new entrant coming into the market." Para 79 - However, the Report fails to consider and/or disclose that two Executive Care Homes went into administration on 26 November 2014 as a result of financial difficulties. As they went into administration as opposed to being 'closed', they have not apparently been taken into account by the Council in its enquiry into and consideration of the market in Stockton. At the end of 2012, Bond Care had three of its homes reclaimed by the bank and the Association has received confirmation from HC-One that it recently sold Stockton Lodge as a direct result of the low fees paid by the Council, as a consequence of which it was not feasible for HC-One to continue to operate the home. It is important that the Council looks not just at the physical closure of care homes, but also the underlying business pressures they are facing.	The consultee points to the entrance into formal administration of two named homes in 2014 and that these are not considered within our market analysis. In the first instance the Council notes that entering into administration is not a departure from the market affecting local capacity any more than a provider putting a home for sale on the open market. The overall capacity remains the same. CQC has statutory responsibility for market oversight and is clear that homes entering into administration may well come out of administration and would not in that sense attract the oversight regime. Indeed they have gone as far to say that if a Southern Cross scenario were to happen today (where the group entered administration) that this would not in itself trigger the regime. There is therefore a very clear line indicating a change in market capacity which the Council has sensibly applied. The Council notes the consultee's comments regarding other providers but clearly cannot comment on the actual reasoning of banking decisions, nor the detail of our understanding of the motivations of national providers and their business modelling other than to say that our understanding may differ from that of the Association. Clearly in the latter case there was again no change to market capacity
	Para 80 - To this end and so as to underscore the financial difficulties that Providers are facing, the Association has been given authority	Inclusion is very selective as information only provided for one home with 17 bed and therefore does not have the same economies of scale to our average sized homed of 48

	to confidentially disclose (at Annex 7 attached hereto) the financial trading position of one of its members. As can be seen there, the member's operating profits have diminished dramatically since 2008 to virtually nothing in 2015. Further still, in 2015 the operator had to invest £25,000 of private money into the home to keep it operational, as the provider does not have any other homes in other areas from which to cross subsidise its business.	beds. In the actual costs used by the Council in determining fees unpaid proprietor hours have been added in the 5 homes where these have been identified (including this Care Home where unpaid proprietor costs of £53k pa have been added above those shown in the accounts). The recommendations in this report will increase fees for Grade 2 non-dementia clients (As at April 2016 prices) from £421 to £457 increasing income by around £29,000 per annum (plus backdating to October 2012 of around £114k) for this provider as at April 2017 assuming a 92% occupancy rate.
	Para 82 - The Council must address the errors the Association has identified within this paper. It must also provide the additional information referenced herein, so that the Association can enquire as to the presence of any other errors and make further submissions as appropriate. This is essential to ensure that the information before the Council is accurate and robust and (in the words of Mr Morton) it 'gets it right'. If the Council proceeds to adopt the proposals, not only will it enter into public law error, but it will stand in serious breach of its statutory obligations to the market. That market is under significant financial pressure and faces catastrophic failure unless the Council (which relies on the private market to fulfil its statutory obligations to provide residential care) acts and does so without any further delays on its part. To this end, it is quite remarkable that the Council is still consulting in respect of the years 2012/13, 2013/14 and 2014/15.	Responses to these points are covered in preceding points.