

JOINT COMMISSIONING BOARD MEETING

Agenda Item 44
Brighton & Hove City Council

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| Subject: | Fee Level for Adult Social Care Services 2012-13 |
| Date of Meeting: | 23 April 2012 |
| Report of: | Director Adult Social Services/Lead Commissioner People |
| Contact Officer: | Name: Jane MacDonald Commissior Tel: 295038 E-mail: jane.macdonald@brighton-hove.gov.uk |
| Key Decision: | Yes Forward Plan No: ASC 25305 |
| Ward(s) affected: | All |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report concerns fees paid to independent and voluntary sector providers that supply care services on behalf of Brighton and Hove City Council Adult Social Care. It covers fees paid to providers of services for older people, people with physical disabilities, adults with mental health needs (including HIV and substance misuse) and learning disability services. Service providers include care homes, home care and community support, community service and direct payments.

2. RECOMMENDATIONS:

- 2.1 The recommendations are for the Joint Commissioning Board to agree the following recommendations:
- The uplift as set out in the Table in 3.2
 - Brighton and Hove to match the applicable host authority set rates for new and existing care home placements out of the city.

Note: The recommendations were agreed at the Adult Social Care & Health Cabinet Member Meeting on 12 March 2012.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Brighton & Hove current financial position

The 2012/13 budget strategy for Adult Social Care that was agreed by Budget Council on 23 February includes a commitment to increase rates payable to independent nursing and residential care and homecare providers in 2012/13 to help cover rising energy costs and support fair rates of pay for workers in this sector so that the needs of those receiving care can be met.

3.2 Brighton and Hove previous fee levels

Locally fee levels for 2011/ 12 were in the main held at 2009/10 levels, see Appendix One and Two. This broadly reflected actions taken by other councils in the south east region. Historically fees paid by Brighton and Hove City Council have exceeded those paid by neighbouring councils, and at times been above the rate of inflation.

Table showing recommended Fee uplifts

| | Residential care home | Nursing home | Other accommodation | Home care/home support | Day service | Direct payments | Other including |
|----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-----------------|-------------------------|
| Older people | 5% | 5% | 5% | 0% | 2% | 2% | 2% |
| Older people mental health | 5% | 5% | 5% | 0% | 2% | 2% | 2% |
| Mental health | 5% | 5% | 5% | 0% | 2% | 2% | 2% |
| Learning disability | Individually negotiated | Individually negotiated | Individually negotiated | Individually negotiated | Individually negotiated | 2% | Individually negotiated |
| Physical disability | 5% | 5% | 5% | 0% | 2% | 2% | 2% |
| Other | 5% | 5% | 5% | 0% | 2% | 2% | 2% |

In line with common practice the Council will continue to match the applicable host authority set rates for new and existing care home placements out of the city.

3.3. Care homes for older people, people with a physical disability, mental health needs

3.3.1. Background

There is national evidence that the quality of care in care homes for older people is patchy. The report, A Fair Deal published late last year, was based on research by Laing and Buisson and the analysis showed that care home fees paid by councils have fallen by 3.9% in real terms over the last two years. This is at the same time as care homes manage increases in their main costs, utilities, people, and food. The report (and it is supported by a range of other industry experts) argues that the fall in the real costs paid to care homes and the rise in real terms to them compounds the long-standing problem of chronic under-funding in the sector and will impact on the quality of care in this sector.

The impact of and approach to setting care home fees has also been considered recently by the High Court within Judicial Review proceedings concerning other councils, particularly in light of the reduction in provision of central government funding to Local Authorities. Proper consultation and consideration of all relevant factors in addition to available funding must be balanced in the decision making process regarding care home fee rates.

Locally there are quality issues in care homes in the period 2010/11 there were 7 suspensions in residential and nursing homes. In the same period 2011/12 there were a further 2 suspensions within care homes in the city.

Following a number of years of stability in the local market, two care homes closed in the city during 2011-12, both for older people with mental health needs; the result was a net loss of 38 beds. The reason given by the provider was financial pressures. In West Sussex, where this council places a significant number of older people, four care homes closed in the last few months with a loss of 166 beds.

3.3.2. Uplift 2012-2013

This report sets out an interim approach. For the year 2012-13 the recommendation for fees paid to residential and nursing homes for older people, people with a physical disability, mental health needs, is 5% uplift. This uplift is significant and recognises that the service delivered by care home providers includes 24 hour building based costs as well as staffing costs. At the same time there is an under supply in the market.

It is expected that providers will use a proportion of the fees to increase the salary of the lowest paid staff towards the living wage, as well as providing an increase in fees to meet increased running costs broadly in line with inflation.

Care homes providing nursing care receive NHS Funded Nursing Care payments. Information regarding any change in these fees has yet to be communicated.

3.3.3. New contract and new rate

The recommended uplift is a provisional position whilst work on the new contract is undertaken. It is recognised by the council and other Authorities, that there is a need to review the system of calculating fees to all care homes. Locally this will include all care groups represented in the new care home contract, eg it will include older peoples' services and under 65 services.

At the same time the Council must review the system for managing risk. In December 2011, in light of Southern Cross's breakup, the Public Accounts Committee has called for the government to do more to regulate the social care provider market. The government was warned that it must get to grip with the "very real risks" to the care home market. Regionally commissioners are seriously considering the 'open book' approach and will be asking providers to make accounts available to stakeholders. Brighton and Hove City Council supports this approach and will be looking to develop system whereby providers share their accounts appropriately.

3.4 Home care

The contract for home care services is currently being re-tendered. New rates have been set as part of the re-tendering process and will come into effect when the new contract starts in June 2012. Providers have agreed to an extension of the current contract until the new contract starts and the current incentive scheme will continue until the new contract begins. It is recommended therefore that no inflationary uplift will be applied to the current contract which runs to the end of May.

The agreed rates for Learning Disability community support services will continue to be negotiated on an individual basis.

3.5 Community services and direct payments

As community services and do not have the same building related costs as residential and nursing homes a 2% uplift is recommended for community services for older people, people with physical health needs and people with mental health needs. Community services for people with learning disabilities will be considered on an individual basis.

It is recommended that direct payments are all awarded 2% uplift.

3.6 All services for people with learning disabilities

There is a greater range of rates within learning disability services which reflect the way that this sector of the market has developed. As a result individual negotiations have commenced to ensure value for money. It is therefore proposed that a percentage uplift will not be applied to learning disability services as the rates for these are individually calculated. Nevertheless, increases may be considered on a case-by-case basis.

3.7 Decisions across the region

Early indication from the region is that there is a wide range of uplifts ranging from 0% to 6%.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1. The Director Adult Social Services/Lead Commissioner for Adult Social Care and Health has made presentations to a number of provider forums and advised them of the additional support provided by the council and the current financial position. The council continues to provide a range of quality training that is free to access and which is much appreciated by providers. There is also health, safety and fire support and the first two years of Contractors Health and Safety Accreditation is paid for by the council. Additionally at no cost to providers, contract support is provided by Adult Social Care commissioning support team to all contracted services.

4.2 Independent and voluntary sector services that experience financial difficulties are encouraged to make the Council aware and they will be offered advice and

support. This includes Business Rates Assistance, the Be Local, Buy Local Campaign and other measures in the 'recession relief' package

- 4.3 Care home providers are keen to have a means of calculating fees that are fair and transparent. The aim is to have clarity in how rates are calculated and a new and transparent financial system including sharing accounts in place by April 2013. This is a detailed and complex piece of work which needs dedicated time to develop. Finance officers, assessment managers and commissioners will work collaboratively with representatives from the Brighton and Hove Registered Care Homes Association to develop new processes. There would be risks to both sides in rushing through a new scheme without proper consideration. Discussions with providers' representatives have begun.
- 4.4 The initial view from the Clinical Commissioning Group is supportive, but they will need to do further work to cost the impact and get formal sign off. There has been ongoing engagement with the CCG and Lead Commissioners are supportive of the recommendations in the report.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

Forecast spend on care services is approximately £69 million. The financial modelling of the proposed fee uplifts set out in section 3.2 indicates that this fee level can be met from a combination of inflation assumptions in the budget, Department of Health additional support funding for social care and the anticipated savings from the re-procurement of home care services.

Finance Officer Consulted: Name Michael Bentley Date: 07/02/2012

5.2 Legal Implications:

In accordance with the Constitution it is the function of Cabinet Member for Adult Social Care to make the decisions recommended in the text of this report. Specific reference to the reasoning for and evidence informing the recommendations for decision making is contained in the body of this report. This includes reference to the recent decisions of the High Court where the Local Authority is reminded of the need to take into account and balance all relevant factors in its decision making including funding. As set out in the body of this report the recommendation is on an interim basis pending further work and consideration of contractual arrangements and transparent calculation methods. Continuance of a comprehensive and balanced process in considering further recommendations for fee rates and compliance with the Human Rights Act 1998, particularly in relation to stakeholder consultation, is required.

Lawyer Consulted: Name Sandra O'Brien Date: 1 March 2012

5.3 Equalities Implications:

A separate Equalities Impact Assessment has been completed.

5.4 Sustainability Implications:

Fee rates awarded are intended to keep business sustainable.

- 5.5 Crime & Disorder Implications:
There are no specific crime and disorder implications set out in this report.
- 5.6 Risk and Opportunity Management Implications:
The financial risks have been set out in the section titled, Brighton & Hove current financial position.
- 5.7 Risk and Opportunity Management Implications:
Smaller uplifts were considered, but this risks the on going quality and sustainability of services in the city.
- 5.8 Public Health Implications:
Fees paid to services keep a range of providers in business. This includes a range of preventative services that help maintain user's health and prevent deterioration and a reliance on more intensive provision.
- 5.9 Corporate / Citywide Implications:
The fees paid to provider services will have a positive impact on all wards of the city, reducing inequalities and improving service user outcomes and experience.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 A range of different uplifts were modelled. Those recommended fit within the current Council budget and will provide those delivering services on behalf of the council with sufficient funds to remain robust.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Independent and voluntary sector providers that supply care services on behalf of Brighton and Hove City Council Adult Social Care have seen a rise in costs in provision. This report reflects this and makes recommendations for uplifts accordingly.

SUPPORTING DOCUMENTATION

Appendices:

Appendix 1 - Weekly fee rates for 2011/12 for in City Nursing Homes for Older People and Older People Mental Health (OPMH)

Appendix 2 - Weekly fee rates for 2011/12 for in City Residential Care Homes for Older People and Older People Mental Health (OPMH)

Appendix one

Brighton and Hove City Council

Weekly fee rates for 2011/12 for in City Nursing Homes for Older People and Older People Mental Health (OPMH)

Both the preferred and the non preferred rates are detailed below:

| Care Homes with Nursing for Older People | 2011/12 Weekly Rate (inc Social Care Rate and Funded Nursing Care [FNC]) for NON PREFERRED PROVIDERS | 2011/12 Weekly Rate (inc Social Care Rate and FNC) for PREFERRED PROVIDERS |
|---|---|---|
| Single Nursing Band Shared Room | £504.40 | £509.40 |
| Single Nursing Band Single Room | £539.40 | £544.40 |
| High Nursing Band Shared Room | £544.30* | £549.30* |
| High Nursing Band Single Room | £579.30* | £585.30* |

| Care Homes with Nursing for Older People with Mental Health needs | 2011/12 Weekly Rate Weekly Rate (inc Social Care Rate and FNC) for NON PREFERRED PROVIDERS | 2011/12 Weekly Rate Weekly Rate (inc Social Care Rate and FNC) for PREFERRED PROVIDERS |
|--|---|---|
| Single Nursing Band Shared Room | £546.40 | £552.40 |
| Single Nursing Band Single Room | £581.40 | £587.40 |
| High Nursing Band Shared Room | £586.30* | £592.30* |
| High Nursing Band Single Room | £621.30* | £627.30* |

*The High Nursing Band rates relate to those service users who are already receiving the high level of FNC prior to 1st October 2007.

| Funded Nursing Care (FNC) rates 2011/12 | |
|--|----------------|
| Single Nursing Band | £108.70 |
| High Nursing Band | £149.60 |
| Contenance Payment | £6.90 |

Appendix two

Weekly fee rates for 2011/12 for in City Residential Care Homes for Older People and Older People Mental Health (OPMH)

Both the preferred and the non preferred rates are detailed below:

| Residential Cares Homes for Older People | 2011/12 Weekly Rate for NON PREFERRED PROVIDERS | 2011/12 Weekly Rate for PREFERRED PROVIDERS |
|---|--|--|
| Low Need - single room | £322 | £325 |
| Low Need – shared room | £288 | £291 |
| Medium Need - single room | £391 | £394 |
| Medium Need – shared room | £355 | £358 |
| High Need - single room | £434 | £438 |
| High Need – shared room | £399 | £403 |

| Residential Cares Homes for OPMH | 2011/12 Weekly Rate for NON PREFERRED PROVIDERS | 2011/12 Weekly Rate for PREFERRED PROVIDERS |
|---|--|--|
| OPMH - single room | £476 | £480 |
| OPMH – shared room | £441 | £445 |