

Residential and Nursing Beds – Approval of Reviewed Commissioning Arrangements

Responsible Officer Andy Begley

1. Summary:

- 1.1 The purpose of this report is to seek approval for changes to the standard rates the Council will pay for residential and nursing beds in Shropshire, and to report on the outcomes of the pilot which has been undertaken to test the proposed changes. It is important to note that whilst the Council will seek to commission care at these standard rates wherever possible, it is always open to it to deviate from them in exceptional circumstances where the needs of the individual require it.
- 1.2 The Council is committed to using its resources efficiently and this review of Adult Social Care (ASC) commissioning arrangements ensures we can continue to meet duties, control costs and maintain budget affordability whilst supporting a fair and sustainable marketplace, and evidence fairness and equity in our approach.
- 1.3 Whilst historically Shropshire Council has used standard rates for beds, the rates had not been reviewed for some years and consequently the project was required to refresh and renew the practice. The proposed rates set out in this report follow on from the public consultation which Cabinet approved in February 2019, and the pilot which took place in December 2019 - June 2020.
- 1.4 The pilot focussed on purchasing of new bed placements in care homes. During the pilot of these rates, we have seen 43% of providers agree to accept the new standard rates, an additional 39% of providers have negotiated down from their original fees, meaning 82% of providers have agreed better prices than originally or previously offered for placements.
- 1.5 The rates which have been used through the pilot were based on average rates charged by the market. Through consultation, benchmarking and modelling, the revised rates have been assessed as being fair and adequate to meet the cost of delivering residential and nursing care.
- 1.6 Fair rates promote an efficient and effective market, ensuring a sustainable and vibrant marketplace and allowing the council to be assured that:
 - our fee levels do not (amongst other things) compromise the provider's ability to pay at least minimum wages.
 - We encourage a variety of different providers and types of services, ensuring that there is reasonable choice for people who need care and support.
 - our fee levels allow providers to effectively plan their finances and their business models. Shropshire Council is committed to supporting a wide variance of providers, and Small and Medium Enterprise's. The setting of fair standard rates can support and encourage smaller businesses through clarity, consistency and support for business planning.
- 1.7 Overall the pilot has successfully met the requirement to prove the concept that having revised rates:

- Allows the Council to better control prices
- Evidences that Shropshire Council commissions fairly and equitably
- Evidences a willingness within the market to work with the Council towards standard prices
- Has achieved annual savings target, and a positive impact on the ASC budget
- Gives the provider market clarity on the rates the Council will pay which supports effective business planning

- 1.8 We recognise that these are very challenging times across the care market, and we want to do all we can to support our markets. Separately to this project and pilot decisions have been taken by the Council to support the market with Covid 19 related expenses by making an upfront payment to providers which is representative of an additional 10% of their current contract value for three months from 31/3/2020. We have also sent out Infection Prevention Grant Funding of over £4.6 million has been distributed across the care market in Shropshire. In addition, we established a business grant fund for providers who have experienced financial loss due to Covid 19 of up to £10,000. We have also been providing emergency PPE which has been regularly accessed by providers.

(Note: This report refers to the purchasing of in County beds for older people only. Learning disability and Mental Health support and out of county placements will be included in future project work but is excluded from this report)

2. Recommendations:

2.1 Members agree that:

- 2.1.1 Shropshire Council should **proceed with the standard rates shown at paragraph 4.8 for all new purchasing**
- 2.1.2 Historical placements made prior to the implementation of the pilot and currently being paid below the new proposed standard rates, will be increased gradually through annual inflation review process.

REPORT

3 Risk Assessment and Opportunities Appraisal

3.1 Identified Risks and opportunities of the recommendations are as follows:

- Analysis indicates that weekly rates would increase at levels higher than inflation unless (as demonstrated below in 5.2) measures are introduced to manage prices for Council-commissioned beds: this presents a significant financial risk to the Council
- Paying different prices for broadly similar services carries a level of risk of challenge to the Council and a strategy is required to evidence that the Council is working to address this issue. Having standard prices is the first step towards this.

- The strategies have potential to manage future expenditure without uncontrolled escalation but carry a level of risk to the marketplace due to providers not being able to escalate costs
- Due to market forces, it is not possible to completely avoid any risk of instability in the market place with the implementation of these proposals. Nor is it possible to guarantee that all beds can be brought in line with published rates immediately. Representation has been made to the Council from Shropshire Partners in Care that some areas of the market may be at risk if rates are not increased further from these proposed rates. There have been providers concerned about long term viability in recent months due to increased costs for providers including national living and minimum wage increases announced in December and the coronavirus pandemic has thrown up new challenges and increased financial pressures for providers (though as explained above much of the additional financial burdens have been off-set by grants). However, analysis of the pilot outcomes indicates that the current rates are being accepted by a significant proportion of the market.
- These proposals will impact on the market however the risk is minimised because the market:
 - Is currently considered to be buoyant and providing good quality of care. In the first quarter of 2020 CQC rated Shropshire Care Home providers as follows: 87% of providers are rated as 'good' or 'outstanding' which is higher than the national average and only 1.5% are rated as 'requiring improvement' which is lower than the national average.
 - Is of significant size – we currently purchase from 115 of the 120 homes in Shropshire and we purchase about half of the total beds
 - Whilst, the local marketplace report staff turnover and vacancy pressures, CQC data reports show that although both turnover and vacancy rates have increased, they are lower than in comparator areas and England as a whole.

The Council does and will continue to facilitate assistance to providers in partnership with SPIC (Shropshire Partners in Care) to support development of the marketplace.

- The proposal has been put together following full consultation and a six-month pilot to ensure robust market engagement and a managed and gradual implementation in order to manage risks to the market. Providers are accepting the new standard rates and Shropshire Council are closely monitoring and supporting providers throughout this time so any concerns and risks can be identified at the earliest opportunity.
- The risks associated with these proposals are significantly outweighed by the risk of not doing anything.
- The ESIIA has been updated to reflect the risks and mitigating actions at **Appendix A**. The proposals identify a low impact on protected characteristic groups and all other groups of people.

4. Background

- 4.1 Analysis of expenditure on nursing and residential care beds from 2017-2020 evidenced key issues that the Council needed to address:

- Overall costs per bed were rising at a rate well beyond inflation,
- The Council was paying different rates across the county for comparable services,
- The previous standard rates model was out of date and not usable and
- We needed to address these issues to satisfy ourselves that we were acting in compliance with the requirements of the Care Act

- 4.1 the overall demand for Adult Social Care support is rising each year as people are living for longer and have more complex and long-term conditions. The Council's focus is to operate in a way that promotes the best use of resources for everyone assessed as having eligible needs.
- 4.2 the Councils published rates for residential and nursing care were originally developed in 2016. Although, there have been annual rate increases on these previously published rates during the last few years, such rates have become unsustainable for the market leading to businesses being unable to meet these rates without incurring financial risk as follows:

Care category	2018/19 <u>previous</u> Standard rates - price per bed per week (Rate awarded depended on CQC quality rating)
Residential	£297.78 – £362.15
Residential EMI	£347.55 - £416.10
Nursing	£377.63 - £455.38
Nursing EMI	£395.18 - £491.53

- 4.3 These rates used a provider performance scoring system to identify the appropriate rate for a provider. This system was confusing for the market and unpopular with providers, and consequently the performance system is no longer maintained by the Council, as it is out of date and no longer a relevant process to use.
- 4.4 Previous engagement with the marketplace in Autumn 2015, and in June 2018 concluded that providers were keen to review the existing rates and consultation was undertaken in order to seek their views about the proposals and suggested new rates.
- 4.5 The Public Consultation to check that the rates and methodology would be acceptable to the market was undertaken for 6 weeks from 18th March to 26th April 2019 and a range of engagement and communication activity was undertaken to gain feedback on the proposals.
- 4.6 Mixed views were expressed about the proposals by providers. Overall 56% of providers disagreed with the original consultation rates (they were noted to be too low). Many comments regarding financial pressures upon providers were reported in the responses. Further details are included in the Consultation summary Report at **Appendix B**.
- 4.7 It is important to note that the original rates that were consulted upon were based on the average rates being paid to the market at that time and had been benchmarked

against other statistically comparable neighbouring authorities as well as being based on a market standard costing model.

- 4.8 Following analysis of the consultation findings, a range of options were identified and appraised and scored against desirability, feasibility and viability criteria and the original proposed rates were raised by an average of 8%. This was primarily in response to suggestions from the market that rates were not high enough and that a wider difference was required between payments for bed types to recognise the increased costs per bed for more complex care. The new standard rates following consultation were set as follows:

Care Category	New Pilot Standard Rates following consultation – price per bed per week
Residential	£520
Residential EMI	£570
Nursing (excluding FNC)	£670
Nursing EMI (ex FNC)	£720

- 4.9 These rates were also benchmarked against other neighbouring and comparable authority rates as follows:

Care Category	Shropshire new standard Rates	Powys 20/21 Standard prices	Hertfordshire 20/21 Standard prices
Residential	£520	£539	£515.96
Residential EMI	£570	£559	£597.66
Nursing (excluding FNC)	£670	£544	£554.37
Nursing EMI (ex FNC)	£720	£580	£625.68

- 4.10 Benchmarking with other Local Authorities illustrates a mixed picture; the rates we are proposing are very close to, and in most cases higher than comparators. However:

- The average rates we were already paying were in some cases (particularly Nursing EMI) higher than other Local Authority's published rates and to cut rates down to the same level as other Local Authorities would be a significant cut in prices in some areas and create the risk of provider failure.
- We have a statutory responsibility (Care Act) to support a sustainable market
- CQC recognise a high standard of care in Shropshire which would be at risk of declining if market loses stability,
- There is also a risk of legal challenge if we ignore consultation findings

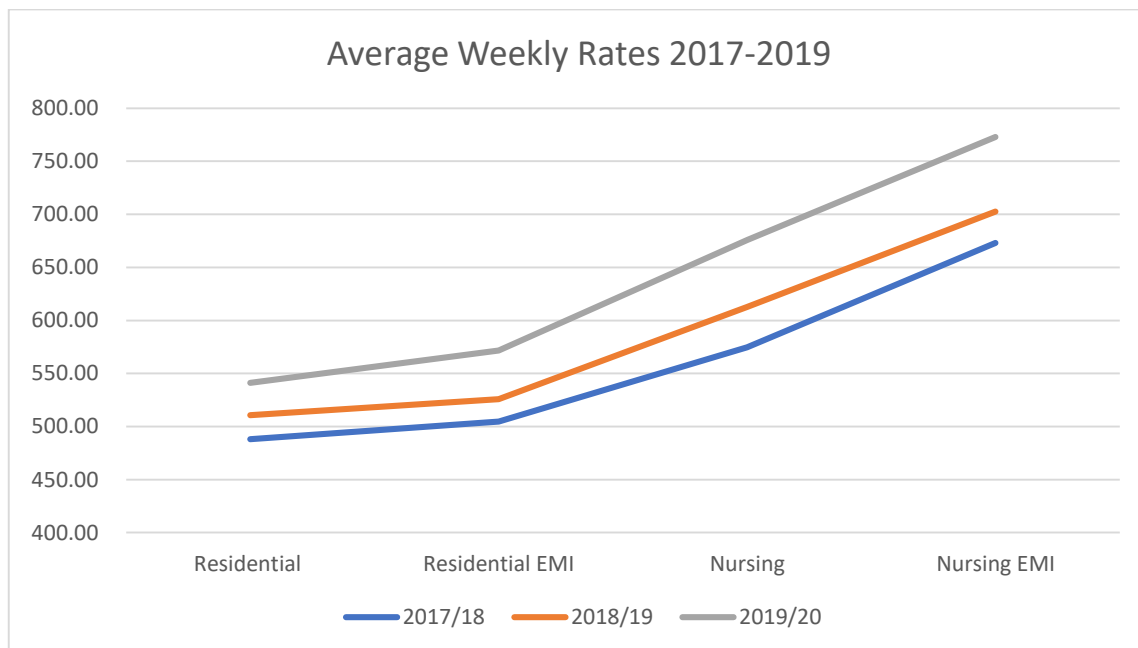
The proposed fees are therefore mainly higher than comparators because we have considered the findings of the consultation feedback, analysed the risks to the marketplace whilst balancing budget affordability with the pressures associated with delivery of care.

5. Financial Implications

5.1 Analysis of current situation

Analysis of the overall expenditure from 2017/18 to 2019/20 showed an upwards trend in costs per bed. Overall in 17/18 we spent £17.7m on nursing placements and £15.6m on residential placements and in 19/20 we spent £18.8m on Nursing and £17.1m Res (excluding LD and MH)

5.2 Whilst overall Adult Social Care has proactively managed demand by significantly reducing the numbers of beds being commissioned in recent years (due to reducing overall demand and also supporting more people at home), the expenditure for residential and nursing care has not reduced proportionately because the average cost per week per bed has continued to increase. This is because the market is setting its own rates and our published rates have not been realistic.



5.3 Expenditure has been and is predicted to continue increasing because average weekly costs being paid are increasing. This area of expenditure has been largely reliant on market forces, it represents the highest area of risk for Adult social care budgets. Managing escalation of this expenditure is a vital component of managing the overall ASC expenditure in order to ensure that budgets are effectively deployed and that resources are used to continue to meet all the Council's statutory duties.

5.4 Analysis of expenditure illustrated a wide variance of rates being paid to providers for individuals with similar assessed needs. This did not provide transparency, equity and fairness in the prices paid for standard provision, which ultimately does not support the development of a vibrant and resilient marketplace as required by section 5 of the Care Act 2014.

- 5.5 Analysis also evidenced that even though less beds were being purchased the trajectory of spend would cost Shropshire Council an additional £7 million over the next 3 years if we did not work with the market to manage pricing.
- 5.6 The actual paid rates have increased by 6% for residential beds and 8.1% for nursing beds over the last 2 years and we anticipate further year on year growth by the market. These increases far outstripped an annual expected increase attributable to inflation alone.

Average weekly rate increases			
Care type	Over the 6 months prior to the pilot	Over the year prior to the pilot	Over the 2 years prior to the pilot
Residential	10.4%	7.4%	6%
Nursing	3.8%	10.1%	8.1%

- 5.7 These variances create difficulties for the Council in planning to meet future demand and create inequities for providers. It was also noted that SMEs were more likely to be paid at lower rates which again does not support a fair and equitable market.

5.8 Pilot rates – outcomes

- 5.9 The pilot has successfully demonstrated that a significant proportion of the market will accept the new standard rates for new placements. The response from providers has been that during the pilot we have seen 43% of providers agree to accept the new standard rates, and an additional 39% of providers have negotiated down from their original fee, meaning 82% of providers have agreed alternative prices than they originally offered for placements. Detailed analysis of the pilot outcomes is in **Appendix C**.

- 5.10 Comparison of average prices during and before the pilot (excluding third party top ups on new standard rates) evidences reductions in three categories and a slow increase in Nursing EMI costs.

- Average Residential placement prices reduced by 10% for the same period year on year
- Average Residential EMI placement prices reduced 7% for the same period year on year.
- Average Nursing placement prices reduced by 7% for the same period year on year.
- Average Nursing EMI placement prices have increased by 4% for the same period year on year.

5.11 Savings

- 5.12 The wider project which covers the pilot had an allocated saving target for the current financial year which was set in the Financial Strategy 2019-2023 and publicly consulted on. Savings target - 'A16 Market Stewardship' had a savings requirement for 2021 of £300,000 From the negotiations that have taken place by operational teams though the pilot, the savings target will be realised. For the final quarter of 2019-

2020, **£66,191** has been saved in negotiations with providers and a further **£298,908** so far for the financial year 2020-2021 with savings still being made.

5.13 Consequently, there has been reduction in spending in the ASC budget on nursing and residential beds due to the long-term effect of the reductions in prices. The annual impact of the above savings is as follows:

Annual expenditure: packages commissioned		
	Annual financial impact of agreements made between Dec 18 - May 19	Annual financial impact of agreements made between Dec 19 - May 20
Residential	3,578,940	3,221,261
Residential EMI	2,361,126	2,202,427
Nursing	3,380,881	3,159,205
Total	12,690,271	12,073,351
	Annual Saving	616,921

5.14 Historical rates

5.15 The pilot of new standard rates has been focused on new purchasing. There are historical rates for beds already contracted that are below the standard rates. It is recognised that these need to be addressed in a manageable way which supports the lowest end paid of the market and is affordable for the Council.

5.16 Consideration will be given as part of the annual inflationary uplift offer each year to the market that historically low rates will need to be gradually uplifted as budgets allow. This would be done though an annual rise in the minimum rate to be paid.

5.17 Adult social care started this approach, in consultation with Shropshire Partners in Care, for the current financial year, uplifting all rates below £450 per bed to that level. It is proposed that each year a minimum level is set to ensure that the principles behind having standard rates and a fair and equitable market are adhered to and the Council evidences a clear plan to address historical inequities.

5.18 The following gives some estimated impacts of this approach, but it needs to be noted clearly that these are based on current numbers and rates which will change so is intended as an illustration only:

- There were 49 agreements below £450pw for the current financial year. Uplifting all to £450pw at 01/04/20 cost the LA £58,696k pa (worst case scenario as some of these agreements will end during the year)
- Of the 830 in county packages, at the time of budget setting for 20/21, there were 309 packages still below the standard rate, 39 packages at the standard rate and 482 packages above the standard rate.
- If we were to increase all 309 packages to the standard rate that would cost £1,434,191. This would happen over the course of several years either through uplifting or through packages ending and being replaced with the new 'standard rate'

- To counter this, of the 482 packages above the standard rate, by reducing these to the standard rates, which would be done naturally through packages ending and being replaced by packages at the new standard rate there would be a saving made of £3,909,330.

5.19 Finally, it is also acknowledged that all standard rates must be reviewed in line with inflation on an annual basis.

6. Conclusions

6.1 Overall the pilot has successfully met the requirement to prove the concept that having new standard rates:

- allows a better control of prices
- evidences that Shropshire Council commission fairly and equitably
- Evidences a willingness within the market to work with the Council towards standard prices
- Gives the market clarity and information for effective business planning
- Has achieved annual savings target and positive impact on the ASC budget

6.2 Information on prices has provided anchor points for pricing and has allowed for social work teams to confidently negotiate prices. A consistent approach across all operational teams from hospital discharge to community placements, has ensured expectations are clearly standard for service users and their family's users.

6.3 The risk and consequences of not having a standard rate for care will likely see costs spiral and control will be lost; in three areas average costs have reduced compared to the previous year. However, it is acknowledged that Nursing EMI placements will need to be reviewed as they have proved volatile and difficult to control and have the lowest acceptance of the new standard rates.

6.4 Whilst, it is recognised that it is unlikely that the publication of standard rates will lead to a total management of expenditure in a competitive marketplace, it can certainly provide a structured basis for effective commissioning arrangements. A consistent commissioning approach together with standardised rates can provide the basis of a move towards stronger market stewardship which is the responsibility of an effective Council in sustaining its marketplace.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Project Initiation Document: March 2017

Supporting information:

Working with care providers to understand costs: A guide for adult social care commissioners
Shropshire Vision and Strategy for Adult Social Care 2018/19 – 2020/21

Shropshire Council Market Position Statement 2019-2022

Shropshire Council Older People Profile Report 2018

CQC Shropshire Local System Data Summary Report 18/3/19

CQC Shropshire Area Profile Report: January 2020

Shropshire Partners in Care, Shropshire Council and Telford & Wrekin Council Fair Cost of Care Report: November 2016

Competitive Markets Authority (CMA) market study: November 2017

The Institute of Public Care Market Shaping in Adult Social Care: July 2017

CQC The state of health care and adult social care in England 2017/18
Minimum Income Guarantee Survey: July 2018
Annual ASC Survey
Shropshire Personal Budget Contributions Policy 2018-19 (published Shropshire rates)
The Care Act 2014 Guidance
Shropshire Council Financial Strategy for 2018/19-22/23

Benchmarking data:

Hertfordshire Council: Standard In-County Prices for 2020/21
Powys Council: Care Fees Review, 2020
ADASS Budget Survey

Cabinet Member (Portfolio Holder)

Cllr Dean Carroll

Local Member

All members

Appendices

Appendix A – Equality and Social Inclusion Impact Assessment (ESIIA): September 2020
Appendix B – Consultation Findings summary Report (You said, we did): May 2019
Appendix C – Pilot Outcomes Review - August 2020