

ACTION TAKEN BY CABINET MEMBER (EXECUTIVE FUNCTION)

Subject	Pricing Strategy for Care Homes for Older Adults
Cabinet Member	Cabinet Member for Adults and Communities
Date of Decision	21 March 2014
Date of decision comes into effect	1 April 2014
Summary	The report sets out approval for the pricing strategy for Older Adults Registered Care for the next 12 months.
Officer Contributors	Sally Smith, Interim Category Manager, Adults and Communities
Status (public or exempt)	Public
Wards affected	All
Enclosures	None
Reason for exemption from call-in (if appropriate)	None
Key decision	Yes
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1. RELEVANT PREVIOUS DECISIONS

- 1.1 Cabinet Resources Committee, 28 February 2012 (Item X1) – Pricing Strategy for Care Homes for the next three years in line with the Council's Medium Term Financial Strategy.

2. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 2.1 The Council is committed to working in partnership with social care providers and the NHS to support older adults to remain in their homes and to develop alternatives to registered care. However, registered care homes remain an important element in providing 24 hour care to residents with the highest level of needs, particularly people nearing the end of their life or living with dementia.
- 2.2 The Council's priorities and commitment is to promote well-being, independence, choice and control of support needed. For those with high needs who receive 24 hour care, the requirement for choice is vital. By using the Maximum Usual Price (MUP) the Council is able to meet these commitments and offer choice.
- 2.3 The Council has a statutory duty to ensure that older people living in registered care homes are treated with respect, dignity, are offered high quality support and care and are safe. Therefore it is imperative that the price that the Council pays for older adults' registered care is sufficient to ensure these core aspects of registered care are provided.

3. RISK MANAGEMENT ISSUES

- 3.1 The Council's MUP for older adults registered care, is the price at which registered care placements are normally secured at and this includes where individuals under the Choice Directive choose a care home outside of the London Borough of Barnet. If an individual chooses a care placement over the Council's declared MUP, the Council will seek a third party top up for the difference between the MUP and the price of the care home. Therefore it is imperative that the Council's MUP reflects the current market price, to ensure there is a range of choice for residents, quality is maintained and to aid budgetary planning.
- 3.2 The Council purchases around 30% of the available places in the local market. Historically, the local market has developed as a result of a significant amount of private funding, attributed to self-funders, which could result in providers refusing to offer the Council placements due to the MUP being held.
- 3.3 There is a risk that providers may not agree to a "no uplift" policy. A specific cultural uplift mechanism is in place and can be applied where appropriate, based on an individual's cultural needs. An Equalities Impact Assessment will be completed to capture this.
- 3.4 Nationally, there have been seven judicial reviews over the last two years involving local authorities, where the sustainability of the commissioning authority pricing mechanism in their local market was questioned. Careful consideration as to how the MUP is calculated must be undertaken and evidenced. The Council will undertake a cost analysis of the market in March.

4. EQUALITIES AND DIVERSITY ISSUES

- 4.1 The Equality Act 2010 places a duty on public authorities to have due regard to eliminating unlawful discrimination, advancing equality and fostering good relations in the contexts of age, disability, gender reassignment, pregnancy and maternity, religion or belief and sexual orientation.
- 4.2 The services being procured will operate inclusively for all care groups. All care homes must consider and meet residents' cultural needs which may relate to language or culture. The Equality duty also places a duty on the Council to meet the needs of disabled persons and take account of their disabilities.
- 4.3 The providers are contractually required to have a high standard of equitable behaviours. This includes compliance with Equalities Legislation, operating an equal opportunities policy, observing Codes of Practice issued by the Commission for Equality and Human Rights and giving appropriate consideration to each customer's race, nationality, cultural or ethnic background, marital status, age, gender, religion, sexual orientation and disabilities.
- 4.4 An Equalities Impact Assessment will be completed. All providers have agreed to await the benchmarking exercise following which consultation and equalities analysis will be undertaken.

5. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 5.1 From 2009/10 the Council imposed a freeze on uplifts to the MUP. However, in 2012, an uplift was agreed for increases to the rates for 2012/13 and 2013/14 (as summarised in Table 1 below).

Table 1: MUP rates for the last 5 years

	2009-12	2012/13	2013/14
Residential Mainstream	£468.73	£476.39	£500.48
Residential Dementia	£490.57	£523.99	£546.01
Nursing Mainstream	£512.20	£519.82	£523.63
Nursing Dementia	£534.50	£551.57	£580.48

- 5.2 By freezing the rates in 2009, the Council managed to cap costs. However this meant that the pressure on the financial viability of these homes increased over this period and this was found to be unsustainable in the medium and long term. As a result, the MUP was increased in 2012/13 and 2013/14. However in the current period of austerity, careful consideration needs to be given to the prices the Council pays for care. Further work is also required to establish the impact on the Council of the Care Bill to be introduced in 2015.
- 5.3 The budget for 2013/14 for residential care is £31.0m and for nursing care it is £5.6m. For 2014/15, the budget is £29.3m for residential care and for nursing care it is £5.6m. The purchase of home care packages has been gradually

decreased over the last 5 years as more alternatives for this provision have been developed and continue to be developed. In 2008/9 there were 1210 residents in residential and nursing care; this has gradually dropped over the last 5 years to 1124 in 2012/13. The budgetary implications of maintaining the MUP for twelve months should be minimal.

- 5.4 Whilst managing demand and alternative provisions for residents to remain in their homes, it is likely that there will be an increase in the number of placements in dementia and nursing care over the next few years, causing a shift in the balance of care which will result in more costly placements.

6. LEGAL ISSUES

- 6.1 There have been two important judicial reviews which relate to pricing in residential care homes. Both judgments (Sexton and Pembrokeshire), provide that local authorities must show due regard to:

- The actual cost of care and;
- The impact that changes in provision could have on the individuals concerned.

- 6.2 There is a risk the Council's pricing policy may result in providers seeking voluntary contributions from family members. Whilst there is room for third party top-ups to allow choice for individuals under the "Choice Directive", this should not be the mechanism used to subsidise any perceived deficit in the core care costs.

- 6.3 Once a placement has been made by the Council, the care home has no legal basis to charge the resident, family or wider community for an additional amount. In the past there has been evidence that this practice does happen around the country and in order to reduce this potential risk, a sustainable price must be paid for care.

7. CONSTITUTIONAL POWERS

- 7.1 The Council's Constitution in Part 17, Responsibility for Functions, section 3 provides that Cabinet Members powers include "to approve any non-statutory plan or strategy requiring approval by the Executive and reserved by the Cabinet".

- 7.2 The Council's Constitution in Part 12, Decision Making, section 12.02 states that all decisions made by the Council will be in accordance with the principles of proportionality, openness and transparency.

8. BACKGROUND INFORMATION

- 8.1 The Council uses around 115-120 providers on an on-going basis to provide residential and nursing care to residents. There are currently 1103 service users in residential care placements. Of these 717 are in the borough (including Fremantle), 386 placements are out of borough including within other neighbouring London boroughs. The Council has a block contract with Fremantle for the provision of 184 beds (reducing to 134 beds by 1 April 2015); these beds are considered as a first choice for a resident where appropriate.

- 8.2 In 2011 Adult Social Services in conjunction with OLM Financial Management Ltd (OLM FM) conducted a detailed pricing review of the underlying cost structures. This analysis work was undertaken using a sample of current care home providers. The information was supplied on a voluntary basis by fourteen providers across all the different types of care and enabled them to input their current cost structures. Using this information and coupled with OLM FM general market management data, the review highlighted the need to increase the MUP rates to reflect a fair price for care. The increase in prices was authorised in 2012 and a staged rate increase was implemented over two financial years (2012/13 and 2013/14).
- 8.3 The OLM FM report also investigated the cost of culturally specific residential placements, and the benchmarking exercise highlighted some cost implications related to residents requirements as a result of their culture and religion. Based on this analysis, there is a mechanism in place for an increase on the MUP based on individual's cultural needs, as evidenced, in their assessment and support plan.
- 8.4 The current MUP is currently working, and the Council has received no complaints, feedback or evidence that it is difficult to find suitable placements within the borough or that providers will not work with the Council. Care homes within the borough continue to accept the MUP for placements. Following benchmarking with other local authorities including the West London Boroughs, it has been evident that Barnet's rates are currently within a sustainable rate for the next twelve months.
- 8.5 The current MUP rate is being accepted by care homes and over the next twelve months, the Council is proposing further work on the breakdown of the MUP to understand the care homes costings along with the implications of the Care Bill for both the Council and care home market. As a result of benchmarking and establishing that neighbouring boroughs are successfully using the West London Alliance (WLA) rates, which are lower than Barnet's, the Council will work with the WLA on future collaborations for cost savings.
- 8.6 When comparing Barnet's MUP against the WLA's rate, the rates for the WLA are lower across all types of care (see Table 2).

Table 2: WLA APC Scheme and Barnet MUP

2013/14	Barnet 2013/14	WLA
Residential Mainstream	£500.48	£466.00
Residential Dementia	£546.01	£540.00
Nursing Mainstream	£523.63	£506.21
Nursing Dementia	£580.48	£532.21

- 8.7 There are currently 5 participating boroughs: Ealing, Brent, Harrow, Hillingdon and Hounslow in this Accreditation, Purchasing and Contract Management (APC) Scheme. The APC Scheme has a number of providers who have agreed to this rate and the participating boroughs are currently purchasing at these rates with no current supply issues.
- 8.8 Over the next 12 months the Council will work with the participating boroughs on the APC Scheme and with the WLA on a collaborative approach to provide

residential care across the West London Boroughs in order to share information and drive efficiencies.

- 8.9 Health contributes to the cost of an individual's nursing care in a residential or nursing care home. The rate of the nursing care element is set each year by the NHS, and for 2013/14 this was £109.79, the rate for 2014/15 has yet to be confirmed. Where nursing care is needed for a resident, providers apply directly to their NHS authority (based on location) for this funding element. The Council is not involved in this funding stream; however, it does contribute to the total cost of an individual's care.
- 8.10 Consultation with the market will take place in March 2014, in order to compile evidence on the cost of care and to take into account the new Care Bill to be introduced in 2014/15. Once a new MUP has been decided, further consultation with providers will take place.

9. LIST OF BACKGROUND PAPERS

- 9.1 None.

10. DECISION OF THE CABINET MEMBER(S)

I authorise the following action

- 10.1 To maintain the current Older Adults Residential Maximum Usual Price (MUP) for one year (2014/15) to enable a review of the implications of the Care Bill and to enable the Council to continue to work with the West London Alliance to achieve efficiencies.

Signed



Date

21st March 2014
