

## TRAFFORD COUNCIL

**Report to:** Executive  
**Date:** 22<sup>nd</sup> February 2021  
**Report for:** Decision  
**Report of:** Executive Member for Adult Social Care

### Report Title

Fair Price for Care for Older Peoples' Residential and Nursing Homes 2021-2022 : consultation update

### Summary

Every year the Council sets a Fair Price for Care which determines the bed rate for the following financial year. On the 26<sup>th</sup> October 2020, Executive approved the following for consultation and further consideration in the light of the consultation :

1. An inflationary uplift for existing purchased Residential and Nursing Home beds based on increases announced for the NLW or 2%, whichever is the higher and the RPI as at October 2020 for 2021/22.
2. An increased price of £560 for spot purchased residential beds plus the inflationary uplift and £626 for spot purchased nursing beds plus the inflationary uplift.

Providers were consulted with from the 28<sup>th</sup>. October 2020 to 30<sup>th</sup> November 2020.

In addition a full EIA on the recommended proposals was undertaken.

### Recommendation(s)

**It is recommended that the Executive:**

- Considers the outcome of the consultation
- Considers the response to the consultation
- Considers the EIA
- Approves the following bed rates for 2021/2
  1. New bed rates from 1<sup>st</sup> April 2021.
    - **£571.76** for all residential beds
    - **£639.15** for all nursing beds
  2. An inflationary uplift of **2.1%** for all other existing beds, including block purchased beds; and
- Confirm that in approving the above, it has taken into consideration the Council's Public Sector Equality duty.

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><b>Successful and Thriving Places</b>          The 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  <b>Services focused on the most vulnerable people:</b> This is a targeted service provided to the most vulnerable people, following a social care assessment.  <b>Trafford Together Locality Plan:</b> We are working towards an integrated plan to align commissioning activity, 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 approach continues to enable 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, have continued with an emphasis on the well-being of staff during the pandemic.</p> <p><b>Commissioning Strategy and Market Position Principles:</b>          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 “[i]n 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 remain at home. We will continue to reduce admissions to residential and nursing care.<sup>1</sup>          In addition in this and previous reports we have articulated our intension to develop a range of different contractual and</p>

<sup>1</sup> Trafford Together Locality Plan v.6.11.19, para 6.14, p.33

	<p>commissioning models to stabilise the market and to develop new models of provision.</p> <p><b>Housing Strategy and Ageing Well:</b> 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 new bed rates are a minimum of £571.76 for residential and £639.15 for nursing.</p> <p>The proposed uplift on all other bed rates of 2.1% takes into account increases in staff and running costs. It is recognised that an inflationary uplift of this level will support providers to meet not only the additional pressures of inflation and requirements of the National Living Wage but also in moving towards the real living wage.</p> <p>The impact of the above will result in an estimated additional budgeted investment into the Residential &amp; Nursing market of £0.895m for 2021/22. 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 2021/22.</p> <p>The Council proposes to apply the host local authority uplift for out of borough placements.</p>
Legal Implications:	<p>Pursuant to s151 of the Local Government Act 1972, the council is required to make arrangements for the proper administration of its financial affairs.</p> <p>Further legislative requirements are detailed in the report.</p>
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>A fuller report on equality/diversity implications is attached at Appendix 1.</p>
Sustainability Implications	Not applicable.
Carbon Reduction	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 which has been significantly impacted upon by Covid and the attitudinal changes towards residential care. In

	order to do this we must set an appropriate inflationary uplift which enables providers to meet all 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 The Executive report of the 26<sup>th</sup> October 2020 fully outlined the background and legal context relevant to the residential and nursing care home market with particular reference to the impact of Covid, the loss of public confidence in the sector, the additional financial support offered to the sector and the Council's commissioning intentions for the future of the sector, including the strengthening of the homecare offer.
- 1.2 The residential and nursing care homes have continued to provide essential support crucial to supporting our residents on their journey to recovery under very difficult circumstances and under increasing pressure. Since the last report was written, the homes now must provide increased frequency of testing and although additional monies have been provided by the DHSC, this is accompanied by increased reporting requirements – all of which create additional burdens for the homes. Care homes – residents and staff, are in the top priority for access to vaccinations- which has been welcomed by the homes – and again created another organisational task for homes. Amidst this, homes have been incredibly creative in supporting family members and their residents to maintain contact within the ever changing flexibilities of the various restrictions imposed as a result of Covid.
- 1.3 One of the themes which has been referred to previously in Executive reports is the under-provision of nursing beds within Trafford. As a result of Covid, and the increased complexity of people being cared for in the community in order to take pressure from the hospitals, it is these nursing beds that are most in demand. As we make further changes to where people are cared for, in line with local and national policy, Trafford's over provision of residential beds and under provision of complex care and nursing beds will be a key area for re-shaping. The Council has previously stated its intention to develop a Dynamic Purchasing System which will include opportunities for innovation. This is intended to make the best use of the expertise of care homes in situations where there are high levels of vacancies or indeed a desire to deliver innovative solutions. It is likely that the DPS will be delayed because the constant demands on care homes as a result of Covid will create a lack of capacity in many of our smaller and medium sized businesses to respond to a tender process.
- 1.4 Last year, the Council rebased the bed rates within Trafford, taking into account the wide variance in fees created by the different business models of provider. Then a two-pronged approach was proposed to enable the stabilisation of the market, and the embedding of the Ethical Care Charter, in particular moving closer to the Real Living Wage. This year that approach has been maintained but with one difference.
- 1.5 The financial analysis the Council undertook last year created an understanding of the business models operated by providers – in particular that care homes maintained existing rates for people currently resident in their care homes and requested higher rates for vacancies as they arose. In recognition of this, the Council created a new rebased higher bed rate for all new spots. This year, in recognition of the fact that there are still many beds which cost less than the spot rate, we will offer a new rebased minimum bed rate to all providers for existing spot contracts for current residents as well as new spot purchased beds. This new rate will not apply to block contracts because the Council bears the financial risks of vacancies. However, with spots, the care homes bear the financial risk of vacancies.
- 1.6 It is intended that the minimum spot bed rate in Trafford, together with the block contracts will support the stabilisation of the market and the move towards paying staff the real living wage, as the increase enables providers to pay £9 an hour as opposed to the national living wage. It will also support the move towards an approach where the Council, and the CCG, pay a similar bed price for similar levels of need, paying higher rates only when the care required is more complex. The DPS will support this direction of travel, as the Council will only purchase homes from the DPS, and will source options from the immediate surrounding area when the homes on the DPS are exhausted.

- 1.7 Following the report to Council in October 2020, where a number of options were proposed by officers, a consultation exercise took place in November 2020. In addition an Equalities Impact Assessment was undertaken.

## **2.0 Legislative Provisions**

- 2.1 S5 (1) Care Act 2014 places a duty on the Council to promote a diverse and high quality market of care and support services (including prevention services) for people in their local area. In particular, the Council must act with a view to ensuring that there is a sufficient overall pool of efficient providers and a range of different services and providers to ensure that people are able to choose between a range of providers when care is required in a residential setting.
- 2.2 S5 (2) lists certain factors the LA must consider when exercising its duty. These include: the importance of ensuring the sustainability of the market and supporting continuous improvement in the quality of services; making available information about the services available to people in its area; the current and future demand for services in its area, and how this demand can be met by providers; the importance of carers and service users being able to undertake work, education and training; and the importance of fostering a suitable workforce.
- 2.3 S 5 (3) requires the Council, when considering current and future local demand and how this might be met by providers, to consider the need for there to be sufficient services to meet the needs of people in their area. Local authorities should understand the business environment of the providers offering services in their area and seek to work with providers facing challenges and understand their risks.
- 2.4 S 5 (4) requires the Council to consider, when making decisions about commissioning services, the importance of promoting the well-being of people with care and support needs and carers. S5 (5) requires the council to have regard to the duty when either providing or arranging services to meet the care and support needs of adults with care needs and carers. The Care Act accompanying guidance, statutory guidance which the council must have regard to, states the Council should have evidence that the fee levels they pay for care and support services enable the delivery of agreed care packages and support a sustainable market. When commissioning services, local authorities should assure themselves and have evidence that contract terms, conditions and fee levels for care and support services are appropriate to provide the delivery of the agreed care packages with agreed quality of care. This should support and promote the wellbeing of people who receive care and support, and allow for the service provider ability to meet statutory obligations to pay at least the national minimum wage and provide effective training and development of staff. It should also allow retention of staff commensurate with delivering services to the agreed quality, and encourage innovation and improvement.

## **3. Public Sector Equality Duty and Equality Impact Assessment**

- 3.1 The Equality Act 2010 requires public authorities to have regard to the Public Sector Equality Duty in making any decision. The public sector equality duty requires public authorities to consider the needs of people who are disadvantaged or suffer inequality when making decisions regarding its service provision and policies.
- 3.2 People who have certain protected characteristics are protected under the Equality Act 2010. The nine protected characteristics are: disability, race, age, religion or belief, sex, sexual orientation, gender reassignment, pregnancy and maternity marriage and civil partnership.
- 3.3. The legislation requires that, when carrying out its functions, a public authority must have due regard to:
- The elimination of unlawful discrimination;
  - The advancement of equality of opportunity between people who have protected characteristics and those that do not; and
  - The fostering or encouragement of good relations between people who share a protected characteristic and those who do not.
- 3.4 Where appropriate, an EIA is completed in respect of the proposals to identify any potential impacts. Where potential impact are identified consideration can be given to whether measures can be taken to mitigate against such impacts. Mitigation measures can then be set out within the body of the relevant EIA or are reflected, where appropriate, in modifications to the proposals.

- 3.5 In considering the report and deciding whether approve the proposals contained in the report the Executive is required to have regard to the Public Sector Equality Duty. In order to satisfy this duty the Executive must consider whether the proposals are likely to discriminate against or disadvantage persons who have protected characteristics as set out above; whether there are mitigation measures which would offset any such impacts which are identified. Where appropriate and necessary Equality Impact Assessments of the proposals have been carried out and these are available to members to assist them in the evaluation of the proposals in the context of the Public Sector Equality Duty.
- 3.6 A detailed EIA has been completed in respect of the proposals contained in this report and is attached at Appendix 2 to the report. The EIA was made available to officers in their consideration of consultation feedback and development of the proposals contained in this report.

**Summary of EIA:**

- 3.6 The EIA does not identify any negative impact arising from the new proposals contained in this report. Instead, the EIA identifies a combination of positive and neutral impacts. The positive impacts relate to the proposals increasing the bed rates significantly above inflation, enabling providers to move closer to the Real Living Wage, and therefore being able to retain a more stable workforce, benefiting residents, and of course staff who are able to command a higher salary. In addition, a more stable market benefits both staff and residents as the risk of home closure from financial causes is reduced through both the new bed rate from spot purchases and the opportunity to develop block placements.
- 3.7 Other benefits will be increased choice for residents as more homes locally become more affordable, and a reduced financial burden for some families as their contribution to more expensive placements may reduce.
- 3.8 Women would be key beneficiaries of the identified positive impacts as they make up the majority of the workforce and the majority of residents.

**4.0 Consultation**

4.1 The following options were consulted upon from the 28<sup>th</sup> October to the 30<sup>th</sup> November 2020:

**Option 1** The Council and the Clinical Commissioning Group do nothing.  
 This was not the recommended option. The social care market has been recognized 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 are dealing with the challenges of Covid and potentially EU exit, and must pay the National Living Wage would only destabilize 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.

**Option 2** The Council applies an inflationary uplift of 2.1% 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.  
 This option was not recommended.

**Option 3** The Council adopt a two-pronged approach to a price increase for 2021/22,

A new increased minimum rate for all placements as set out below

Category	2020/2021 £	Increase £	2021/2022 £	Increase %
Residential	483.72	88.04	571.76	18.20
Residential Dementia	521.61	50.15	571.76	9.61
Nursing	535.61	103.54	639.15	19.33
Nursing Dementia	602.09	37.06	639.15	6.16

And an inflationary uplift of 2.1% for all other existing spot and block purchased bed above the new bed rate. This was the recommended option.

- 4.2 Two responses were received as part of the consultation exercise. One response welcomed the rebased bed rate for existing beds and identified that as their preferred option. The respondent identified a potential gap between their bed rates and the proposed rate that they would be unable to bridge through their own fee structuring and further highlighted rising costs as a result of recruitment, retention and agency costs and Covid. The home did recognise the support that the Council had offered throughout the pandemic and in light of the pressures that they faced, were keen to work collaboratively with the Council in looking to the future. The respondent has been contacted by the commissioning team.
- 4.3 The second response contained a number of key points together with a letter dated 2012. All of the points raised by this respondent were raised previously in last year's consultation, including those in the attached letter, and addressed by the Council in February 2020. The Council's position is clearly articulated in that report. These points were:
- The methodology employed to reach the Fair Price for Care bed rates. The respondent prefers the Laing and Buisson methodology.
  - The difference between the Fair Price for Care offered in Trafford and the real price of care, based on the Laing Buisson rates, which for 2021-2022 are between £696 and £849.
- 4.4 The responses from last year are appended at Appendix 1 for ease of reference.
- 4.5 In addition, this year the Council has brought in a minimum bed rate of £571.76 for residential beds and £639.15 for nursing beds. The Council's fee range for care is in fact much wider than that of Laing Buisson, and is paying fees in the region of up to £1,300 for beds - 53.12% higher than the bed rate suggested by that organisation.
- 4.6 Trafford Council is committed to keeping the bed rate under review, and to working towards creating a more equitable fees structure within Trafford through the introduction of the Dynamic Pricing System.

## **5. Fees, Charges and Top-Ups**

- 5.1 Increasing the minimum bed price for existing care home beds will affect the fees and charges payable by residents as some fees will increase by between 6.16% to 19.33% - depending on the pre-existing bed price.
- 5.2 This will primarily impact on self-funders whose care is through the Council. The main impact of this will be that the self-funders will exhaust their own funds sooner, and become the responsibility of the Council
- 5.3 In some circumstances, where the Council or the resident/family has been unable to identify a bed at the FPFC rate, that either meets the residents' needs (in the case of the Council) or is the preference of the resident/family, the Council or the resident/family will pay a top-up in order to meet the price that the care homes are charging.
- 5.4 Our analysis shows that in some homes, this will mean that both the resident/family and the Council should pay a lower top-up fee in order to maintain the agreed bed price bed. To avoid any confusion, the Council will contact all those homes affected to ensure that the top-up fees are adjusted accordingly.

## **6. Reasons for Recommendation**

- 6.1 Having taken into account
- The full EIA
  - The consultation responses,
- Officers are continuing to recommend Option 3. This will enable providers to meet the requirements of both the National Living Wage, and additional inflationary pressures together with further 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.

7. **Supporting Documents**

Appendix 1: Extract from FPFC report 2020-21.  
Appendix 2: Equalities Impact Assessment.

**Key Decision** (as defined in the Constitution): Yes  
**If Key Decision, has 28-day notice been given?** Yes

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.



**APPENDIX 1: Extract from Fair Price for Care: Residential and Nursing Homes 2020-21: Consultation Update.**

3.6 **Methodology**

In previous years, the Council has attempted to use the Laing and Buisson model utilising information from local providers. This proved unsuccessful due to the low response from care providers. The Council then used a combination of methods detailed in the reports to reach an offer which was consulted upon. Uplifts have always been tailored to the relevant financial circumstances of that year, and have taken into account the NLW and the MLW requirements year on year.

This year the Council used a different national tool based on a partnership approach between providers and commissioning which takes into consideration some of the key variables which are relevant to Trafford. Again, the response from providers was low, but the Council had access to significant financial information to be able to better understand the market and the business model, and that is how the current recommended rates within the proposal was reached.

3.7 **Fair Price for Care and Real Price of Care**

The Laing and Buisson rate of £623 to £726 has been quoted as the cost of an economically run care home. It is assumed that this rate is a national average rate. The respondent is therefore suggesting that the Council is setting a rate that does not meet the real cost of care.

An analysis of bed rates paid by the Council evidence that homes are in fact charging fees that are not only below this figure, but also below the Council bed rate. It is assumed that these care homes are able to run their homes more efficiently and have a different business model than other providers. It is also noted that some care homes provide beds where the fee rates are significantly in excess of those rates at £1,300. Again it is assumed that this is down to the business model of the provider.

An analysis of the bed rates across the North West of England evidences (see Appendix 2) that the bed rates set by Trafford are similar to those set by other authorities in the area when all rates are considered. The new rebased rate is likely to render Trafford as one of the higher payers for next year. It may be assumed that the national bed rates may be skewed by figures from London and the South East where construction rates, land and other costs are significantly higher than the North West of



England.

### 3.8 **Affordability and Bed Rates**

The Council is required by statute to set a balanced budget every year so realistically there will always be an affordability decision to be made in terms of setting any fee rates. This is always balanced against the financial pressures experienced by the market.

This year, in recognition of the wide variation across Trafford, the Council has sought to begin to incrementally raise the offer to providers through the use of a rebased bed rate for new spot purchases. This is intended to address the inequity in bed rates demanded by providers.

### 3.9 **Market Sustainability**

Trafford is an extremely attractive area for the residential and nursing care market and the number of entrants to the market far outweigh the number of exitors when the number of beds is used as a benchmark. The new providers do focus on self-funders and charge fees which are at the higher end of the market. This is of concern to the Council, as this does create a two-tier market and limit choice for our residents, not just in terms of fees but also in terms of the nature of the care provided. The new providers rarely offer provision for people with complex needs.

The Council addresses this within the limit of our legal powers. We work with providers who are at risk of exiting the market to maintain service stability – the support can take the form of specialist support or financial support in the form of a block bed arrangement. Many providers choose to exit the market for reasons other than financial. In addition the Council has made the decision to enter the market in order to develop the kind of provision that is lacking in Trafford due to the lack of appetite from many existing providers to adapt their care model.