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**REVIEW OF CARE HOME MARKET**

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*Appendix A, B & D of the report is not for publication as it contains exempt information of the description contained in paragraph 16 of Part 4 of Schedule 12A of the Local Government Act 1972.*

**Purpose of the Cover Report**

1. To provide attendees with background information to enable their pre-decision scrutiny of the report to Cabinet. Committee Members are to note the following key aspects of the Cabinet Report:

The Cabinet Report request Cabinet to:

- I. Agree the approach to fee setting for care and support services for 2024/25
  - II. Agree an approach for the **future commissioning of care home placements** for older people.
2. The Cabinet Report, attached at **Appendix 1** (*and its subsequent Appendices*) are due to be considered by Cabinet, at its meeting on 14 December 2023.
  3. Committee Members should note that **Appendices A, B & D** of the draft Cabinet Report are exempt from publication. Committee Members are therefore, requested to keep this information confidential, in line with their responsibilities as set out in the Members Code of Conduct and the Cardiff Undertaking for Councillors.

## Structure of the meeting

4. To inform the meeting the following have been invited to facilitate discussions:
  - Councillor Norma Makie, Cabinet Member, Adult Services
  - Jane Thomas, Director, Adults, Housing & Communities.
  - Angela Bourge, Operational Manager, Strategy Performance & Resources
  - National Commissioning Board Wales (attendance to be confirmed).
  
5. At the start of the meeting, Cllr Norma Mackie will be offered the opportunity to make a brief opening statement (should they wish). After which, Cardiff Council officers will provide attendees with an overview of the Cabinet Report, via a presentation (**Appendix F**).
  
6. Following delivery of the presentation (**Appendix F**) discussions between all attendees will then commence on the information available in the public domain, namely:
  - this Cover Report,
  - the Cabinet Report (**Appendix 1**)
  - Options Appraisal (**Appendix C**)
  - Single Impact Assessment (**Appendix E**)
  - Presentation that will be delivered at the meeting (**Appendix F**)
  
7. All attendees are encouraged to participate and share their views and knowledge throughout the meeting's discussions. Attendees are encouraged to share examples and views of those they support, however are reminded, as the meeting is public; not to name any individuals' directly.
  
8. Cardiff Council Scrutiny meetings are public meetings; meaning they are webcast and available for public viewing on the Council's website. For the benefit of the meetings webcast, attendees are required to turn their microphone on before contributing, and, prior to speaking, wait until their microphone shows a consistent red light.

9. Committee Members are advised, should they wish to explore the detail contained in the confidential appendices, namely: **Appendices A, B & D** a 'closed session' will be required where members of the public, external organisation representatives and press will be excluded.

### **Structure of the Papers**

10. To facilitate attendees' consideration, the following appendices are attached to this Cover Report:

#### **Appendix 1 – Cabinet Report, December 2023**

*The following appendices are then attached to Appendix A:*

**Appendix A** – Executive Summary of Care Home Market Data Analysis (**confidential**).

**Appendix B** – Care Home Market Data Analysis (**confidential**)

**Appendix C** – Options Appraisal

**Appendix D** – Legal Advice (**confidential**)

**Appendix E** – Single Impact Assessment

**Appendix F** – Presentation providing an overview of the papers.

### **Scope of Scrutiny**

11. During this scrutiny, Members have the opportunity to review the draft Cabinet Report and explore:
- I. How the proposals contained in the Cabinet Report deviate from current arrangements.
  - II. The proposed approach to fee setting (which incorporates annual uplifts and cost of care rates) for 2024/25 including methodology and principles used for determination.
  - III. The proposed approach for future commissioning.
  - IV. Financial implications of the proposals
  - V. Risks to the Council
  - VI. Next Steps and timelines.
  - VII. Assess the achievability and deliverability for the proposed development pipeline.

11. Following their consideration, Committee Members will decide what comments, observations or recommendations they wish to pass on to the Cabinet.

## **Background**

12. It is well known that Care Providers are facing a range of challenges which produce market fragility and workforce shortages. Attendees' attention is drawn to **points 34 - 35 and 39 – 43 of Appendix 1** which provides insight into known challenges for Cardiff Care Homes. Research suggests that strong models of care frameworks can provide an effective response to the challenges<sup>1</sup>.

13. As detailed in **point 5 of Appendix 1**, the Welsh Government's White Paper on Rebalancing Care and Support confirms the following three critical areas of focus needed to improve care and support:

- Refocusing the fundamentals of the care market away from price towards quality.
- Reorientation of commissioning practices towards social value.
- Evolution, integration, and simplification of joint planning to enable local systems to support alternative and innovative models of care.

14. Further, **point 8 of Appendix 1** states the [Cardiff & Vale Regional Market Stability Report](#) confirmed a change was required to care and support models, with a strong emphasis on citizens remaining at home for longer and demographics indicating an increased need for specialist care.

15. **Points 9-13 of Appendix 1** confirms the local and national strategic focus of prevention and reablement to support individuals to remain at home. Attendees are to note an analysis of the changing demand for care home placements is located in **Section 2 of confidential Appendix B**.

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<sup>1</sup> [Alternative models of domiciliary care | WCPP](#) Accessed: 24 Nov 2023

16. To provide attendees with further background on the council's strategic direction, the Adults, Housing & Communities Directorate Delivery Plan 2023/24 contains a commitment to:

*Work with care providers to deliver good quality care that meets current and future needs, to include:*

- *Further developing locality working through recruitment of local care co-ordinators*
- *Embedding a Quality Assurance Framework and developing a set of performance indicators to measure the quality of commissioned care provision.*
- *Refocusing care provision away from general residential care towards home-based care.*
- *Promoting the development of high-quality nursing and dementia care.*

17. To achieve that commitment, the Directorate Delivery Plan provides a number of milestones it will complete during 2023/24; included in those milestones are:

- *Implement a project to improve quality of care and undertake market shaping in collaboration with providers to ensure the market can meet Adult Services commissioning priorities, initially prioritising the cost of care exercise for care homes for older people to inform a fee setting strategy (to be completed during April – June 2023).*
- *Complete the agreed cost of care exercise with the market and undertake an analysis to understand the implications for a new Fee Setting Strategy for Care Homes for Older People (to be completed during July – Sept 2023)*

## Key Background Information

18. **Point 18 of Appendix 1** confirms that in 2022/23 the Council spent £36.3m on care home placements for older people; 28.78% of the total Adult Services commissioning budget.
19. **Point 23 of Appendix 1** details reasons why the council is frequently paying above the 2023/24 agreed care rates with further detail provided in **Sections 3 & 4 of confidential Appendix B**.
20. **Point 36 of Appendix 1** recognises that there 'may be a significant difference between 'fees paid' and 'costs of delivery' and quotes advice from the Welsh Government Toolkit on the need to balance what is an acceptable price for the public purse (eg costing to the council) and to deliver a sustainable business.
21. In 2019, Cardiff Council's Cabinet agreed an overall, Care Home Fee Setting Strategy **covering the period 2019-2023**. The Community and Adult Services Scrutiny Committee undertook scrutiny of this strategy in 2019 and a summary of the committee's observations is provided in **point 49** of this Cover Report.
22. Detail on the 2019 Fee Setting Strategy can be found in **point 28 of Appendix 1**. Attendees are to note the proposals contained in this Cabinet Report (**Appendix 1**) is **not** to agree a new Fee Setting Strategy for 2024-2027 due to the uncertainty of the current financial context (**point 38 of Appendix 1**).
23. Instead, this Cabinet Report looks for Cabinet to agree a 2024-2025 Fee Setting approach with a range of principles as detailed in **point 38 of Appendix 1** and its subsequent bullet points to govern the approach.
24. The main reasoning given for not setting an overall fee-setting approach for a longer period of time (as done in 2019) is given as the current financial context pressures and uncertainty. Further, the Cabinet Report details lack of clarity on the 2024/25 rates presented in this Cabinet Report is due to the councils 2024/25 budget position, and rates can only be finalised following approval of the

Council's 2024/25 Budget and confirmation of the resources allocated to the Adult Services directorate for 2024/25.

25. The council has to set a fee on what it will pay care providers, referenced in this cover report and subsequent papers as 'fee setting'. Attendees are to note there are two key elements of 'fee setting'. They are agreeing a standard cost of care rate and annual fee uplifts. To inform fee setting a 'cost of care exercise' between the council and care providers is undertaken.

26. With regard to Nursing Home costs, Committee Members are advised that responsibility for funding Nursing Care is the NHS; Cardiff Council is responsible for the residential care element of nursing home fees.

## **Legislative Context**

27. The Social Services and Well-being (Wales) Act 2014 (SSWB Act) came into force on 6 April 2016. The Act provides the legal framework for improving the wellbeing of people who need care and support. Through a 'Code of Practice', the legislation provides key requirements around care-home commissioning which local authorities must act in accordance with.

28. The Code of Practice lays out principles and standards for commissioning practices. Further, Welsh Government also provide a 'toolkit' of resources such as notable practice examples, case studies and evidence, commissioning tools, template clauses, to support commissioners in the delivery of the Code.

29. The Code of Practice provides an info graphic (below) detailing the set of inter dependent activities across the functions of commissioning, procurement and social value with the aim of securing good outcomes for people.



30. The Code of Practice presents in detail, the principles, outcomes and quality standards for commissioning care and support and can be found [here](#).<sup>2</sup>

31. The Cabinet Report (**Appendix 1**) details the Social Services Wellbeing Wales Act and the relevant accompanying Code of Practice has been taken into consideration when developing the proposals contained in the Cabinet Report. In addition, the Cabinet Report also details the following have also been taking into consideration:

- Welsh Government's White Paper: Rebalancing Care & Support, January 2021

*Further information can be found at points 5-6 of Appendix 1*

<sup>2</sup> [The National Framework for the Commissioning of Care and Support in Wales \(gov.wales\)](#) Accessed 24<sup>th</sup> Nov 2023



- Welsh Government's Toolkit 'Lets Agree to Agree'  
*Further information can be found at **points 32 & 36 of Appendix 1***
  
- The National Commissioning Board (NCB) Standing Committee's Cost of Care Report, November 2023  
*Further information can be found at **points 37-38 of Appendix 1***
  
- Cardiff & Vale Market Stability Report  
*Further information can be found at **point 8 of Appendix 1***
  
- Cardiff Council's Ageing Well Strategy  
*Further information can be found at **points 10-11, 13 & 45 of Appendix 1***
  
- Feedback received from local providers.  
*Further information can be found at **points 33 & 39-43 of Appendix 1***
  
- Local Care Home Market Analysis  
*Further information can be found at **confidential Appendices A & B.***

### **Cardiff Council's Current Approach to Care Home Commissioning & Future Commissioning Proposals**

32. Currently, Adult Services secures care home placements on a spot purchase arrangement where providers are invited to bid for each individual placement and a Dynamic Approved Provider List (DAPL) is used for tendering. For care providers to access the DAPL, they must pass an accreditation process providing a level of assurance that they are a reputable provider.

33. **Point 15 of Appendix 1** recognises the current approach does present challenges for providers such as no guarantee of work with the Council and lack of certainty about future income and the process could be described as bureaucratic and onerous for both Council officers and providers.

34. The Cabinet Report confirms there are currently 37 care homes for older people in Cardiff collectively registered to provide 1,899 beds. With 30 of the 37 care homes are Approved Providers i.e., accredited on to the Council's Dynamic Approved Provider List (DAPL) which equates to 1,598 registered beds. However, **point 17 of Appendix 1** advises some of the care home not yet accredited do have placements commissioned by the council's Adult Services department.
35. **Point 48 – 51 of Appendix 1** recognises and details the challenges in the current commissioning approach and the reasoning why a new approach to commissioning is required. **Point 51 of Appendix 1** and **Appendix C** details the options considered for a future commissioning approach.
36. The Cabinet Report confirms **Option 4** (detailed on **Appendix C**) as the recommended option with **point 52 of Appendix 1** listing the reasons for this decision. The Cabinet Report confirms further work will be required with the council's commissioning and legal teams to support its implementation along with work to address issues regarding the IT system the DAPL uses.
37. **Points 56 – 64 of Appendix 1 and slide 19 of Appendix F** also details the changes to monitoring and measuring quality in the future commissioning framework.

### **2023/24 Fee Setting Approach**

38. As detailed in **point 22 of this Cover Report**, to inform fee setting a 'Cost of Care Exercise' with care providers is undertaken to help inform decision making and to help the council set a standard set of care home fees it will pay at a fair price. Typically, Cost of Care exercise usually analysis costings under the following headings: -
- Staff hours per person per week.
  - Blended wage rates plus on costs.
  - Variable expenses
  - Administration costs
  - Finance costs

39. As way of background, in 2018/19 a modified approach to annual uplift for the Care Home fee was initially taken by the Council. However, a pre-judicial review challenge was received on behalf of providers on the assertion that the Council had not consulted effectively with providers on its fee setting process and therefore has acted outside of the Welsh Government Statutory Guidance.

40. Following this, the Cardiff Council made a commitment to undertake a Cost of Care exercise to inform future decision making in setting fee levels for the older people care home sector.

41. As detailed in **Appendix 1**, a Cost of Care Exercise was undertaken with providers to inform the 2019 Fee Setting Strategy. Recognising the 2019-2023 Fee Setting Strategy was coming to an end, Adult Services initiated a cost-of care exercise with care home providers in September 2022 to inform a future fee setting strategy.

42. However, for the reasons set out in **point 29 of Appendix 1** (*financial uncertainty owing to current context*), that process was deferred with the 2019 Fee Setting Strategy extended; with an additional uplift for residential dementia, nursing, and nursing dementia placements. Providers impacted by this arrangement were invited to liaise with the council.

43. As such the Cabinet Report confirms the current standard cost of care fee levels for 2023/24 as:

<b>Category</b>	<b>Cost of Care Home Fee Levels 2023/24</b>
Residential	£912.29
Dementia Residential	£979.40
Nursing	£903.79
Nursing Dementia	£1001.17

## **2024/25 Fee Setting Approach – Care Homes**

44. **Point 32 of Appendix 1** details another attempt by the Council to undertake a Cost of Care Exercise in August 2023 with providers, and also provides reasonings why this exercise could not be relied upon to provide a representative position of the four categories of care homes.
45. However, **point 33 of Appendix 1** confirms that the information that was submitted in the August 2023 Cost of Care Exercise, coupled with feedback from a provider survey undertaken in November 2023 (**points 40-43 of Appendix 1**), and analysis undertaken by council officers on bidding patterns have informed the 2024/25 Fee Setting approach being proposed in the Cabinet Report (**Appendix 1**).
46. The Cabinet Report propose for the 2024/25 fee setting approach a clear set of principles be agreed by Cabinet to determine how the standard cost of care will be uplifted (**point 38 of Appendix 1** and **slide 12 of Appendix F**)
47. The Cabinet Report advises that further consultation with providers is required to inform the fee setting for 2024/25 while recognising the limited scope of the council's budget.
48. **Slide 13 & 14 of Appendix F** confirms and details the fee setting approach for other groups and the Domiciliary Care market.

## **Previous Scrutiny**

49. In November 2019, the previous Community and Adult Services Scrutiny Committee undertook scrutiny on the 'Older Peoples Care Home Fee Setting Strategy 2019-2023'. A summary of the key points raised in this scrutiny is offered below:
- Concerns were raised regarding scheduling, and if determining an overall 'fee setting strategy' prior to confirming a procurement process was the

correct timetable of action. In response, Committee Members were informed that the executive were confident in their approach and setting a standard fee is expected practice found across the majority of local authorities. Further, Members were informed due to the detailed and lengthy level of engagement and consultation with providers this helps to mitigate potential risks.

- Due to the complexity, and technical nature of this issue Members sought clarity on the figures provided. Members highlighted on the need for the executive to remain mindful that confusion and the need for clarity could result in difficulties with care providers future interaction.
- Following on from the above point; Committee Members stressed the need to simplify methods and explanation to produce clear, transparent insight.
- Committee Members sought further information on how future costings will be managed.
- Committee Members were pleased to receive assurance that the quality or length of a placement does not correlate with cost.
- With regard to the Dynamic Purchasing System (DPS), Members were informed that work is ongoing with providers to determine if such a system should be utilized when managing and determining quality of care.
- Members received assurance that the executive were alert to the work and resource required to address the projected increase of Cardiff's older population by growing and developing the market.

### **Legal Implications**

The Scrutiny Committee is empowered to enquire, consider, review and Recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct legal implications. However, legal implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any legal implications arising from those recommendations. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on

behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. Scrutiny Procedure Rules; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

### **Financial Implications**

The Scrutiny Committee is empowered to enquire, consider, review and recommend but not to make policy decisions. As the recommendations in this report are to consider and review matters there are no direct financial implications at this stage in relation to any of the work programme. However, financial implications may arise if and when the matters under review are implemented with or without any modifications. Any report with recommendations for decision that goes to Cabinet/Council will set out any financial implications arising from those recommendations.

### **RECOMMENDATIONS**

The Committee is recommended to:

- i. Consider the information provided in this report, its appendices and information received at the meeting;
- ii. Decide whether it wishes to relay any comments or observations to the Cabinet.

**Leanne Weston**

Interim Deputy Monitoring Officer

6 Dec 2023