AGENDA ITEM

REPORT TO CABINET

22 APRIL 2021

REPORT OF CORPORATE MANAGEMENT TEAM

CABINET / KEY DECISION

Cabinet Member for Adult Social Care - Councillor Ann McCoy

OLDER PEOPLE'S AND MENTAL HEALTH CARE HOME SERVICES FEES

SUMMARY

The Council is required on an ongoing basis to promote the efficient and effective operation of the local market in care homes. It is important that the fees paid for this publicly funded care are sufficient to ensure that the care provided is 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 has been carried out. This has sought to enquire into and develop a deeper understanding of what the actual costs of providing care home services in Stockton are, including the local factors that relate to the market in Stockton.

The assessment of the actual costs of providing care within Stockton is 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 will meet providers' costs and see an overall increase in the rates paid.

The Council has also taken the opportunity to review the fee structure and has updated the structure to reflect 'dependency' and associated levels of client care needs rather than purely environmental factors and whether the resident has a dementia diagnosis.

RECOMMENDATIONS

1. To approve the 6.6% average fee increase for older persons care home services set out in paragraph 61;
2. To approve the 2.2% fee increase for mental health care home services set out in paragraph 62;
3. To approve the Older People's Occupancy Support Scheme for 2021/22 and delegate the scheme details, review and any necessary updates to the Director of Adults and Health and the Director of Finance, Development and Business Services in consultation with the Cabinet Member for Adult Social care.

DETAIL

THE 2017 DECISION

1. On 16 March 2017 (following a consultation process with providers) the Council's Cabinet approved the retrospective setting of a number of usual costs for care home services for older people for the annual periods of 1 October 2012 to 30 September 2016, the period 1 October 2016 to 31 March 2017 and made an offer of a usual cost for the period of 1 April 2017 to 31 March 2018.

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

FEE INCREASES SINCE LAST REVIEW

3. Increased fees for older people have been implemented with effect from 1 April 2018, 1 April 2019, and most recently 1 April 2020 by 3.4%, 4.4% and 4.7% respectively (there were three assessed grades of home based on environmental standards, but these were reduced to two rates from 1 April 2019, as standards have improved, with only four settings now in the lower Band 2). These fee increases were determined by applying inflationary indices (from the Office for National Statistics) across the respective elements of the cost categories in the fee rate, which included, the national living wage.

4. The last increase in April 2020 raised our highest care home (Grade 1) fee rate for older people without and with dementia from £536 and £570 to £561 and £597 per week respectively. This evidences the Council's requirement to ensuring that care home employees are provided with, at least, the National Living Wage.

THE REVIEW

5. A new framework agreement (the contract) was introduced in April 2020 and included a commitment that the Council would review fees for the commencement of year 2 of the contract i.e. with effect from 1 April 2021.

6. Council Officers have engaged with providers to collect information to help understand the actual costs of providing care home services in Stockton. In addition, the Council has obtained additional information relevant to the costs of care from a range of sources identified in this report. The Council observe that there is no clear correlation between level of fee, resource input and the actual quality of care delivered within the Borough. As in any sector, some providers are more efficient or simply perform better than others.

7. The Council has analysed all the information it has received from the market, together with the additional information it obtained. The Council has used its previous work with representatives of the Stockton and Billingham Care Home Association (the Association). in its approach to informing and assessing actual costs. and has sought, wherever possible and based on the evidence, to proceed on the basis of agreement with provider representatives.

8. These costs have been considered alongside local and other relevant factors, as well as the Council's duty of Best Value and its obligations under the Care Act 2014 and the Equality Act 2010. This approach has enabled the Council to set out in this report what it considers a rate that represents a fair cost of care and one that appropriately reflects local market conditions.

CHANGES IN LEGISLATION AND CURRENT LEGAL POSITION

9. The new decision will cover the period from 1 April 2021 onwards. The legal framework for the adoption by Councils of a usual cost for care home services is governed by the Care Act 2014, the Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 and published statutory guidance (Care and Support Statutory Guidance). The statutory guidance has been updated several times since the introduction of the Care Act, the most recent update being in June 2020 https://www.gov.uk/guidance/care-and-support-statutory-guidance.

10. In summary, the Care Act 2014 gives effect to, amongst other things, the following provisions:

a) Requiring the Council to promote individual wellbeing and apply the wellbeing principle in all cases where a local authority is carrying out a care and support function, or making a decision, in relation to a person;
b) The Council is responsible for preventing, reducing or delaying care and support needs;
c) Requires that the Council must promote the efficient and effective operation of a market of services for meeting care and support needs;

d) Specifies the requirements of a personal budget for each person needing care or support;
e) Entitles residents to express a preference for particular accommodation.

11. Prior to the Care Act, under the National Assistance Act 1948 the Council was required to set a "usual cost" for care home services with care providers. The Care Act 2014 and guidance does not require this. Instead, the emphasis has shifted to ensuring a sufficient personal budget, which must be adequate to ensure the needs of the person are met. In practical terms, the personal budget still relates to the usual cost of the type of residential care sufficient to meet the person's needs and it remains lawful to refer to the usual cost as a useful tool in market-shaping and complying with choice regulations.

12. The setting and purpose of a usual cost is, therefore, now determined by a range of factors, including a market-shaping duty and responsibilities in relation to personal budgets as well as meeting need and complying with the person's choice of accommodation.

13. In the context of the current decision, the key part of the Guidance is Chapter 4 "Market shaping and commissioning of adult care and support services". Within this chapter are significant principles that the Council must have full regard to in making the new decision, in particular:

a) Authorities **should** commission services having regard to cost effectiveness and value for money (4.27);
b) Supporting sustainability: authorities **must** work to develop markets and ensure sufficiency of adequate provision (4.33);
c) The Council **must** understand the business environment of the providers and develop and articulate a Market Position Statement, or equivalent (4.34);
d) Local authorities **must not** undertake any actions which may threaten the sustainability of the market as a whole, that is, the pool of providers able to deliver services of an appropriate quality, for example, by setting fee levels below an amount which is not sustainable for providers in the long term (4.35);
e) Authorities **must** encourage a variety of different providers (4.37);
f) Authorities **must** understand local markets: "*This should include reference to underpinning demographics, drivers and trends, the aspirations, priorities and preferences of those who will need care and support…*" (4.68-9);
g) "*Contracts should incentivise value for money… Contracts and contract management should manage and eliminate poor performance and quality by providers and recognise and reward excellence*" (4.103).

14. Importantly, Councils must take account of providers' actual costs, with the Guidance providing:

"In all cases the local authority must have regard to the actual cost of good quality care in deciding the personal budget to ensure that the amount is one that reflects local market conditions. This should also reflect other factors such as the person's circumstances and the availability of provision. In addition, the local authority should not set arbitrary amounts or ceilings for particular types of accommodation that do not reflect a fair cost of care."

15. The Council agrees with providers that the Guidance does not envisage a funding gap between efficient care providers' actual costs and the rates paid to them by the Council and it is accepted and clearly right, that part of the makeup of actual costs is a reasonable rate of return for providers to ensure the market remains sustainable.

APPROACH AND ASSESSMENT OF ACTUAL COSTS

16. Care home services for older people in Stockton are provided by a diverse range of businesses that operate with a number of business models. There is no one single actual cost of care, but rather a range of costs incurred reflecting the diversity of providers in the market. The costs incurred for individual homes can and does vary, as do factors such as occupancy and quality.

17. The Council faces financial pressures and uncertainty over future years funding. It recognises the importance of the services provided and there has been no attempt to make savings from the budgets for care home services, instead the proposals demonstrate an evidence based approach to continuing to fund and invest in the sector.

18. Whilst the Guidance is direct in explaining to Councils the need to take account of actual costs, neither the Act nor the Guidance contain any specific mechanism by which the Council should take into account the actual cost of care when setting the fees it pays to providers. It is fundamentally a matter of judgement exercised in the context of the legal duties placed on the Council and having due regard to local factors. This, however, creates a significant discretion for the Council in how it approaches this, with the obvious potential for disagreement with the provider sector. The approach outlined in Paragraph 7 has sought to minimise the risk of such disagreement.

19. It is possible to use some 'off-the-shelf' models to assist in determining a fee based on collected data. None of these are, however, Stockton specific and, therefore, truly reflective of the local market.

20. Consequently, in assessing providers' actual costs, the Council has adopted an approach that does not rely solely on generic models where the mechanism and assumptions do not reflect the Stockton market, but instead has worked with local providers and adopted a similar approach to that worked up previously with the Association to gain a better understanding and, therefore, a more sensitised view of the actual costs to providers operating in Stockton.

21. The proposals are based on detailed data on actual costs, a rational methodology sensitive to local market conditions, and which have regard to the Council's obligations under statute, case law, and guidance.

22. As part of the tendering exercise for the 2020 Framework Agreement of Care Home Providers within Stockton a financial template and guidance document were issued, giving providers an opportunity to comment on any aspect of the documentation in advance of the fee review exercise which took place during 2020-2021.

23. The final financial template and a detailed guidance document to assist with completion was issued to providers for their completion and return. The purpose of completing the financial template was:

    a) To enhance understanding of the various provider businesses and the financial environment in which they operate;

    b) To enable the Council to give due regard to the "actual costs of care" within Stockton when setting fee rates, particularly as the Council itself does not provide care home services for older people.

    c) To ensure information was submitted from providers in a consistent format to enable comparability.

24. At the request of the Association the deadline for completion of the finance template was extended from 17 July to 14 August 2020 to enable any provider who had not already done so to make a submission. There were 20 submitted templates of which 2 were based on projections rather than actual costs, and a further 2 on the basis that the providers charged top ups and their costs were outliers and not reflective of publicly funded care. Therefore, there are 15 homes in the older people fee review exercise and one return related to mental health care homes.

25. The approach provides an analysis of the fixed and variable costs across the operation of a typical care home, and takes into account the factors mentioned in the table below:

Fixed Cost	Variable Cost
Management	Care Assistants (excluding activities)
Admin and reception staff	Care Assistants (activities)
Proprietor Hours	Chefs/cooks
Rates	Domestic staff (catering, cleaning & laundry)
Water	Other staff
Telephone and IT	Recruitment
Business Insurance	Training
Handyperson	DBS checks
Gardening	Uniform and PPE
Waste Disposal	Staff expenses
Stationery and postage	Electricity
Head office recharges	Gas
Depreciation	Repairs & Maintenance
	Furniture & furnishings
	Domestic equipment
	Cleaning materials
	Other professional fees
	Other premises costs
	Food
	Medical supplies (including medical equipment rental)
	Continence products
	Other running costs

This is more particularly set out in the **Appendices 1, 2 and 3**. Fixed costs do not tend to vary with changes in bed occupancy level whereas variable costs do.

26. In terms of the financial information provided, analysis, clarification, and verification with providers have been essential to ensure robustness of information.

27. Applying the principles adopted in the previous review the Council has rebased the starting position at April 2021 on actual costs. It should be noted that none of these costs include those relating to Covid 19 as providers supplied financial information for the period prior to April 2020.

OCCUPANCY

28. It is the Council's responsibility to ensure adequate provision of services to meet assessed need. The Council collects and maintains information from care home providers regarding occupancy levels and vacancy numbers. An analysis of capacity in the market as at end of September 2019 (the mid-point in the last full financial year prior to the fee review) is set out in the table below:

Home Type	Total No. of Beds	No. of Beds Occupied	Vacancies	%age Vacant
Residential	802	716	86	11%
Res - Dementia	453	353	100	22%
Nursing	257	168	89	35%
Nursing - Dementia	135	101	34	25%
Mental Health	71	60	11	15%
TOTAL	**1718**	**1398**	**320**	**18.6%**

29. The impact of COVID-19 has further reduced levels of occupancy across the market and as at 15 March 2021 the overall vacancy rate stands at 23%.

30. It is clear that occupancy is a factor where there are particular issues of concern in the Stockton market. 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.

31. The Council is not expected to over-compensate for low occupancy rates and effectively pay for market over supply. The Council must ensure good value for money, and this cannot be achieved if the Council is disproportionately subsidising empty beds, by paying for a lower occupancy rate than is the case nationally. The Council considers that it is reasonable and consistent with its duties under the Care Act and the Guidance to promote an overall improvement in the efficiency of the local market and increase occupancy levels by reducing over-capacity.

32. The Council needs to balance the benefits of having a wide choice of providers against the sustainability of the market as a whole. 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 does not carry unnecessary surplus capacity

33. To inform the Council's requirements, officers have taken a view that the Council needs a level of capacity in the overall market sufficient to accommodate six months' worth of new placements without any reciprocal termination of placements in line with usual trends. Variation is created through seasonal and demographic factors affecting demand (such as NHS Winter Pressures).

34. The Council's view based on its requirements is that 6% spare capacity is sufficient within the Stockton market and that 94% occupancy would, therefore, be an appropriate target for occupancy and market shaping is planned 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 the sustainability of the market.

35. In the current climate, recognising that market shaping to address the over-supply cannot be achieved overnight, with the delay to the Council implementing its plans due to the pandemic and some providers needing time to develop and diversify and change business models, the Council's view is that the 94% occupancy figure should be approached gradually, with 92% being set 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 have to continue to fund a degree of oversupply and spare capacity.

36. The Council recognises the level of over-supply in the market and the framework agreement implemented in April 2020 included a market management mechanism which aimed to manage and reduce supply. The mechanism included a Bed Sufficiency Assessment whereby from April 2021, the Council would identify the approximate number of required beds for the year ahead and overlay this demand onto the supply of beds in the market to identify the excess supply. Care homes would be ranked by quality in north and south geographical areas and those at the bottom of the rankings within the excess bed supply would be suspended from the framework agreement and not receive any new Council funded resident referrals. The Council would work with these suspended care homes to consider alternative client groups where there is demand or work with them to facilitate closure. The mechanism would aim to reduce capacity and incentivise quality.

37. The quality rankings referred to above were to be based on CQC ratings and the Council's own in-house inspection regime called Provider and Market Management System (PAMMS). The PAMMS ratings used in the rankings were to be based on inspections undertaken in 2020/21 and the CQC ratings would be the latest received. Unfortunately, due to the pandemic, both CQC and PAMMS inspections were stood down and the current ratings are now very much out of date. As a desk top exercise, if the Bed Sufficiency Assessment was applied as originally planned in 2021/22 (albeit based on out of date CQC and PAMMs assessments) up to 6 of the 30 older people car home on the framework agreement would be suspended. Using both out of date CQC and PAMMS ratings to rank care homes and then to use the rankings to suspend care homes, is not considered reasonable, therefore the Bed Sufficiency Assessment will not be used until 2022/23 when new CQC and PAMMS ratings from 'stood up' inspections during 2021/22 will be available.

38. As a consequence, the Council has a reduced means of managing the market to increase occupancy levels towards the target of 92% for this forthcoming year which is what the fee is based upon. With occupancy levels still well below the target levels, the Council will therefore

need to provide an Occupancy Support Scheme during 2021/22 to assist the market until the Bed Sufficiency Assessment is operational. The scheme will provide financial support to those individual care homes where occupancy levels have fallen significantly and will be targeted at the care home's fixed costs (minus profit). The Council expects care homes to be able to manage their variable costs in response to varying occupancy.

RATE OF RETURN AND CAPITAL

39. Within Stockton, no new/and or replacement care home capacity is required now or in the foreseeable future. Based on information collected from care homes in September 2019, the occupancy level was 81% and currently stands at 77%.

40. In Stockton 87% of Older Peoples care Homes and 100% of Mental Health Care Homes have been assessed by CQC as being "Good" or "Outstanding". The number of homes has remained fairly static over recent years with recent market shifts a consequence of workforce supply/cost outside the Council's control.

41. It is important that fee rates reflect local circumstances and costs relevant to a provider operating in Stockton. The Council's proposals use an approach that reflects the actual cost on the basis the assets were mortgaged. A repayment mortgage is where monthly repayments consist of repaying the capital amount borrowed as well as the accrued interest, so that the amount borrowed decreases throughout the term and by the end of the loan term has been fully repaid. This is a useful method, as it allows a common approach to be taken with all providers and avoids the need for an impossibly complex exercise trying to assess varying and diverse capital funding structures for the assets used.

42. Whilst determining a figure for return on capital assists within the calculation of the Usual Cost, the Council is not required to ensure that the provider achieves any or any given return on capital. The figure derived needs reasonably to recognise the provider's costs in making assets available. In this case, the main asset deployed is the building used to deliver the service. Therefore, the factors to include in the calculation are:-

    a) actual costs of the capital cost of a room in Stockton
    b) the number of years over which repayment is made
    c) interest rate

43. An analysis has been prepared of care homes for sale and sold on the open market since January 2018 on a freehold or long-term lease basis and reliant on public funded fee levels. For care homes for sale the advertised valuation of the home was used and the quoted number of registered places to establish an average value per room. Similarly, the Land and Property Section utilised information from actual sales transactions. The information obtained relating to care homes in Stockton was widened to the Tees Valley for capital value purposes, to enrich the data and to allow for a more detailed example. Where relevant, values were uplifted using property index information to bring them to April 2020 prices.

44. The survey identified ten care homes in the Tees Valley with the weighted average value per room of £27,000 including 5 homes in Stockton with an average of £26,922 (summarised in the table below). Therefore, the capital value per bed has been based on the higher figure of £27,000.

Area	Number of homes	Average Value per Registered Bed
Stockton	5	£26,922
Middlesbrough	3	£21,219
Hartlepool	1	£32,700
Redcar & Cleveland	1	£37,425
	WEIGHTED AVERAGE TEESSIDE	**£26,839**
	ROUNDED	**£27,000**

45. Although lower than the capital value in the last review exercise it reflects the current market position in the area. The approach establishes a single rate based upon the average room value within Stockton and more closely reflects the actual local factors rather than the hypothetical. There is no need for new homes to be set up due to current oversupply in the Borough. The use of sales values obtained does not largely affect the Council's decision in determining the fees, as there is no incentive to encourage new start-ups in a saturated market and, therefore, no replacement home capacity required.

46. According to Christies Finance (specialists in this field), a typical loan period for the purchase of care homes ranges from 15 to 25 years. It is proposed to use repayment over a 20-year period, i.e. the mid- waypoint. This is considered a reasonable timescale for a long-term business, such as adult social care. The interest rate to be used is 3.84% and is based on the average from the data supplied by providers.

47. 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. To ensure a reasonable and consistent approach to this the Council has taken into account that the totality of the capital value needed to be recognised for rate of return purposes given individual homes have differing asset financing arrangements and for this purpose assumes a 100% mortgage. This approach enables providers to be paid appropriately for their provision of accommodation.

48. Currently the differential in care fees between Grade 1 and Grade 2 care homes is due to environmental standards. There are currently only 4 Care homes on Grade 2 with the remainder on Grade 1 which dates back many years to the last PWC True Cost of care exercise. In consultation leading up to the current framework agreement providers questioned the ongoing validity of these grades instead pointing instead towards increasing client care needs. Given this position It is proposed that the same capital value is applied across all care homes Assuming a 100% mortgage and adjusting for 92% occupancy derives an actual cost of £45.39 per bed each week. This figure allows for an additional cost for taxation. In respect of a home this represents an annual payment per room of £2,177 and equates to total payments over 20 years of £43,542 (i.e. mortgage debt of £27,000 and interest of £11,724 plus the additional payment for taxation £4,818), assuming the home is occupied at 92% throughout. In a 48 bed home with an average 92% occupancy it amounts to a payment to cover the cost of the accommodation of approximately £104,500 (£45.39 x 48 x 52.14 x 0.92) per annum to the Provider. The money can be used to pay existing mortgages/business loans or where the cost of the capital asset has already been defrayed to reinvest in the business or elsewhere or to take out as additional profit.

49. Therefore, the Council can be confident that these weekly rates are sufficient to compensate providers for making the accommodation available, as it enables the provider to recover the capital cost of the asset within 20 years whilst thereafter retaining an asset with a useful residual life, which can continue to generate returns for the provider.

50. In addition to the return for capital, it is recognised that businesses must make an appropriate profit. It is proposed that a profit element is added at a rate of 6% on operating costs (excluding the return on capital). The level of profit is deemed reasonable given the role of the Council as a regular and significant purchaser of care home places.

51. It is this figure that is important rather than the route by which it is arrived at and the figure needs to be tested against its projected financial effect to ensure that it continues to bear a reasonable relation to the cost of providing Council care.

52. The chosen rate of return should provide for recoupment of investment over a reasonable period. The return for capital and profit elements together for a home total £77 and £80 per client per week for a standard and complex client respectively at April 2021 prices.

DEPENDENCY

53. Following engagement with care home providers and other stakeholders in 2018/19, the Council committed to reviewing the current environmental banding and residential / dementia approach to defining care, to a method that would focus on the needs and support required by

residents. Care Home Providers reasoned that the contract (pre-April 2020) failed to reflect the care and support they were offering and that providers wanted the fee structure to recognise clients with more complex needs as the current assessment system of residential and residential dementia did not reflect this.

54. Through engagement with national best practice, local partners as well as key professional stakeholders, the Council developed a revised definition of needs in residential care for older people. The "dependency aid" that sets out standard and complex care, will provide the basis for supporting professionals in making placement decisions and ensure providers are appropriately recognised for the care and support they need to offer different residents.

55. A copy of the proposed aid is included at **Appendix 4**. The aid sets out standard and complex descriptors in a way that reflects the care and support that a care home provider is expected to offer based on a person's presenting needs to ensure people are being given the right level of care and support. The aid includes reference to residents with dementia, but it focusses more on the impact of a person's dementia rather than the diagnosis. Through the new aid, this means an individual with dementia could be supported under a standard placement as well as complex.

56. Information from providers template returns include the existing costs of managing clients within the needs set out in this dependency model. The core difference in meeting the needs of standard and complex clients is Care Assistant support. Using an analysis of this support and an assessment of a statistically significant sample of clients that fall into each category has enabled a fee level for standard and complex to be determined.

CONSULTATION

57. Prior to determining a final recommendation to Cabinet, officers have consulted all contracted providers, and the Stockton and Billingham Care Home 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 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 5 February 2021 until 5 March 2021.

58. Comments were received from 6 individual providers and one coordinated response from the Association. The Association represents 10 care providers on the framework agreement based on the latest information held by the Council.

59. When reaching a decision on the Usual Costs Cabinet must take into account the views of providers and to this end a number of changes to the original draft proposals have been made. Clearly, the primary concern of providers is 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 are set out in **Appendix 5**.

TRANSITION

60. From May 2021 all new clients going into care homes will be assessed under the new dependency criteria for which the standard and complex fees will apply. However, existing clients will not have been reassessed by this date. An interim solution is proposed for the period from 1 April 2021 until the clients have been reviewed, which is expected to be over a period approximately seven months. In these circumstances the fee applied will be £609 per client per week based on that from the fee Review exercise prior to the adjustment for dependency. The complex and standard fee rate will apply from the date of the client review and be back dated to 1 April 2021.

PROPOSED FEES (USUAL COSTS)

61. In light of all the considerations set out above in this report the proposed Older People Care Home fees with effect from April 2021 are £644 and £590 per client per week for complex and standard clients respectively. During the transition a fee rate of £609 per client per week will apply.

MENTAL HEALTH CARE HOMES

62. Only one template return was completed which isn't sufficient to robustly review the fee. Therefore, it is proposed that in line with the contract, in such circumstances, we retain the bases of the existing fee and after applying the usual inflationary indices the fee with effect from April 2021 will be £555 per bed per week.

COMMUNITY IMPACT IMPLICATIONS

63. Under the Equality Act 2010, public bodies must pay due regard to the 'equality duty' when planning, changing or commissioning services. It is up to public bodies how they implement the duty. However, they must be able to provide evidence that the duty was considered before a decision is made. The Council has undertaken an equality impact assessment on the assessment of actual costs and this has been reviewed and updated as appropriate.

64. Clearly, if the Usual Cost is set at a level that is too low to cover actual costs, then it is possible that there would be an adverse impact on people receiving care home services who are particularly vulnerable either by way of age or disability or both. This could happen either because the rates would lead to a reduction in quality or, more critically, could lead to unplanned home closures. The extent of each risk depends principally on a consideration as to whether or not the Council's Usual Costs are at or above the actual costs of care. The work the Council has done to get data from the market and model the actual costs means that in the view of the Council the Usual Cost is at or above the actual cost of care.

65. Currently homes in Stockton are not failing at the current Usual Costs level, even though there is significant excess capacity within the markets. Consequently, the proposed increase in rates and to a level where the providers' costs are clearly covered will mean that the providers' financial position is stronger and the risk of unplanned home closure falls. The Council will, however, need to continue to work closely with providers, particularly those with the lowest quality to reduce the current levels of overcapacity and do so in a managed way, to ensure that any adverse impacts of reducing excess capacity are diminished. The council is therefore committed to good quality care in considering and facilitating continuous improvement within the care homes and an efficient and vibrant market.

CORPORATE PARENTING IMPLICATIONS

66. There are no implications for children and young people as a result of the recommendations made in this report.

FINANCIAL IMPLICATIONS

67. The Council is able to take into account its resources when setting a fee to be paid to providers. When doing so, it will want to ensure that the rates are sustainable and not such that they would have an unacceptable impact on the Council's ability to fund ongoing placements as necessary to meet assessed need to the detriment of clients and providers alike. In this context, the Council should reflect on the very difficult and unprecedented financial circumstances it finds itself in from most recent Medium Term Financial Plan Cabinet Report. The Council are currently working within a one-year financial settlement from the Government. Previous reports have highlighted the significant uncertainty this brings, with no long-term settlement being in place. This is particularly the case in the context of the Coronavirus Pandemic.

68. A recent update to Cabinet demonstrates there are ongoing pressures of approx. £5m pa over the medium term. The financial position for subsequent years is extremely uncertain and will be affected by a further Government Spending Review, a potential Fair Funding Review and proposals around Business Rates Retention demonstrates.

69. Notwithstanding the prevailing financial position, the Council nevertheless aspires to ensuring that its fees will enable sufficient provision of the right quality to continue to be provided, but without compensating for inefficiency or supporting excess capacity in the market.

70. The annual increased pressure from these proposals for future financial years would be approximately £1.1m.

71. These costs are included in the Councils Medium Term Financial Plan.

72. The Occupancy Support Scheme for 2021/22 is anticipated to cost £780k and will be funded from the Covid Support Grant.

LEGAL IMPLICATIONS

73. The legal implications and duties engaged by the proposed decision have been summarised and reflected in the body of the report. A key issue is that in order to comply with the duties when setting fees, the Council needs to have due regard to the actual cost of care, in particular in relation to local factors. If it fails to do so there is a potential for legal challenge from providers.

RISK ASSESSMENT

74. The decision to set fees for older people and mental health care home services is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk.

WARDS AFFECTED AND CONSULTATION WITH WARD/COUNCILLORS

75. There has been no formal consultation to date with ward members in relation to this issue, although briefings have taken place with the Cabinet Member for Adult Social Care. Care Home providers have been consulted on the proposals as outlined at Paragraph 10.1 and within the appendices.

BACKGROUND PAPERS

76. None

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Appendix 1 - Average Cost per Bed Per week based on 15 submissions with an average occupancy of 79.8%

	Returns from Providers
	£
Care assistant staff (inc day activities)	246.20
Chefs/cooks	25.29
Domestic staff (catering, cleaning & laundry)	28.46
Management	33.01
Admin & reception staff	6.46
Other staff	9.86
Indirect staff costs	5.71
TOTAL Staffing Costs (includes on costs)	354.98
Utilities (elec, gas, rates, water, telephone & IT)	24.10
Repairs and maintenance	16.43
Furniture & furnishings and domestic equipment	9.64
Business Insurance	3.57
Handyperson & gardening	2.95
Other premises costs	15.92
Food	26.38
Other running costs	10.97
HO Recharges	29.28
Depreciation	8.66
TOTAL Non staff costs	147.89

Appendix 2 - Older People Care Home Fees from 01/04/2021 at 92% Occupancy

	April 20 Prices		
	Blended	**Standard**	**Complex**
Care assistant staff (inc day activities)	267.59	250.18	300.22
Chefs/cooks	27.30	27.30	27.30
Domestic staff (catering, cleaning & laundry)	30.59	30.59	30.59
Management	29.79	29.79	29.79
Admin & reception staff	5.81	5.81	5.81
Other staff	10.18	10.18	10.18
Indirect staff costs	5.90	5.90	5.90
TOTAL Staffing Costs (includes on costs)	377.16	359.75	409.78
Utilities (elec, gas, rates, water, telephone & IT)	23.33	23.33	23.33
Repairs and maintenance	16.60	16.60	16.60
Furniture & furnishings and domestic equipment	9.37	9.37	9.37
Business Insurance	3.16	3.16	3.16
Handyperson & gardening	2.59	2.59	2.59
Other premises costs	15.82	15.82	15.82
Food	26.82	26.82	26.82
Other running costs	11.42	11.42	11.42
HO Recharges	26.31	26.31	26.31
Depreciation	7.51	7.51	7.51
TOTAL Non staff costs	142.93	142.93	142.93
6 Percent Profit	31.21	30.16	33.16
Return on Capital	45.39	45.39	45.39
Total Weekly Cost	**596.68**	**578.22**	**631.26**

Notes

The above are not directly comparable with the current care fee rates which are:-

	Grade 1	Grade 2
Residential	561	529
Residential - Dementia	597	565

65% Standard / 35% Complex Clients

Standard Clients average 20 hours of care assistant support

Complex Clients average 24 hours of care assistant support

All care homes paid at the same rate with the disbanding of the environmental grades

		from 1st April 2021		
	Annual inflation	**Blended**	**Standard**	**Complex**
% increase in the National Living Wage	2.18%	273.43	255.63	306.76
% increase in the National Living Wage	2.18%	27.90	27.90	27.90
% increase in the National Living Wage	2.18%	31.25	31.25	31.25
% increase in the Average Earnings Index	4.12%	31.02	31.02	31.02
% increase in the Average Earnings Index	4.12%	6.05	6.05	6.05
% increase in the Average Earnings Index	4.12%	10.60	10.60	10.60
ONS index - Miscellaneous goods & services	0.48%	5.93	5.93	5.93
		386.16	368.37	419.50
ONS index - Electricity, gas & other fuels	-8.70%	21.30	21.30	21.30
ONS index - Regular maintenance & repair of the dwelling	0.68%	16.71	16.71	16.71
ONS index - Regular maintenance & repair of the dwelling	0.68%	9.43	9.43	9.43
ONS index - Insurance	100.00%	6.31	6.31	6.31
ONS index - Services for maintenance & repair	0.29%	2.60	2.60	2.60
ONS index - Regular maintenance & repair of the dwelling	0.68%	15.93	15.93	15.93
ONS index - Food	-0.48%	26.69	26.69	26.69
ONS index - Miscellaneous goods & services	0.48%	11.48	11.48	11.48
% increase in the Average Earnings Index	4.12%	26.88	26.88	26.88
ONS index - Regular maintenance & repair of the dwelling	0.68%	7.82	7.82	7.82
		145.15	145.15	145.15
		31.88	30.81	33.88
ONS Index - RPI All Items Index	0.86%	45.78	45.78	45.78
		608.98	**590.12**	**644.31**

Appendix 3 - Mental Health Care Home Fees Uplift from 01/04/2021 (Per Bed Per Week)

	from 1st April 2020 £		Annual inflation	from 1st April 2021 £
Care assistant staff (inc activities)	198.87	% increase in the National Living Wage	2.18%	203.20
Domestic staff (catering, cleaning & laundry)	6.14	% increase in the National Living Wage	2.18%	6.28
Management	19.00	% increase in the Average Earnings Index	4.12%	19.78
Other staff	78.96	% increase in the Average Earnings Index	4.12%	82.21
TOTAL Staffing Costs (includes on costs)	302.96			311.46
Utilities (elec, gas, rates, water, telephone & IT)	25.24	ONS index - Electricity, gas & other fuels	-8.70%	23.05
Repairs and maintenance	40.68	ONS index - Regular maintenance & repair of the dwelling	0.68%	40.96
Business Insurance	4.45	ONS index - Insurance	100.00%	8.89
Other premises costs	8.89	ONS index - Regular maintenance & repair of the dwelling	0.68%	8.95
Food	35.74	ONS index - Food	-0.48%	35.57
Other running costs	15.99	ONS index - Miscellaneous goods & services	0.48%	16.07
Depreciation	13.42	ONS index - Regular maintenance & repair of the dwelling	0.68%	13.51
TOTAL Non staff costs	144.42			147.00
Capital - ROR	68.72	ONS Index - RPI All Items Index	0.86%	69.31
Profit	26.84	Calculated at 6%		27.51
TOTAL weekly cost	**542.95**			**555.29**
Rounded	**543.00**			**555.00**

Appendix 4 to Fee and Complexity Review

COMPLEXITY OF NEEDS - DEPENDENCY AID

Summary

1) Following the engagement with care homes and other stakeholders in 2018/19 with respect to the future contractual relationship, Providers felt that the existing contract failed to reflect the care that a provider should be offering.

2) The Council committed to review the current methodology (environmental banding and residential / dementia split) and to propose an approach which would focus on the care and support needs required by residents.

3) Through engagement with best practice nationally, local partners as well as key professional stakeholders, the Council has developed a revised definition of needs in residential care for older people (Appendix 1) using a Dependency Aid to assess the complexity of needs of individual Service Users.

4) The Dependency Aid will provide the basis for supporting professionals, making placement decisions, to allow procurement to effectively contract manage providers and to support finance to ensure the fee level reflect resident needs.

Background

5) During 2020, the Council undertook the following actions to inform the Dependency Aid (Appendix 1):

   a) National good practice: The Dependency Aid is based on nationally used models. Other councils including Leicestershire Council and Norfolk Council provided evidence of the impact of approaches to defining and implementing dependency in residential care. Leicestershire Council shared that the Review Manager and Head of Service for Older Adults were instrumental in developing their position. Key to allocating a Complex band rather than a Standard Band was the level of predictability. As well as the band definitions a check list was also developed. They also learned that rather than 15% of cases being assessed as Complex as they expected, only 2% were coming out as Complex.

   b) Existing research: Commissioning undertook a piece off work in 2017 to look at options for a standardised dependency tool across all care homes base on the Scottish IRoNs model. This intelligence was reviewed to inform the language and domains of the aid.

   c) CHC: The Council worked with Health to assess impact of the descriptors in the new Dependency Aid on CHC. Evidence from other councils was used to understand how the interface with Health/CHC was would work.

   d) Peer Review: Input from Social Workers and Team Leaders has been instrumental in refining the Aid and developing the language used within the new standard and complex model.

The Dependency Aid

6) The Council has developed detailed descriptions of Standard and Complex (Appendix 1)

   Several key points to note:

   a) Dementia is included, but it focusses more on the impact of a person's dementia rather than the diagnosis. Through the new model, this means an individual with dementia should be supported under a standard placement meeting their predictable (and unpredictable) needs.

   b) The Aid specifies what specific support a person would need and from how many carers;

   c) Risk is a key part of the Aid;

   d) This is an aid/guide and is to be used by Social Workers and other professionals to help support their decision making, and not to be considered as a checklist. There is no scoring or formal assessment required beyond current processes;

Quality

7) The model is an aid for contracting to ensure people are being given the right level of care. The standard and complex descriptors are set out and detailed in a way that reflects the care that a provider is expected to provide based on a client's presenting conditions.

8) The aid also presents an assessment of a range of hours that we would expect a provider to offer to cover the needs of the person placed and will help providers ensure that their staff have the correct skill set to deliver a range of care needs.

Price

The current split of residential / dementia placements in older people care homes is 63% / 37% (Data from 20 May 2020).

Work on developing the aid has been conducted simultaneously with Finance undertaking an open book assessment of the fee for 2021/22. Finance have therefore, used this model to consult on a fee for 2021/22.

As part of our due diligence, social work professionals have been supporting the process and looking at the impact of the aid to assess what placement type they would advise base on their care act assessment and the definition of support in the aid.

The information was collated in a Dependency Monitoring Spreadsheet which tracked the current placement type, but also allowed us to see if a Service User would be placed in standard or complex through guidance from the new model. Social workers are currently utilising the support aid alongside new clients to help us understand and track movement through the bands.

Appendix 1

Residential care for people with <u>standard</u> personal care needs.	
Expected 'needs' of a person requiring this bed.	**Expected levels of care and support:**
1. Overnight care and support. 2. Personal care 3. Mobility and orientation support 4. Transfers and hoisting 5. Management of distress, anxiety, and behaviours that challenge 6. Support and assistance only. 7. Prompts for tasks may be required 8. 1-2-1 support for a proportion of the care tasks. 9. Moderate level of staff resource required 10. Two carers to support only when needed for a short amount of time	**Eating** - Eats with encouragement, prompting or supervision. - May require help, i.e., cutting up manageable pieces, occasional prompts during sittings or pureeing food. **Transferring Position & Moving Location** - Transfers and mobilises independently using equipment including wheelchair or adaptions. - Person may require the physical assistance of one person (with or without equipment). **Toileting and continence** - Person is independent with or without a catheter, colostomy, or continence aids and with or without equipment (e.g., raised toilet seat, handrails, etc.). - May also requires encouragement, prompting or supervision from one person (i.e., performs majority of the tasks, needs some assistance in transferring or adjusting clothing, positioning continence pad or needs an initial prompt or supervision because of lack of awareness or risk/fear of falling or, needs equipment or adaptation set up, but no further help). **Dressing** - Dresses independently without difficulty. - Person may need complete physical assistance from one member of staff. **Activities** - Cooperative with carers, or rarely needs encouragement or explanations for undertaking basic tasks. - Only one carer required to support client to cooperate with care, treatment, or medication (however, tasks such as dressing/ undressing, showering, etc. may take longer) where they refuse to initiate own activity and ensure their needs are met. - The caring relationship may, at times, be non-concordant (possibly resulting in non-compliance) which may require care plans to be developed that require regular prompts to be engaged. - This applies for both capacitated choice or because of cognitive impairment (dementia) and / or confusion. **Risk – Supervision Oversight and intervention** - Person does not present with any behavioural management issues and can be supported by being observed with other residents, will not attempt to leave and is complaint with their support. - Assistive technology can be used to alert staff if high risk of falls. - Person requires supervision and/or oversight. - Risk supervision oversight includes support and oversight of falls management and monitoring of medical conditions, e.g., infections, epilepsy, diabetes. - Episodes of behaviour that result in intervention only require the immediate support of one carer to manage situation. Assistive technology may be required or in place.

Residential care for people with <u>complex</u> personal care needs.

Expected 'needs' of a person requiring this bed.	Expected levels of care and support:
1. Complex and unpredictable personal care 2. Significant and severe risk of falls 3. Mobility support is frequent and unpredictable 4. Support needed throughout entire care intervention following transfer 5. Complex transfer met with high anxiety levels from the individual 6. Regular use of physical intervention 7. Continuous support through day and night for challenging behaviour 8. Continuous support through day and night for complex care 9. Up to two carers required for majority of care and support tasks	**Eating** - Risk of choking requires food to blended or pureed and thickened fluids. - Requires complete assistance i.e., needs physical assistance from another person in bringing utensils to the mouth. **Transferring Position & Moving Location** - Person is assessed as a high risk of falls which assisted technology will not meet (following support from OTs) and needs complete physical assistance from up to 2 carers plus additional equipment. **Toileting** - Requires complete physical assistance from one person OR does not use the toilet OR requires assistance to manage their catheter or colostomy or continence aids risk UTI/ infections (including risk of re-occurring UTI / Infections). **Dressing** - Complete physical assistance needed from up to two carers plus additional equipment, for example, stand aid, hoist, slings. **Activities** - Intermittent and complete withdrawal and refusal to cooperate, that can take time to distract and divert or may require higher level of supervision at times throughout the day and is not easily distracted or diverted. - Person may be capacitated or diagnosed with cognitive impairment (dementia) and / or confusion requiring continuous support to encourage cooperation with care, treatment, or medication. **Risk – Supervision Oversight and intervention** - Regular support needed from up to 2 carers, throughout the day due to the resident's behaviour constituting a risk of harm to themselves or others. Examples: wandering, absconding, falls, drinking and eating inappropriate things, disorientation within the home. - Risk supervision oversight or immediate intervention may also be needed includes support and oversight of falls management and monitoring of medical conditions, e.g., infections, epilepsy, diabetes - Up to two carers required for encouragement, prompt / support, or complete assistance. - Care staff may have to intervene immediately on numerous occasions throughout the day with up to two carers who may have to repeatedly manage behaviour to reduce impact on others or protect from harm. - Resident is verbally aggressive towards other people, animals, or objects

Appendix 5

LOG OF SBC CONSULTATION RESPONSES

RESPONSE NO.	COMMENT	STOCKTON BOROUGH COUNCIL RESPONSE
1	a) Do residents have to hit a certain amount of criteria to receive the complex fee?	The aid is a resource for Social Care Professionals, not a checklist, so it will remain professional judgement as to whether the person will be offered standard / complex.
	b) To receive the complex fee does a resident have to have a diagnosis of dementia or just meet some of the criteria in the assessment?	A person will not have to have formal diagnosis of dementia to be considered as requiring complex support.
	c) Is there a reason when working out the weighted average value per room, 5 homes were used in Stockton and the same amount of homes was not used from other areas. Given the larger quantity of homes are Stockton based this creates a bias view.	The Council used information available relating to care homes sold and for sale in the Tees Valley.
2	In the consultation report section 43 it states "The survey identified ten care homes in the Tees Valley with the weighted average value per room of 27,900 and 5 homes in Stockton with an average of £26,922 (summarised in the table below). 10 homes in Tees Valley and 5 homes in Stockton makes 15 in total however your table only displays 10. Is there a reason for this?	The ten care homes in the Tees Valley includes the five homes in Stockton.
3	a) I am very pleased that eventually you have heard the providers and removed the grading that dated back many years and has resulted in us losing a lot of money in fees over the years. It is the first time that I have been made aware that there were only 4 homes in grade 2. The council has always said they will remain transparent. I would like to know which other care homes were in grade 2 and why we were still banded as grade 2. What criteria was used? What made us	In consultation leading up to the current framework agreement providers questioned the ongoing validity of the environmental grades hence the Councils proposals to remove them going forward. This consultation is only associated with fee rates applicable from 1st April 2021. Historic grading criteria and further questions outside the scope of this consultation will be responded to separately.

	similar?	
	b) Moving on to Windsor Lodge, I am extremely disappointed to see the proposal for the mental health side. £7 per week per resident. It is hard enough to survive with the current occupancy levels, and the fee level proposed is not acceptable. The calculations need to be looked at again.	Only one template was returned which isn't sufficient on which to robustly review the fee. Therefore, it is proposed that in line with the contract, to apply an inflationary increase to the existing fee.
4	On page 8 of the document, it says that it will take up to 7 months for review to take place of current residents. A rate of £607 will be applied to all of them for that period whether their needs are standard or complex. There is a difference of £35 less for complex and £19 more for standard. The longer it will take for the reviews the more the loss for the complex ones. Why would the review not be delayed deliberately for the complex ones as the rate applies from the date of client review. For 7 months they would be paid at £607 instead of £642.	Its not practical to review all existing clients using the dependency aid prior to 1st April 2021. Therefore, an interim will be applied. The Council has considered the position and so providers do not lose out following a resident's review the standard or complex rates will be backdated to 1st April 2021. All new clients admitted to care homes after 1st April 2021 will be assessed using the dependency aid.
5	a) Overall we believe the uplift from April 2021 to be fair however we do have some feedback on specific points.	Noted
	b) The uplifts for the majority of costs are in line with those expected and budgeted. There are however two financial elements where you are indicating an expected reduction in cost where we are not expecting to see any reduction; Utilities -8.7% and insurance -1.64%. We are expecting a 3% increase in utilities and 150% increase in insurance premiums based on conversations with suppliers. These both form a large portion of indirect costs.	Please see response under 10 & 11 d).
	c) The second point we wish to raise is that of the dependency scoring. You have stated that the current split between Residential	Where the Care Home has provided evidence that they have taken all necessary steps to address the resident's presenting needs, including assistive

	& Dementia is 65%/35%. Orchard Care Homes uses a similar Dependency Tool to the Dependency Aid that will be used to assess residents' complexities and determine their fee. Green Lodge have undertaken a full review of all residents and based on the Dependency Aid provided there are a large number of residents currently placed as Residential who would be assessed as requiring the Complex fee. This is due to needs that would not necessarily fall specifically under their diagnoses of Dementia. We are highlighting this point in case Stockton are of the view that all residents on the current Residential Fee would be moving to the standard fee under the new framework	technology, liaison with appropriate health and care professionals, etc. then where the Social Care professional identifies the person needs the higher level of carer support then complex will be agreed.
6	a) As you are very well aware all employers have to honour the commitment of contracted hours of their employees regardless of occupancy levels. However the overtime wages may vary depending upon the occupancy level and individual needs of the residents. And to us the wages of contracted hours are fixed expenses unless there are economic, operational and technical reasons. The only variable staff cost is overtime of nurses, care workers, kitchen staff and housekeeping. Therefore cost of employment remains a fixed cost in order to meet basic operational costs. Which is always increasing on a regular basis in order to make sure we deliver effective person centred quality nursing care especially in the recent case of COVID-19 pandemic	The Council has treated direct staffing costs (eg care assistants) as variable on the basis they will generally increase / decrease in line with changes in occupancy. This means that such actual costs have remained constant for variable catergories per client per week at both current occupancy and also at 92% for a care home operating efficiently. If such costs had been treated as fixed they would have reduced the cost per client per week.
	b) Other operating expenses like insurance, PPE etc., have doubled and other operating expenses namely gas, electricity, water, food, maintenance and	In respect of inflation please see response under 10 & 11 d). In respect of Covid related costs please see response under 10 & 11 e) below.

	training etc., have gone up substantially due to COVID-19 pandemic.	
	c) We are in a quandary how to address above increases in order to meet our cash flow. We appreciate the way you have proposed the distinction of residential fees, however the criteria of assessing complex and standard clients needs clarity. Though you have proposed that the classification will be carried out by a team of experts but still we need to know the broader assessment criteria, to us as a dementia nursing home each and every resident of ours has a variety of complexities and we are committed to overcome the challenges to meet their needs on a day to day basis.	The introduction of the standard / complex aid allows Social Care professionals to continue to assess the needs of people and ensure they get the right level of care and support, whilst ensuring transparency and consistency of decision making across the sector. Detail of the aid is set out in the appendix 4 "Dependency Aid Report – 2020" There will be documents provided for care homes to use in supporting and Social Care professional decision.
	d) We being a legal entity incorporated under companies act of England and Wales have business orientation but our priority and commitment is to meet statutory compliances of CQC and local authorities. And nothing can deter us regardless of any challenges we will not compromise on the quality of person centred nursing care. We are open and ready to participate in any future negotiations given the opportunity	Noted
7	a) I am very pleased that the grading system has finally been lifted. It was long overdue. I am asking for a backdated payment from 1/4/2018 at a grade 1 level as it has been very difficult with the pension payments and the NMW to keep afloat.	See response under 3 a) above
	b) The council is using a 6% profit margin on operational costs. It is not realistic and needs to be increased	Please see response to 10 & 11 k) below
	c) The nursing elements do not affect our care home but I would like to ask if the proprietor hours have been considered as both me	Both proprietor and pension costs were requested per the guidance document for completion of the finance template and are included in actual costs.

	and my husband are very much hands on in the care homes. Did indirect staffing cost include pensions as more than 90% of my staff are in the pension scheme. In the calculations have any costs been removed from the actual costs and any removed from the operating costs because they were classed as 'excessive' ?	On the latter point please see response to 10 & 11 c) below.
8	a) It suddenly occurred to me that 'complex' does not mean that they need to meet ALL the listed levels of support. It should mean any one of the listed levels.	The guidance for standard / complex is an aid for Social Care professionals judgement to determine the most appropriate level of support required in residential care. It is not intended to be used as a checklist.
	b) Current dementia paid clients should all fall into complex category because it was hard enough to get their funding for dementia despite their diagnosis, behaviour and needs.	Please refer to the response for question 6 c) above.
9	a) Ultimately, the Council's proposals will only be accepted by providers where they are able to validate the resulting conclusion and proposals. Currently, there is a significant shortfall of information provided to enable providers to make these assessments and reach the same conclusions as the Council.	We believe the Council has provided information necessary for providers to make an informed view as set out in the consultation document and its appendices.
	b) Impact of COVID – The Council has not taken account of costs relating to COVID-19. Certain costs currently being incurred are going to continue to be incurred (notwithstanding vaccinations). The assessment of costs and resulting calculation of end fee should have taken account of this.	In respect of Covid related costs please see response under 10 & 11 e) below.
	c) Occupancy – Current levels of occupancy are materially less than that used in the Council's model of 92%. Very few homes will be operating efficiently with most materially less than 92%. The Council's modelling should reflect a realistic level of actual	Please see response to 10 & 11 g).

	occupancy. This has the impact of understating the end fee determined by the Council's model;	
	d) Data cleansing – In order to assess the reasonableness of the Council's calculations, detail needs to be provided as to what exactly has been cleansed. By cleansed, my assumption is that costs have been removed/reduced from provider submissions. Transparency is needed on any removal/reduction adjustments made to provider data since this again has the effect of understating the end fee;	Please see response to 10 & 11 c) below
	e) Sales value per registered bed – Again, transparency is needed as to how £27,900 has been determined by reference to specific care home transactions. The capital costs assumed by the Council appears low, again with the impact that the end fee is understated. The Council's assessment of the care market as low risk is perverse, against a backdrop of COVID. See comments below on insurance	Please see response under 10 & 11 g) and j)
	f) Inflation – The underlying inflationary costs which providers are subject to materially exceed the assumptions in the appendices, again understating the end fee. For example, our insurance premiums are increasing on average by c25% across or whole package of covers. Our D&O cover is increasing by 200% despite never having made a claim or notified of circumstances likely to give rise to a claim. Our Med Mal premium is increasing by 50%. This is despite our having a very good claims record across all categories of insurance. We would be happy to share our renewal data to illustrate this. The same observations apply to food. Food prices are increasing not	Please see response to 10 & 11 d) below.

	reducing. Similarly, other cost categories reported are simply not linked to RPI/CPI etc. The Council's calculations also appear to apply inflation once for a multi-year calculation;	
	g) Calculation of costs per bed – Greater transparency is needed over how the Council has arrived at costs per bed. Currently, there is no link between raw data and its end calculations. For Providers to be able to buy in to the analysis undertaken, then this the Council should have provided this transparency through, for example, providing a copy of the model used. Can we be provided with this?	The data in Appendix 1 of the consultation represents actual costs submitted by providers at an average occupancy rate of 79.8%. As this information was for various year end periods (the latest being 31st March 2020) inflationary impact was taken into account to bring actual costs up to an April 2020 price base. Actual costs were also updated to reflect those which were fixed and variable at 92% occupancy.
	h) Standard/complex care – This appears ill thought out at best. The proposed rate of £642 for the new banding of "complex" is insufficient (for residents whose needs are genuinely complex) and would in our view result in additional one to one care funding being required. At the same time, recategorizing dementia residents as standard and to a lower fee rate of £588 is going to result in underfunding of dementia care. Stockton already have amongst the very lowest fee rates for dementia care in the NE and this lack of prioritisation for dementia care is being perpetuated (even at the complex care fee proposed of £642). It would be a better outcome to have separate rates for general, dementia and then complex care.	The definition of the standard and complex bands is based on existing national good practice and reflects provider feedback on the importance of recognising the impact of a resident on staff skills and capacity as opposed to a diagnosis. The Council has not recategorized dementia residents as standard, but acknowledged that, in some cases, a person with an early diagnosis of dementia will be more than able to live comfortably with the level of support offered in a standard placement. Likewise, where evidence indicates otherwise, they will be reviewed for a complex placement.
	i) CHC – We couldn't see where CHC had been considered anywhere within the proposals	The review focussed on the Council's funding regime for residential accommodation, there is no change to CHC. As a health funding regime, where a person is considered as potentially having a primary health need, a checklist would be undertaken to determine eligibility for a full assessment.

10 & 11	a) 2017 Decision - In 2012 the Council undertook a similar cost exercise where it obtained information from providers. Providers, through the Association, made representation to the errors in the Council calculations. On the 24 November 2012, the Association wrote the Council pointing out the errors within the Councils calculations. Further on 12 December 2014 the Association (Keith Gray) drafted a full report which covered what we believed to be wrong with the Council calculations. Throughout 2015 & 2016 we attended various meetings to correct many of the errors. However, some errors remained. The Council are using the same template and methodology on this, 2021/22, fee review and therefore the same errors occur in this review. We are happy to provide these reports again if needed.	The respondent says the issues and concerns they have with this review are set out in their points below and on which the Council has commented.
	b) Limitations of Review - It is not possible to complete a full evaluation of the Council final costs as we have not had access to the Council model calculations. The effect of this has been to prevent us from being able to identify how the Council has calculated certain elements of the provided costs. We need to understand how the Council arrived at the current position and what, if any, assumptions have been made to arrive at such a position. Overall, the costs for staffing look low, the costs for "Return on Capital" look extremely low (discussed later) and some costs have been omitted.	We believe the Council has provided information necessary for providers to make an informed view as set out in the consultation document and its appendices.
	c) Actual Costs - The Council refer to using actual costs; however, a large part of the final assumed costs is based on assumptions or costs which do not relate to Stockton. The	Actual cost collected do relate to Stockton having been supplied by Stockton care home providers. For the purposes of the return on capital, capital values have been used both from

	Council should also confirm if any costs have been removed. During the Association discussions in 2015-16 it was identified that the Council had removed certain costs they believed to be excessive. Furthermore, two main costs areas appear to be omitted from the model: 1. Rent paid to external landlords. 2. Interest on debt. Would the Council please explain why these have not been included as some providers will have rent commitments and most, if not all, will have debt to service.	Stockton and more wildly across the Tees Valley. Separate capital values are clearly shown for each LA area. In respect of exclusions, 2 submissions were based on projections rather than actual costs, and a further 2 on the basis that the providers charged top ups and their costs were outliers and not reflective of publicly funded care. In respect of Appendix 1 in the consultation cost excluded were those relating to nursing. The review focussed on the Council's funding regime for residential accommodation and therefore excluded nursing which is funded by the CCG via nursing rates. Also, please see response in 10 & 11 j). Interest on debt has been included in the costs.
	d) Inflation - Due to the limitation of the review, we find it difficult to understand how the Council moved from March 2020 to April 2021 and inflated costs. We would need to see the methodology to be able to ascertain of costs have been correctly inflated. We do not believe that viewing this methodology and costs would in anyway break confidentiality as we are simply looking at average costs and cannot identify individual homes. With regards to the actual inflation indices used, we believe these are no longer specific to care. For example, insurance for care homes has increased two-fold, but this is not being reflected in the index due to the inclusion of all business types. The assumptions used in Appendix 3 to inflate costs are fundamentally flawed in several ways: 1. The costs provided to the Council were for the year ended	The data in Appendix 1 of the consultation represents actual costs submitted by providers at an average occupancy rate of 79.8%. As this information was for various year end periods (the latest being 31st March 2020) inflationary impact was taken into account to bring actual costs up to an April 2020 price base. Actual costs were also updated to reflect those which were fixed and variable at 92% occupancy. As set out in Appendix 2 in the consultation a further years inflation have been added to April 2020 figures to bring actual costs up to April 2021. Average actual costs are provided in Appendix 1 to the consultation The Council has used the widely accepted Office of National Statistics published data for determining inflation as has been the practice for many years. The Council accepts the point regarding cost pressures on business insurance premiums specific to Care Homes. Therefore, reflecting comments this cost

	March 2020 and the new rates are supposed to be applied for the year beginning 1 April 2021. This spans 3 years so two years of inflation are required but only one year's inflation is in the calculations. 2.The methodology for staff cost inflation is the percentage increase in National Living Wage at 2.18%.This is problematic for several reasons: a. This year's increase is artificially low due to COVID-19 (last year's increase was 6.2%). Using 2.18% plus "inflation" in future years will likely understate the real cost of the NLW as Government reintroduces higher than inflation increases in future years. b. After all the rhetoric on the value of social care staff during the pandemic and how valuable their services are, it is counterintuitive to inflate wage costs at the level of the NLW. This just hard codes paying minimum wage into future years. How are providers ever going to be able to pay better wages, attract better staff and provide better care if Councils continue to base the cost of care on NLW. If there was ever a time to significantly increase rates to allow better wages, it is now. 3. Utility costs are "inflated" by an ONS figure of -8.70%. This is artificial due to COVID-19 and will not represent real long-term utility costs nor fixed price contracts providers are already tied into. This needs to be changed to a real rate of inflation. 4. Insurance costs are "inflated" by an ONS figure of -1.64% which is ridiculous given what everyone knows is happening to care provider insurance premiums due to COVID-19. This needs to be	category has been inflated by 100% based on an average of providers responses and the fee calculations amended accordingly. The Council has sympathy with this suggestion regarding the National Living wage and would like to see the status and pay of care work improved. We hope that the pay rates and status of care work will be one of the issues addressed by the planned national review of adult social care funding, However the Council is not currently in a financial position to offer a higher level of increase. The national living wage has been applied for April 2021 and as things stand, this will of course be reviewed for future years based on Government announcements.

	changed to a real increase of at least 30% and probably more. 5. Food has been “inflated” by an ONS figure of -0.48%. This may reflect High Street supermarket prices, but it certainly does not reflect the food costs in a care home with all the special dietary requirements of residents. This needs to be amended accordingly. 6. Using ONS rates of inflation rather than care specific inflation rates in generally suspect and needs to be challenged but the main areas of concern that need addressing are above.	
	e) Covid-19 Costs - The Council have acknowledged (para 30) “none of these costs include those relating to Covid-19”. It is essential that the Council recognise that some of the increased costs of post-Covid will remain and identification of such costs should be made now and included within any costing. We would be happy to discuss further which costs we believe will remain either for a pro-longed time or permanently.	The Council has continued to support the care home market throughout the pandemic with additional funding for: Supplier relief; Infection Control Fund – Rounds 1 & 2 and discretionary payments; Rapid Testing Fund; Workforce Capacity Grant totalling circa. £6,119m. The Council is providing further support for additional Covid related costs that have been incurred over and above the funding already received for that purpose on a case by case basis.
	f) Categories of Care - Different categories of care have different staffing needs and therefore and therefore need to be kept separate in a calculation of costs. It is not only nursing hours that account for the difference in cost of nursing placements as other items such as carer hours are also affected. The Council should be identifying the cost of each type of care.	The Council has taken account of different staffing categories delivering different categoric of needs. The review focuses on the Council’s funding regime for residential accommodation and therefore excluded only staff nursing costs which is funded by the CCG via nursing fee rates.
	g) Occupancy - The current occupancy rate is below the rate used in the model. The Council had to delay its plans for “Market Shaping” and therefore the market needs to be sustained until we arrive at a point where the Council have undertaking such an exercise. Therefore,	The Council view continues to be to use its market shaping to move to 94% occupancy figure and this should be approached gradually, with 92% being set as the rate at which a home is currently considered to be operating efficiently. As part of the Council’s market shaping responsibilities, the rate should

	rates should be based on current occupancy. As we are unable to see how the calculations for April 2020 uplifts or the occupancy adjustment, then we simply are unable to make any further comment until this has been viewed. We would request the Council send its methodology on how it adjusted for occupancy and indices for April 20.	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. Due to the impact of the Covid-19 pandemic and the lack of current CQC and PAMMs assessments, the use of the bed demand thresholds are now planned for year 3 of the Framework, together with the introduction of ranked dynamic lists, under which suspensions will be enacted. Given the current position, the Council recognises the difficulties faced by providers and achieving 92% occupancy and will therefore introduce a temporary occupancy support scheme. This will provide financial support to providers where occupancy levels have fallen significantly, over and above that provided through the fee rate. The April 2020 uplifts and methodology for occupancy are explained in 10 & 11 d) above.
	h) Staffing costs - Again, due to insufficient information on the calculations, we are unable to analyse the staffing costs in any detail. Some of the categories appear close to what we would expect but there are several issues as follows: 1. The cost for care assistants appears far too low, certainly compared to our own experience. 2.We cannot see where the cost of nurses is included in the calculations (see other comments on CHC). 3.We would like to understand how the Council arrives at the figures of 20 hours per week for standard care and 24 hours for complex. Both seem too low and the differential of 4 hours for	Figures for staffing costs are as supplied by providers and included in Appendix 1 of the consultation. In respect of Appendix 1 in the consultation cost excluded were those relating to nursing (ie actual costs rather than FNC). The review focuses on the Council's funding regime for residential accommodation and therefore excluded nursing which is funded by the CCG via nursing rates. The staffing hours were determined from the information included on providers returned templates. Details of proprietors hours and costs were requested in the guidance and finance template. These were included in Other Staff costs.

	complex care appears far too low. Applying these hours to our residents would, in our opinion, result in unsafe staffing levels. However, staffing costs do look low, in particular care staff, and we would ask the following questions: 1) Did the Council include costs for nursing residential or nursing dementia residents? If so, to arrive at the residential element, were FNC or actual nursing costs removed? 2) How were proprietor hours allocated? 3) Did the council include agency hours/costs? 4) As identified in the Mazaars/DHSC reports, how was the nurse social care element allocated? 5) What allowance was made for the absence of senior carers in a nursing home? (i.e., the removal of a nurse would then incur cost for a senior carer) 6) Did indirect staffing costs include pensions?	Agency staff costs are included in the staff category relating to the role they were undertaking. Pension costs are included in the staff category heading the costs relate to. Health funded nursing costs were excluded from the review and all social care costs of supporting a person who is eligible for health care funding have been included
	i) Operating Costs - From operating costs, are the Council able to confirm: 1) No costs were removed for being classed as “excessive”? 2) Can the Council provide the methodology on how it arrived from raw data to April 2020 costs? 3) How have the Council considered large repairs to buildings that are not likely to be depreciated and simply maintain the value of the building? Do the Council expect that this is paid for our of the profit margin?	In respect of 1) please see 10 & 11 c) above In respect of 2) please see 9 g) above As per discussion at the last review it was agreed with the representative of the Assoc that deprecation be used as the basis of capital maintenance costs. Updated information from providers has been included in the actual costs. Therefore, these costs will not be met from profits.
	j) Rate of Return on Capital It is extremely disappointing that the Council continue to use a flawed approach to calculating capital. The position we put to the Council in 2015 has changed	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, rent. The rationale behind using a 100% mortgage was in

	little. Although we have not had sight of the actual list of care home sales, we presume this, like the last review, will be a mixture of distressed or closed care homes. Using this method continues to drive down the fee and simply does not cover the costs of capital. We do not believe the Council looked at any other methods to assess capital values. Further, 100% mortgages are a thing of the past and many homes now lease the property which is far more than a mortgage cost. We would ask the Council to provide further information on the following: 1) Could the council provide the list of care homes sales it used to arrive at the capital value of £27,900? 2) Did the council undertake any work to evaluate the sufficiency of the capital value used? 3) How did the Council consider those homes which have property rentals? 4) Do the Council believe a 100% mortgage is achievable? 5) Have the Council looked at bank covenants and how this impacts the Return on Capital? 6) Would the Council consider adding private care home sales values (i.e. those not published) if provided with evidence? Generally, we would ask the Council to seriously consider increasing this allowance to a true market value as it is currently does not reflect the capital cost of acquiring beds in the current market and a failure to include a market rate will result in providers being unable to repay capital to their lenders. Furthermore, it is not clear where the Council have allowed for interest payments on debt in the model. If it is intended to be covered by the Return on Capital	order to pay providers, in a consistent and reasonable way, for the 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. The capital value for one home in Redcar & Cleveland has been corrected resulting in a revised capital value of £27,000 and the fee calculations amended accordingly. As requested the Council has shared the care homes used to arrive at the capital value. For the purposes of the return on capital, capital values have been used both from Stockton and more wildly across the Tees Valley. Separate values are clearly shown for each LA area. The sales reflect care homes sold and for sale on the open market since January 2018 on a freehold or long-term lease basis and reliant on public funded fee levels. These costs reflect the market value for an operator in the area. 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. In terms of other methods to assess capital values no new build /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 The rate of return on capital includes repayment of principal, loan interest and taxation. The interest rate used is 3.84% and is based on the average from the data supplied by providers. Full details of the calculation were set out in para's 45 to 47 of the consultation document.

	allowance, then this is even more inadequate than described above. Providers must pay both interest and make capital repayments to lenders and the current level of the Return on Capital allowance will result in providers being unable to service debt unless it is increased significantly.	
	k) Profit Margin - The Council have proposed a profit margin of 6% on operational costs but provide no rationale for this figure. To put this into perspective, a 40 bed home at 92% occupancy would give a partnership (two people) an income/dividend of £12.76 per hour (on a 37 hour week after corporation tax). This is after investing up to £1.1m (based on Council capital values) on the care home. It is not realistic to expect this sort of return. Currently, this 6% profit margin is applied to costs that do not appear to include interest or rent so it is especially low. Furthermore, after paying corporation tax, this margin is effectively reduced to possibly 4.5% but is expected to: 1. Possibly pay for rent to interest that appears omitted from the model. 2. Fund capital expenditure which is not insignificant in the sector to maintain environment standards. 3. Provide an adequate return for owners/shareholders. Without a clear rationale, it is hard to comment but this proposed profit margin must be too low to be sustainable. Finally, the Council states that Care Homes are low risk and considering the Council report was written only a few weeks ago, this seems a perverse position to take.	It is incorrect to state that the profit margin will be reduced by rent, interest and capital expenditure as already stated in responses above. These costs have already been provided for before determining profit. The rate of return on capital is paid in addition to profit and covers principal repayment, interest and corporation tax. It enables the provider to recover the capital cost of the asset within 20 years whilst thereafter retaining an asset with a useful residual life, which can continue to generate returns for the provider. The level of profit is deemed reasonable given the role of the Council as a regular and significant purchaser of care home places and consistent with findings of the 2017 CMA report. Please also see response under 10 & 11 g) which includes the introduction of a temporary occupancy support scheme for providers.
	l) Continuing Health Care We see little correspondence with regards CHC residents and costs. Can the Council confirm that the	CCG are aware of the fee review and consultation and will continue to work collaboratively with the care home provider market as they have previously.

	CCG will be in contact regarding these fees?	
	m) Mental Health - To use old data and allocate an inflation is simply not acceptable for providers of mental health services. This should be properly analysed and the correct fee put in place. We cannot see how the Council can decide if this is sustainable or not. We would welcome an individual discussion with MH providers to discuss how this exercise is undertaken.	Please see response to 3 b) above
	n) Dementia and Complex Care We note that the Council will no longer be providing a fee rate for residents with dementia and payment for complex care will be introduced. From the Council data supplied, the current split is 63% residential and 37% dementia. Similarly, the split used in the Council model calculations is 65% residential and 35% complex care. Presuming that all current residential placements will be placed under the standard fee, then by using a transition fee for dementia clients there is a drop in income and providers are no longer able to cover their costs. As per the Council report, the overall costs of the care home sector have been split 35% @ £642.43 for complex care and 65% @ £588.24 standard care. Any reduction in either the percentage or fee rate for complex clients will leave a shortfall for the sector to recover the current overall costs. We would suggest there should be no transition fee and propose all current dementia clients are paid the full complex care rate. On page 2 of Appendix 4 we note that the Council have undertaken an exercise which has tracked each placement type and allowed the Council to see if a Service User would be placed in standard	Its not practical to review all existing clients using the dependency aid prior to 1st April 2021. Therefore, an interim will be applied. (This fee level is higher than any current residential / residential dementia rates). The Council has considered the position and so providers do not lose out following a resident's review the standard or complex rates will be backdated to 1st April 2021. All new clients admitted to care homes after 1st April 2021 will be assessed using the dependency aid. As identified in the report, the overall impact of the revised standard / complex is only moderately different to the one which exists between residential and dementia residential. The standard / complex definition removed any formal requirement for dementia diagnosis and reflects the presenting needs of residents, that providers felt was essential when we undertook the consultation in 2018/19. The sample of residents we used to undertake a review of the impact is confidential as it includes personal data which is why it has not been shared.

	or complex care. It is vitally important that this information is shared before providers can make any decision on contract/fees. At present, we believe the expected levels required before a Service User would be eligible for the complex care fee rate are in excess of the current dementia rate. This would lead to the sector in Stockton being underfunded and unsustainable as the current rates are based on complex care at 35%. We believe many homes will face financial difficulties as they have residents who have needs greater than “standard” but will not obtain the complex fee rate.	
	o) Proposed Fee Overview The proposed fee levels are way below nearly all other council care home fees in the North East and therefore will continue to drive the capital values down. This creates a perpetual cycle as a key element of the fee setting is capital values. We do suggest that the Council fully review again how it has collated and calculated the cost including a new method for reviewing capital values.	Responses to these points are covered in preceding points.