Further to your Information request FOI65027 please find your questions and our responses below:

In order to assist in our work, please would you be able to provide the following information in respect of placements made by the local authority of elderly persons funded (in whole or part) by yourselves. The information should be readily available from the relevant department with responsibility for social care. It goes without saying that sensitive information such as people's names/identity is not being requested.

For persons benefitting from local authority funding, what is the fee to be paid by the council for elderly persons placed within independent sector care facilities during the financial year 2013/2014 for the following categories of care?

1. Elderly Residential Care
2. Elderly Dementia Residential Care
3. Elderly Nursing Care*
4. Elderly Dementia Nursing Care*

*Please state fee exclusive of the Free Nursing Care payment for 3 and 4.

What were the corresponding fees for the financial year 2012/2013?

Response: Please see attached.

This concludes your request FOI65027.

If you require translation of the information you have been sent please do not hesitate the contact us.

If you are unhappy with the information we have provided in response to your request please write to:

Information Management Team Manager
Royal Borough of Windsor & Maidenhead
Town Hall, St Ives Road
Maidenhead
SL6 1RF

or send an e-mail to martin.tubbs@rbwm.gov.uk

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http://www.rbwm.gov.uk/web/foi_information_requests.htm

We are keen to hear about your experience with the Information Management Team here at the Royal Borough of Windsor & Maidenhead and look forward to receiving any comments you have about the way your information request was processed.
Please send any feedback to the Information Management Team Manager either by e-mail martin.tubbs@rbwm.gov.uk or in writing to the address above.

Yours sincerely

Chris Daniels
Information Management Officer
Legal Department
Corporate Directorate
Royal Borough of Windsor & Maidenhead
Town Hall, St. Ives Road
Maidenhead SL6 1RF
CABINET BRIEFING

Report for:  
Item Number:  

Contains Confidential or Exempt Information | NO – Part I
---|---

Title | Setting the Usual Price for RBWM Residential Social Care 2012
Responsible Officer(s) | Keith Skerman; Head of Adult Social Care
Contact officer, job title and phone number | Alan Abrahamson, Finance Partner, (68)3197
Member reporting | Simon Dudley
For Consideration By | Cabinet
Date to be Considered | 26 July 2012
Implementation Date if Not Called In | Immediately
Affected Wards | All
Keywords/Index | Usual price; fee rates; residential care.

Report Summary

This report proposes the setting of indicative prices the Council will pay for care placements for older people in residential homes and in nursing homes, in accordance with the Local Authority Circular LAC(2004)20. The aim is to be transparent about these prices for older peoples’ residential and nursing care. The report proposes a methodology for the Cabinet to endorse in respect of the fee rates to be paid for such placements and for their annual review.

No additional cost pressure for the Council is expected as a result of the recommendations in this report as the recommended price reflects current average level of fees paid. If agreed, the recommendations would be implemented immediately.

Other Berkshire local authorities are undertaking similar reviews.

If recommendations are adopted, how will residents benefit?

<table>
<thead>
<tr>
<th>Benefits to residents and reasons why they will benefit</th>
<th>Dates by which residents can expect to notice a difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Residents will be able to look for residential and nursing care for their older family members in the knowledge of the fee levels the Council will support.</td>
<td>1 August 2012</td>
</tr>
<tr>
<td>2. Local care home proprietors will see a transparent process as to the setting and review of their fees from this Council.</td>
<td>1 August 2012</td>
</tr>
</tbody>
</table>
CABINET BRIEFING

1. Details of Recommendations

RECOMMENDATION: That:

   i) The “usual price” the Council will pay for placements for older people be set at £430 per week for residential care homes without nursing & £575 per week for nursing homes.

   ii) That Cabinet endorse the process for setting and reviewing the fees paid for residential and nursing home placements as set out in paragraphs 2.16 to 2.17 of this report.

2. Reason for Recommendations and Options Considered

Background

2.1 The Council is guided by Local Authority Circular LAC(2004)20 to, each year, set a rate of payment that is sufficient to meet the assessed care needs of supported residents in residential accommodation when older people are unable to remain in their own homes. This is termed the “Usual Price”. For many authorities the “usual price” performs two functions, firstly it informs residents how much they can expect their council to contribute towards the cost of their residential or nursing care, and secondly it informs care home providers how much they will receive for the care they provide, this is known as the “fee”. The accommodation referred to in this circular covers not only long term or “permanent” accommodation, but also short term and temporary accommodation.

2.2 The “Usual Price” and the fee rates were agreed by Cabinet on an annual basis until 2004/5 when it was decided not to request Cabinet approval as it could be approved by officers under delegated powers. Recent judgements such as that at Pembroke and at Sefton indicate that member consideration of the policy in expected, and therefore it is proposed to bring a report, setting the usual price, to members on an annual basis.

2.3 Following these judgements, Berkshire Care Association (BCA) wrote to this Council and to all other Berkshire councils in respect of the fee rates proposed for 2012/13, and the process to be followed in setting their fee rates. In response a Berkshire wide meeting was held and a timetable for consultation was drawn up and a consultation process commenced that was to provide data to inform the Council’s position. This is set out in more detail in section 14 of this report.

2.4 The policies in respect of the “Usual Price” and of “fee rates” covered in this report are for older people. Due to the varying individual needs of younger adults requiring residential or nursing care it is not suitable to attempt to set one rate or a number of rates that can apply to such people.

2.5 There are on average 400 RBWM residents in residential and nursing care whose fees are supported by the Council at any one time.
2.6 As noted above, the Council is guided by LAC(2004)20 to set, each year, a rate of payment that is sufficient to meet the assessed care needs of supported residents in residential accommodation. The purpose of this guidance is to assist residents and their families in securing accommodation that meets their preferences without this costing the Council more than it would usually pay. The Guidance seeks to provide residents with a degree of choice in the placement made on their behalf by the Council. There is statutory direction for choice of care where residents and their families wish the placement to be within the UK, allowing residents to go to any home in the UK since this was introduced under the NHS and Community Care Act in 1993.

2.7 By setting a “Usual Price” the Council commits to funding a residential placement up to that rate, and thereby enabling residents and their families to seek appropriate accommodation either in the locality or elsewhere, in the knowledge the Council will support appropriate placements up to that rate.

2.8 Additionally, a family may seek accommodation at a price above that at which the Council will usually pay, either to secure a higher standard of care, or to secure accommodation in a preferable location. By setting a “Usual Price”, the family will be clear as to their requirement to “top-up” that price in order to fund a higher cost placement. The Council requires guarantees from families when agreeing to a placement requiring a “top-up” in order to prevent the need for a move of home should the top-up fee not be sustained.

2.9 The DH guidance goes on to state that if, due to market inadequacies or to commissioning failures, there are insufficient places at a given time in the funding local authority area at the Council’s “Usual Price” then the Council should fund the additional cost of more expensive accommodation.

2.10 Should a usual price be set too low, residents and families would regularly be unable to secure appropriate accommodation at that price and would regularly challenge the Council to fund more expensive accommodation. The DH guidance requires Councils to set the usual price at a rate sufficient to meet assessed care needs, if there was regular challenge to the Council’s rate the council could be challenged that it is not following the DH guidance in this respect. Such a position would be frustrating for residents, and cumbersome and time consuming to administer. Setting a usual price too high would result in agreements to fee levels above that appropriate to meet assessed needs and therefore will not provide best value to the council tax payer and would place unacceptable pressure on adult care budgets.

2.11 There is no clear national methodology for setting a rate that provides appropriate choice at an affordable cost to the Council. For the current year it is proposed to set the “Usual Price” at the level that would fund 30% of residents the Council currently places under “spot” purchase arrangements for residential care and for nursing care. This equates to Usual Prices” of £430 and £575 respectively. The impact of setting rates at these levels will be kept under review throughout the year with the aim to set rates applicable for 2013/14 when setting the budget in February 2013. The rationale for this
CABINET BRIEFING
methodology is that approximately 40% of residents placed in homes will have individual needs that require more intensive care, and subsequently higher fees than the generality of homes. Taking the remaining 60% as more representative of care provision and cost, then the 30% mark provides for an average fee rate. The 40% with higher needs would be considered individually on their own merits when setting their appropriate fee level.

2.12 As noted above, for several years now officers have set the “Usual Price” under delegated powers. The rates currently in force are £433/week for residential care and £573/week for nursing home care, these have remained unchanged since 2009/10.

2.13 The Circular advises councils to set more than one usual cost where the cost of providing accommodation to specific groups is different. For this reason two rates are proposed, one for care in a Residential Care Home without nursing and one for care in a Nursing Care Home. There are other specific groups for which a usual price could be set, such as “physically frail”, and “dementia”, however as people tend to live longer it is becoming less easy to categorise, and residents may have other behavioural difficulties that impact on the cost of providing their care. Thus it is proposed to set just the two rates suggested, together with a clear statement to residents that where a resident’s eligible needs cannot be funded at these rates, then the Council will increase its rate up to that at which their needs can be met. It will pay up to that rate providing the home can justify its costs and that the individuals needs can be met. This has been the custom and practice in recent years in meeting older peoples’ complex needs.

Fee rates

2.14 Councils in a dominant market position will set their Usual Price at the level they set their actual payment rates to their residential care providers, as one will significantly impact on the other. Care home providers have recently challenged such councils that have set their fee rates without taking account of the costs care providers incur in providing the service. Recent judgements, such as those on Pembroke and Sefton Councils, have emphasised council’s duty to: properly consult when setting fee rates, to take account of providers actual costs, and to set rates that take into account the sustainability of the local market.

2.15 A number of Councils each year set payment rates for residential and nursing accommodation for older people that apply to the majority of the placements they support. The ability to manage the market in this way will vary with the relative size and location of the council, and with the proportion of people in care homes who rely on Council funding. Given the relatively small geographical size of this Council, relatively high number of care homes in the borough, the proximity of homes in neighbouring authorities, and the high number of people who fund themselves in RBWM homes, this Council does not have such a dominance in the local care home market.
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Proposed process to set older people’s care home fees

2.16 Given that the Council is not in a dominant market position, and that there exists a wide range of care needs, and therefore costs, it is not proposed to set a Fee rate for RBWM providers, or a set of Fee rates. It is proposed to continue the procurement route that has been followed for a number of years which is to negotiate with appropriate providers to meet the needs of the individual at the time the placement is made. Following a placement, consideration is given each year as to whether to offer inflation based increments, generally a similar offer in respect of inflation is made to all providers. At this stage, providers may accept the offer, or if they consider this does not reflect the cost they expect to incur, then they may request additional payment. Each case is then considered on its merit.

2.17 In this way the Council considers it has met the requirements set out in the recent judgements in that it has properly consulted, and it takes account of the local market and provider’s actual costs by allowing providers to negotiate with the Council each time a placement is made, and to specifically request the Council to consider the impact of annual inflation on their cost base.

2.18 This methodology has been followed for over a year and there is no evidence to date that the Council is not meeting its obligations as set out in the Court judgements. Indeed, the reluctance of providers to participate in the Council’s consultation on local pricing, the lack of response its offer to review inflation allowance in 2011/12, and the buoyancy of the local residential care market all indicate that the current policy is supportive of the local market.

Quality

2.19 A methodology known as the Care Cost Calculator is used to review placement costs for residents with a learning disability placed in residential or nursing care. This Calculator was designed by Councils in the South East to assist them in negotiations with care providers. The Calculator was enhanced by the work of the Berkshire Procurement Shared Service Unit hosted by BFBC, and used widely and successfully in challenging provider prices. This methodology takes account of elements of the cost of care provision and highlights where there are anomalies in costs. These principles enable the headline weekly rates for care to be analysed into its components such as the number of care hours provided per occupied bed, and the number of hours care provided by qualified and non-qualified staff.

2.20 It is proposed to draw on this methodology when considering requests made by care home providers for additional funding, in order to better understand their cost base and the standard of care they provide. As this process becomes embedded, the data available for comparison will increase and will therefore result in more robust challenge.
CABINET BRIEFING

<table>
<thead>
<tr>
<th>Option</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not setting a Usual Price</td>
<td>This would not accord with Department of Health (DH) National Guidance</td>
</tr>
<tr>
<td>Setting Usual Price levels at the rates that would fund 30% of current spot placements. <strong>Recommended</strong></td>
<td>This would meet DH guidance and is unlikely to result in additional cost to the Council taxpayer. This option offers a balance between affordability and resident choice.</td>
</tr>
<tr>
<td>Setting Usual Price levels above 30th percentile of current placements</td>
<td>The Council is likely to pay higher fee rates than under the recommended option.</td>
</tr>
<tr>
<td>Setting Usual Price levels below 30th percentile of current placements</td>
<td>Residents will be less likely to find appropriate accommodation than under the recommended option.</td>
</tr>
<tr>
<td>Setting fixed fees for all or most residential placements.</td>
<td>This proposal would reduce flexibility in negotiating fee rates, increasing fee rates to lower priced homes.</td>
</tr>
<tr>
<td>Negotiating fees in accordance with the requirements of individual placements. <strong>Recommended</strong></td>
<td>Would result in flexibility in negotiation of fees in a fluctuating market.</td>
</tr>
</tbody>
</table>

3. Key Implications

<table>
<thead>
<tr>
<th>Defined Outcomes</th>
<th>Unmet</th>
<th>Met</th>
<th>Exceeded</th>
<th>Significantly Exceeded</th>
<th>Date they should be delivered by</th>
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</thead>
<tbody>
<tr>
<td>The majority of residents are able to find suitable accommodation at the Usual Price level and request an increase if necessary.</td>
<td>20 residents per year request increase in Usual Price.</td>
<td>10 residents per year request increase in Usual Price.</td>
<td>5 residents per year request increase in Usual Price.</td>
<td>No residents request increase in Usual Price.</td>
<td>Immediately</td>
</tr>
</tbody>
</table>

4. Financial Details

a) Financial impact on the budget

4.1 The approved gross revenue budget contains £10.5m in 2012/13 for Residential & Nursing care for Older People. Income from charges and from the NHS subsidy for nursing care in those higher needs care homes funds 50% of these costs. The recommendations within this report are not expected to have any significant impact on this budget.
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5. Legal Implications

5.1 Assessments of need are made in accordance with the General Principles of Assessment in LAC(2002)13 Fair Access to Care Services. Where applicable, after assessment a Council decides to provide residential accommodation under Section 21 of the National Assistance Act 1948, either permanently or temporarily, it will make a placement on behalf of the individual in suitable accommodation. These placements will nearly always be in Registered Care Homes. If the individual concerned expresses a preference for particular accommodation the Council must arrange for care in that accommodation provided it is suitable, and it would not cost the Council more than it would usually expect to pay for someone with the individual’s assessed needs.

5.2 The Charging for Residential Care Accommodation Guide (CRAG) is published by the Department of Health, and regularly updated. This Guide sets out how a Council should assess a resident for their contribution towards the cost of residential care arranged for them by the Council.

5.3 The NHS & Community Care Act 1990 LAC(2004)20, issued under Section 7(1) of the Local Authority Social Services Act 1970 provides further guidance to Councils in respect of providing genuine choice to individuals over where they live, and set our regulations in respect of an individual’s right in certain circumstances to enter into more expensive accommodation than they would otherwise have been offered.

6. Value For Money

The principle of VFM is fundamental to all aspects of this report.

7. Sustainability Impact Appraisal

None.

8. Risk Management

<table>
<thead>
<tr>
<th>Risks</th>
<th>Uncontrolled Risk</th>
<th>Controls</th>
<th>Controlled Risk</th>
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</thead>
<tbody>
<tr>
<td>That residents will be unable to find appropriate accommodation at the proposed level of the “Usual Price”</td>
<td>HIGH. Residents will routinely unsuccessfully look for accommodation and then request an increase from the Council</td>
<td>Setting Usual price at a level where the Council is confident appropriate accommodation may be available</td>
<td>LOW. In most cases residents will be able to find appropriate accommodation at the usual price levels set</td>
</tr>
<tr>
<td>That the council will pay more for residential and nursing care than is necessary</td>
<td>HIGH. The Council will regularly pay higher fee levels than at present</td>
<td>Allow flexibility in fee negotiation, and regular review of fee levels agreed,</td>
<td>LOW. Council achieves best value</td>
</tr>
</tbody>
</table>
CABINET BRIEFING

9. Links to Strategic Objectives

Our Strategic Objectives are:

Residents First
- Work for safer and stronger communities

Value for Money
- Deliver Economic Services

Delivering Together
- Enhanced Customer Services
- Deliver Effective Services
- Strengthen Partnerships

Equipping Ourselves for the Future
- Developing Our systems and Structures

10. Equalities, Human Rights and Community Cohesion

An EQIA is published on the Council’s website.

11. Staffing/Workforce and Accommodation implications:

None.

12. Property and Assets

None.

13. Any other implications:

None.

14. Consultation

Following representations from the Berkshire Care Association the Council drew up a process to review the fees it paid with a view to ascertain their adequacy to meet the actual costs of care incurred by providers in the local market, this was in accordance with then recent judicial reviews. Letters were sent to local care home providers setting out a consultation plan and timetable and inviting them to a meeting of the Council’s “Provider Forum” on 21 Feb 2012 to discuss the Council’s proposal. This included a template for the collection of information on provider costs. Providers were given until 6 March to respond to the proposed consultation process and cost template.

Following the judicial reviews a number of authorities were known to have commenced consultations on the fees paid to care home providers. The collection of provider cost by a cost template was a feature of each consultation process. The RBWM cost template was designed for simplicity and ease of compilation, and covering just 2 sheets of A4 was notably shorter than most.
CABINET BRIEFING
The revised data collection template was circulated to all providers on 9th March for return by 10th April. Only 3 completed templates were received by 10th April. This was insufficient to provide a sound basis for further analysis.

Adult Services and Health Overview and Scrutiny Panel met on 10 July 2012 and considered this report. The Panel endorsed the proposed “usual price” that the Council will pay for placements for older people and the process for setting and reviewing the fees paid for residential and nursing home placements.

15. Timetable for Implementation

August 2012 Implementation of new methodology.
December 2012 Review impact of new methodology.

16. Appendices

There are none.

17. Background Information


18. Consultation (Mandatory)

<table>
<thead>
<tr>
<th>Name of consultee</th>
<th>Post held and Department</th>
<th>Date sent</th>
<th>Date received</th>
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<tr>
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<tr>
<td>Cllr Burbage</td>
<td>Leader of the Council</td>
<td>4/7/12</td>
<td>4/7/12</td>
<td></td>
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<tr>
<td>C Shawcross</td>
<td>Director of Adult &amp; Community Services</td>
<td>18/6/12</td>
<td>18/6/12</td>
<td>Through put report</td>
</tr>
<tr>
<td>David Oram</td>
<td>Acting Chief Exec</td>
<td>20/6/12</td>
<td>20/6/12 at CMT</td>
<td></td>
</tr>
<tr>
<td>Maria Lucas</td>
<td>Head of Legal Services</td>
<td>20 June 2012</td>
<td>20 June 2012</td>
<td>5. Legal NB B Griggs commented still awaited</td>
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<tr>
<td>Mike McGaughrin</td>
<td>COO</td>
<td></td>
<td>20/6/12 at CMT</td>
<td></td>
</tr>
<tr>
<td>Alan Abrahamson</td>
<td>Finance partner</td>
<td></td>
<td>Author</td>
<td>4. Financial</td>
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Report History

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<tr>
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<th>Job title</th>
<th>Full contact no:</th>
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9
**CABINET BRIEFING**

<table>
<thead>
<tr>
<th>Alan Abrahamson</th>
<th>Finance Partner</th>
<th>68(3197)</th>
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</table>

<table>
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<tr>
<th>Stages in the life of the report (not all will apply)</th>
<th>Date to complete</th>
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<tr>
<td>1. Officer writes report (in consultation with Lead Member)</td>
<td>Complete</td>
</tr>
<tr>
<td>2. Report goes for review to head of service or DMT</td>
<td>Complete</td>
</tr>
<tr>
<td>3. To specialist departments: eg, legal, finance, HR (in parallel)</td>
<td>Complete</td>
</tr>
<tr>
<td>4. To lead member</td>
<td>2-7-12</td>
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<tr>
<td>5. To SMT or CMT</td>
<td>20-6-12</td>
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<td>6. To the leader</td>
<td>4-7-12</td>
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<td>7. To overview or scrutiny, if a cabinet report</td>
<td>9-7-12</td>
</tr>
<tr>
<td>8. To cabinet</td>
<td>26-7-12</td>
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