

TRAFFORD COUNCIL

Report to: Executive
Date: 27th January 2020
Report for: Decision
Report of: Executive Member for Adult Social Care

Report Title

Fair Price for Care for Older Peoples' Residential and Nursing Homes 2020-21

Summary

Every year the Council sets a Fair Price for Care which determines the bed rate for the following financial year. To date this bed rate has been based upon an inflationary uplift to the current bed price. Following further work on the variability in bed prices across Trafford, a different approach is being proposed this year in order to support the sufficiency and sustainability of the market and the further embedding of the Residential Ethical Care Charter.

The approach being proposed is based upon the following elements:

1. Embedding the strengthening of the Living Well at Home approach, which will enable more people to continue live independently in their home
2. Strengthening the discharge to assess model ensuring that more people have the opportunity to recuperate in a homely environment, before determining their longer term care needs
3. Entering the care market through directly commissioned services
4. Developing a block purchasing approach to stabilising the market and ensuring availability of Trafford beds for Trafford residents
5. Offering an inflationary uplift to existing beds
6. Setting a new bed rate for all new beds spot purchased in the new financial year
7. Continually reviewing all elements of this approach, including the impact on the Ethical Care Charter, to ensure affordability and sustainability
8. Developing a joint approach with Trafford Clinical Commissioning Group (CCG)

This approach will be consulted upon with the residential and nursing care home providers following Executive approval and is therefore, even if approved, a provisional approach subject to consultation and further consideration.

Recommendation(s)

That the Executive approves the following for consultation, and further consideration in the light of consultation:

1. an inflationary uplift for purchased Residential and Nursing Home beds of 3.83% for 2020/21.
2. new bed rates for new spot placements from the 1st April 2020.
 - £560 for a spot purchased residential bed
 - £626 for a spot purchased nursing bed

Contact person for access to background papers and further information:

Name: Karen Ahmed
 Extension: 1890

Background Papers: None

<p>Relationship to Policy Framework/Corporate Priorities</p>	<p>Low Council Tax and Value for Money Economic Growth and Development: The residential and nursing residential and nursing care home uplift will contribute to improved workforce pay, conditions and retention, to stabilise the market, supporting growth for local providers and improved skills for local people Services focused on the most vulnerable people: This is a targeted service provided to the most vulnerable people, following a social care assessment. Trafford Together Locality Plan : We are working towards an integrated plan to align budgets for residential and nursing care to stabilise costs.</p>
<p>Relationship to GM Policy or Strategy Framework</p>	<p>The GM Living Well at Home Delivery Group is a joint programme which brings together a number of social care and health led work streams related to activities around home care and residential and nursing care homes into one coherent and co-ordinated programme. The Delivery Group is chaired by Diane Eaton and Mark Fitton (the DASS from Stockport).</p> <p>This new approach enables the development of clear care pathways designed to support people to live as independently in their own homes for as long as possible. The impact of this will be to prevent the disruption to people’s lives and relationships by reducing the need for a move to residential care for all but the most vulnerable and complex residents.</p> <p>Across GM, there are over 560 residential and nursing homes with over 19,000 beds. These homes make a significant contribution to the functioning of the health and care economy but there is significant variation in the level of quality, responsiveness, and adaptability.</p> <p>Across GM, there will be new quality ambitions, based on CQC ratings, set for the following financial year, based on the significant improvements already achieved across Trafford and Greater Manchester. Pilots, such as those aimed at improving the resilience and retention of managers, to support the improvement of the Well Led domain in CQC ratings, will be rolled out more widely.</p> <p>Commissioning Strategy and Market Position Principles: Our vision for the market and our commitment to coproduction is articulated in “Trafford Together,” our locality plan. This is a jointly agreed document which sets out the system wide changes we need to make to achieve our ambition over the next 5 years. This plan will be consulted upon during the year of engagement. The plan states that “In Trafford under the banner of the ‘Living Well at Home Programme’ we will integrate service provision to ensure better outcomes for Trafford residents and the ‘system’ in which we operate. We will adopt the principles of the locality plan by delivering person centred care that preserves independence by supporting more people to</p>

	<p>remain at home. We will continue to reduce admissions to residential and nursing care.¹</p> <p>Housing Strategy and Ageing Well: We are working very closely with our colleagues in housing strategy and in public health to look at a number of different options to support people living in the community with a wide range of needs so that people only enter residential care when they need that level of care and support, rather than because their living accommodation does not meet their needs or they are lonely. These approaches are articulated in our Ageing Well and new Older Peoples Strategies.</p>
Financial	<p>The proposed uplift of 3.83% takes into account increases in staff and running costs. It is recognised that an inflationary uplift of this level will support providers to meet the requirements of the National Living Wage and the additional pressures of inflation.</p> <p>The proposed new bed rates for spot placements are £560 for residential and £626 for nursing.</p> <p>The impact of the above will result in an estimated additional budgeted investment into the Residential & Nursing market of £0.700m for 2020/21 with a full year effect in 2021/22 being £1.150m. This would be met from within the overall allocation for inflation and demography in the Medium Term Financial Plan (MTFP) that has been allocated to the Adult Social Care budget for 2020/21.</p> <p>The Council proposes to apply the host local authority uplift for out of borough placements.</p>
Legal Implications:	The legislative requirements are detailed in the report.
Equality/Diversity Implications	<p>Decision-makers are under a legal duty to have due regard to the need to eliminate discrimination against care home residents (as well as providers/staff), promote equality of opportunity between such persons and others and foster good relations between such persons and others. Therefore, it is important to take care that all the new rates are adequate to promote a diverse and high quality care home market, in particular because of the risk that otherwise there could be an adverse impact on the welfare of vulnerable residents and/or staff and their ability to enjoy a quality of life comparable with those less vulnerable.</p> <p>Vulnerable residents include in particular the elderly, women and disabled persons. Staff are largely female.</p> <p>Decision-makers need to be satisfied that both the lower and higher rates are adequate for the welfare of residents and staff.</p> <p>A fuller report on equality/diversity implications will be submitted together with the results of consultation.</p>
Sustainability Implications	Not applicable.
Resource Implications e.g. Staffing / ICT / Assets	Not applicable.
Risk Management Implications	The key risks for Trafford are around maintaining a sustainable care market within a nationally very fragile social care market. In order to do this we must set an appropriate inflationary uplift which enables providers to meet all

¹ Trafford Together Locality Plan v.6.11.19, para 6.14, p.33

	reasonable costs incurred in providing services.
Health & Wellbeing Implications	Our residents are assessed as requiring residential or nursing care home provision when they are no longer able to live safely at home. It is essential to have a sufficient supply of residential and nursing care homes to meet our resident's health and well-being needs.
Health and Safety Implications	Not applicable

1.0 Background

- 1.1 Trafford has a vibrant social care market and the Council works with numerous different residential and nursing care homes in the borough. However, Trafford's social care market is not only experiencing the same challenges as the rest of the country, but also some challenges which are particular to Trafford. National challenges include the difficulty in recruiting and retaining nurses for nursing homes, resulting in homes exiting the market because of the financial implications of agency rates.
- 1.2 The challenges in the residential and nursing market in terms of staffing are related to both qualified and unqualified staff, and providers continue to struggle to retain a high calibre workforce, particularly at a managerial level. Trafford has particularly high levels of staff turnover across the social care sector as a whole – higher than the national average. This has led to poor Care Quality Commissioning (CQC) ratings in the domain of well-led and effective services for some providers due to constant changes in managers and a reliance on agency staff.
- 1.3 Trafford is unusual in that we have only two of the bigger national providers in the borough – and this applies to three homes in total. This means that the homes, including some of the medium sized businesses, do not always have the infrastructure they need to support continuous quality assurance and improvement. This results in the Council having to work intensively and continuously with the residential and nursing home sector as a whole, and some providers in particular, to provide a high quality of care, liaising closely with Trafford Clinical Commissioning Group (CCG) to ensure that the right blend of social care and health expertise is provided to organisations in a timely manner to support them to improve or maintain a good quality service. The work of the team has been recognised by Care Quality Commissioning (CQC) and by providers themselves.
- 1.3.1 Despite the problems that the social care market is experiencing, the residential and nursing care market has expanded in Trafford, and now, although there are sufficient beds, the market no longer reflects the needs of all of our residents. Trafford's JSNA highlights the wide disparity in Life Expectancy (LE), Healthy Living Expectancy (HLE) and Disability Free Life Expectancy (DFLE) across the borough. HLE and DFLE are important measures of morbidity, including co-morbidity, and impairments which may affect the ability to carry out everyday activities – it is this proportion of the population who are most likely to require health and social care support, and it is these residents, who are some of our most vulnerable and needy, who are not catered for by much of the market. Instead many of the new services are aimed at attracting self-funders from across Greater Manchester and Cheshire who are willing to pay a higher fee for "luxury" residential and low level nursing care. Many Trafford residents need more high level and complex nursing care – this results in the Council, and the CCG, having to source placements outside of Trafford, so that people with complex needs can receive the care they need.
- 1.4 The ability of the market to attract self-funders who are able to pay high levels of fees for some of their care, means that the new provision is priced at a cost substantially more than Trafford bed rates. The risk to the Council is that when self-funders are no longer able to afford their placement, even where they were not previously Trafford residents, it is the Council that has to take over funding responsibility. This is also the case when Trafford residents choose a more expensive placement as a lifestyle choice, agree to pay the difference and then are no longer able to pay for the difference in cost.
- 1.5 The Council has engaged annually with the market to agree a "Fair Price for Care". The previous approach relied heavily on providers disclosing their make-up of their budgets in order to ascertain the costs pressures that the market was experiencing. However, year on year the number of respondents dropped considerably, rendering this approach unhelpful. So from 2018/2019 onwards, we used a different methodology to determine an inflationary uplift to set a new bed rate. Based on previous years' submissions and CIPFA guidance, we estimated the impact of the National Living Wage on the staffing element of the budget, and the impact of the Retail Price Index on the remainder of the

budget. This calculation was then used to inform the proposed inflationary uplift. The new bed rate was then used as a benchmark in making placements, but some providers in the market chose to set their own bed rates which were always in excess of the Council bed rate

- 1.6 Last year, providers requested that we apply a more detailed methodology in order to set a new bed rate. In line with this, we developed a new approach, as we recognised, through dialogue with providers and an analysis of budgets shared with us by providers during the year, that a more complex approach relevant to Trafford which reflected land and capital costs would enable us to reach a more accurate bed price. In order to determine an appropriate bed rate, we requested information from providers to ensure a more flexible approach. Whilst the response was low, the information garnered, when triangulated with an analysis of the cost of current bed rates, and an analysis of bed prices for both exitors and new entrants to placements, was sufficient to enable us to develop a different approach for this year for a Fair Price for Care.
- 1.7 We are therefore proposing, subject to consultation, a two pronged approach to bed rates for this year which we believe will stabilise the market, support quality improvements and embed the Ethical Care Charter. These are:
 - 1.7.1 An inflationary uplift for existing beds of 3.83%
 - 1.7.2 A new bed rate of £560 for spot purchased residential beds and £626 for spot purchased nursing beds. Nursing beds will still attract the FNC payment which is funded by the CCG.

2.0 Legal Context

- 2.1 The Care Act 2014, from 1st April 2015, replaced the piecemeal legislation across the previous sixty years. The Care Act 2014 gives effect to, amongst other things, the following provisions:
 - 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.
 - Requires the Council to ensure the provision or arrangement of services, facilities or resources to help prevent, delay or reduce the development of needs for care and support or less restrictive options to meet needs.
 - Requires that the Council must promote the efficient and effective operation of the local market in services for meeting care and support needs with a view to ensuring that people have a variety of providers to choose from, who between them provide a variety of services; have a variety of high quality services to choose from; and are given sufficient information to make an informed decision about how to meet the needs in question..
 - The Act places new duties on local authorities to facilitate and shape their market for adult care and support as a whole, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways.
 - Specifies the requirements of a personal budget prepared for each adult needing care or support itemising the cost of meeting assessed need and individual financial assessment in terms of actual payment.
 - Entitles an adult to express a preference for particular accommodation.
- 2.2 In addition to these provisions, the Council has a responsibility for market shaping as prescribed by the Act. Supplementing the Care Act 2014, there is further legislative provision and statutory guidance which has been issued by the Department of Health. The effect of the Act, regulations and guidance, is to require the Council to facilitate and shape their market for adult care and support as a whole.
- 2.3 The Care and Support Statutory Guidance issued under the Care Act 2014 states that local authorities must focus on outcomes when pursuing market shaping and commissioning. The relevant chapter of the guidance is set out in full at Appendix A of this report. In summary the principles which should underpin market-shaping and commissioning activity are:
 - focusing on outcomes and wellbeing
 - promoting quality services, including through workforce development and remuneration and ensuring appropriately resourced care and support
 - supporting sustainability
 - ensuring choice

- co-production with partners

The steps which local authorities should take to develop and implement local approaches to market-shaping and commissioning are:

- designing strategies that meet local needs
- engaging with providers and local communities
- understanding the market
- facilitating the development of the market
- integrating their approach with local partners
- securing supply in the market and assuring its quality through contracting

2.4 The above replaces the previous legal framework under the National Assistance Act 1948. Whilst under the National Assistance Act 1948 the Council was under a requirement to settle the usual cost with care providers, the Care Act 2014 and guidance does not require this. However, the Council is under very similar obligations under the Care Act to the National Assistance Act 1948 as it is required to consider the cost of care and engage with the providers. Thus it remains lawful and is a useful tool in market shaping and complying with choice regulations.

The Care and Support Statutory Guidance also requires the Council to have regard to a number of matters including, in particular the Adult Social Care Outcomes Framework, Commissioning for Better Outcomes, the LAP partnership agreement/guidance on co-production, the Building Capacity and Partnership in Care Agreement, the Council's own JSNA (Joint Strategic Needs Assessment) and Market Position Statement, the LGA's Adult Social Care Efficiency Programme and HM Treasury's guidance Managing Public Money, the NAO guidance, the Public Services (Social Value) Act 2012, the Developing Care Markets for Quality and Choice website and Supporting Local Authority and SME Care Provider Innovation and Collaboration. The officers who have drafted this Report have taken these matters into account.

Specifically, at paragraph 4.31, Chapter 4 of the Care and Support Statutory Guidance the Council's attention is brought to the UKHCA Minimum Price for Homecare, the Laing and Buisson toolkit to understand the fair price for residential care and the ADASS paying for care calculator (which is no longer available). So far as it remains available, officers have considered these and other toolkits, together with key non-statutory guidance, Working with care providers to understand costs. The latter states that, for commissioning sustainable care to be a practical reality, council officers and elected members need to be confident that each social care commissioning decision results in:

- effective, quality services delivered to people with care and support needs
- a fair deal for care providers
- good value for public money.

and is informed by considerations of:

- long-term sufficiency of supply
- affordability and efficiency

In order to achieve this, the IPC Cost of Residential care Toolkit – “Lets agree to agree”: A toolkit for commissioners and providers to agree the cost of residential and nursing care for older people, August 2018 was chosen as this toolkit reflects the contemporaneous pressures on the national market, and the Trafford market in particular.

3.0 Our Commissioning Approach

3.1 The Fair Price for Care for 2020/21 is set within a different commissioning approach to the residential and nursing care market. This approach signals our intention to the market to work collaboratively with Greater Manchester commissioners and local providers to develop a sustainable approach to managing the market and working towards a local bed price which is both equitable and sustainable. Key elements which have been taken into consideration, alongside affordability, include existing bed prices, the pricing differential between the lower and the higher prices demanded by some providers, the aetiology of those prices and the ability of the Council to influence and shape the market in a health and social care system which is dominated by self-funders willing to pay higher bed rates.

3.2 Because of the complexity of the factors influencing the market and bed prices, a number of interlinked approaches are proposed as our strategy for 2020/21 and beyond. These include continuing to reduce our call on the residential and nursing sector provision as we strengthen our reablement approach. In addition we have continuously reviewed our discharge to assess beds –

these beds offer people a chance to recuperate in a more homely setting before their longer term needs are identified. The impact of both of these new ways of working has continued to reduce the need for residential and nursing placements and we have seen our figures of new placements drop from year to year. However our spend continues to rise due to the high bed prices in Trafford.

- 3.3 Trafford Council have also developed a number of approaches to maintain market stability and sufficiency. We have committed to entering the care market through purchasing residential and nursing care homes on an incremental basis and directly commissioning the care. This approach will ensure stability and sufficiency of beds in Trafford for Trafford residents. The Council is currently finalising arrangements to purchase a nursing and residential home in the borough.
- 3.4 Alongside this, the Council will block purchase provision where we are approached by providers at financial risk either through individual circumstances or where a new business is being started. Initially these discussions and opportunities will focus on those homes that offer placements for people with nursing and more complex needs in order to meet the needs of our local residents. Block contracts with our local providers will provide security for providers by offering a fixed rate for beds, generally at a lower rate than our proposed new bed rates, and will also cover voids to ensure financial stability. We will review our position and extend these arrangements through an open tender later in the year.
- 3.5 Our analysis of the business models utilised by providers gained through one to one discussions throughout the year and formal responses from providers has highlighted the reasons for the significant variation in bed prices which we have in Trafford. The range of prices from less than £500 to over £900 for placements which essentially meet similar levels of individual need, are primarily driven by the business models of newer providers who now seek to offset the costs of the buildings and land through higher rates. Well-established providers are able to charge less, but still recoup a reasonable profit margin. The FPFC approach is an attempt to bring a fair and equitable approach to the market, and ensure that the providers who currently charge a lower rate for new placements are not disadvantaged or financially destabilised.
- 3.6 Our analysis also shows that providers remain financially stable through maintaining existing bed rates with an inflationary uplift for the life of that resident whilst increasing the bed price for new placements. Our FPFC reflects this approach.
- 3.7 Existing bed rates will receive an inflationary uplift which takes into account increases to the National Living Wage and the RPI.
- 3.8 The bed rate for new placements will be significantly uplifted to reflect the costs of Trafford homes, in particular costs associated with land and capital. It is not anticipated that this increase will fully cover the costs incurred by the newer providers, but instead represents a reasonable contribution, in the professional opinion of officers.
- 3.9 This two-pronged approach should enable stabilisation of the market, and continued increased funding to support the embedding of the Ethical Care Charter, in particular moving closer to the Real Living Wage, and is considered to be a fair payment for the cost of care taking into account (i) the financial information provided by care home providers, at the council's request, specifically for the purpose of assessing fair standard rates for 2020/21; (ii) financial information provided in previous years; (iii) financial and other information provided by care home providers in 2019 in one-to-one discussions with the council; (iv) the council's historical payments and regional payments, and the extent to which providers have accepted them; (v) the strength of the market locally; (vi) CQC ratings locally; (vii) inflationary pressures, in particular the estimated impact of the National Living Wage and the RPI; (viii) the facility for block-booking in the cases of fragile businesses; (ix) the differences between more established and newer providers, in particular in terms of their financial models; (x) the need for best value; (xi) the desirability of prudence at a time of financial austerity alongside the need and duty to promote a diverse, high-quality market; (xii) central government and local policies, referred to in the body of this Report; (xiii) the professional opinion of council officers..

4.0 Market Factors

- 4.1 The residential and nursing care home market in Trafford has been awarded a cumulative uplift of 14.84% over the previous five years (0% in 2015/16, 3.8% in 2016/7, 3.2% in 2017/18, 3.88% in 2018/19 and 3.96% in 2019/20).
- 4.2 Discussions have taken place across Greater Manchester to determine the likely inflationary uplift to

be offered to providers and where available, these have been taken into account. Officers have also taken into account standard care home rates paid regionally, up to the present time.

5.0 **Recommendations for consultation and Rationale**

5.1 **Existing Residential and Nursing Beds**

An offer of 3.83% takes into account pressures due to the National Living Wage uplift and the Retail Price Index (RPI).

5.2 The revised rates are as follows:

Category	2019/2020 £	Increase (3.83%) £	2020/2021 £
Residential	465.88	17.84	483.72
Residential Dementia	502.37	19.24	521.61
Nursing	515.85	19.76	535.61
Nursing Dementia	579.88	22.21	602.09

5.3 **New Spot Purchases**

5.4 An offer of £560 for Residential and £626 for nursing taking into account the current market within Trafford.

5.5 The estimated impact on the budget of the above revised rates is £0.700m. This would be met from within the overall allocation for inflation and demography in the Medium Term Financial Plan (MTFP) that has been allocated to the Adult Social Care budget for 2020/21.

6.0 **Options**

Whatever option is adopted will be the council's preferred option and not its final decision. A final decision will be taken in the light of a careful consideration of responses to consultation and a detailed consideration of equalities implications, in the light of the consultation.

6.1 **Option 1** The Council and the Clinical Commissioning Group do nothing. This is not the recommended option. The social care market has been recognised nationally as being extremely fragile and the Council has a statutory duty to maintain market stability and sufficiency under the Care Act 2014. Not providing an inflationary uplift at a time when providers must pay the National Living Wage would only destabilise the market further. In addition, people are living longer with very complex health care needs and Trafford requires a robust and skilled workforce to continue to provide high quality care to some of the most vulnerable people in our community.

6.2 **Option 2** The Council applies an inflationary uplift of 3.83% to all beds. Whilst this option is affordable, it means that the Trafford bed rate will have limited relevance to the Trafford market. Some beds can still be purchased at our bed rate, but these are less and less available as current placements end, and providers apply inflated rates to new placements. We would therefore be in the position of trying to source beds outside of Trafford because of price, rather than choice or need and asking residents to financially contribute the difference in price, which may be an unaffordable or excessive burden on our residents.

6.3 **Option 3** The Council adopt a two-pronged approach to a price increase for 2020/21, an inflationary uplift of 3.83% and reflecting the operating model of providers in Trafford where existing bed rates, which are lower than the new bed rates, are maintained until the resident leaves the home, and a new increased bed rate is then implemented.

This operating model together with circumstances where providers have incurred capital or land costs and then transfer the entire financial risk to the Council are the key reasons for the increase in bed price.

This approach offers an affordable way of managing the increase in bed prices demanded by Trafford residential and nursing care homes for new beds and maintains financial stability. It offers a reasonable contribution to the land and capital costs incurred by providers. It will enable providers to continue to, meet the National Living Wage, work towards the Manchester Real Living Wage and meet the requirements of the Ethical Care Charter, positively impacting on recruitment and retention rates. In addition it will enable Trafford residents to continue to choose beds in Trafford which meet their needs, and indeed have a wider choice, and families will be asked to contribute amounts which are more affordable should they choose homes above the bed price. It is important to emphasise that the lower rates for existing placements are considered to represent a fair price, that also covers care providers' costs in such cases, taking into account all those matters set out above, at para 3.9.

This option is recommended as the Council's preferred option for consultation. As decision-makers will be aware, it will be necessary to carefully consider the responses to the consultation, and a fuller report on the equalities implications, before reaching a final decision on which option to pursue as part of the budget, and as to the detailed content of that option.

6.4 Officers recommend adopting Option 3. We are therefore proposing that for 2020/21, we develop an approach to market sustainability and sufficiency in Trafford which is based on a number of components:-

- enabling those people who require support to remain at home for as long as possible, strengthening our approach to reablement and discharge to assess to enable people to convalescence fully, regaining and improving their skills and confidence.
- providing residential and nursing care in Trafford for Trafford residents through entering the care market.

Alongside this we will adopt an approach through the FPFC offer and block contract arrangements to residential and nursing care which will stabilize the market within an affordable price range, and in particular seek to secure arrangements with providers that meet the needs of Trafford residents.

7. Reasons for the Recommendation

7.1 In the opinion of officers, subject to consideration of consultation responses and further consideration of equalities issues, but having already engaged to a considerable extent with local providers, approval of Option 3 will enable providers to meet the requirements of both the National Living Wage, and additional inflationary pressures together with embedding the Ethical Care Charter, whilst still remaining within the approved budget. It will give Trafford a bed rate that is acceptable to providers and enables residents to have more choice. The FPFC approach together with all the other components, including block contract arrangements, will enable more choice locally for Trafford residents.

Key Decision (as defined in the Constitution):

If Key Decision, has 28-day notice been given?

Finance Officer Clearance HZ.....

Legal Officer Clearance DS.....

[CORPORATE] DIRECTOR'S SIGNATURE (electronic)



To confirm that the Financial and Legal Implications have been considered and the Executive Member has cleared the report.