

**BY SUBMITTING THIS REPORT TO THE CABINET OFFICE, I Jane Thomas, Director Adults, Housing and Communities AM CONFIRMING THAT THE RELEVANT CABINET MEMBER(S) ARE BRIEFED ON THIS REPORT**

**CARDIFF COUNCIL  
CYNGOR CAERDYDD**

**CABINET MEETING: 14<sup>th</sup> December 2023**

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**REPORT TITLE** Review of Care Home Market for Older People and the Approach to Fee Setting for Care and Support Services for 2024/5.

Appendix A, B and Appendix D of this report is not for publication as they contain confidential information pursuant to paragraph 16 of Part 4 of Schedule 12A to the Local Government Act 1972.

**CABINET PORTFOLIO TITLE: Cllr Mackie, Social Services (Adults)**

**AGENDA ITEM:**

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**Reason for this Report**

1. To provide an update on the care home market for older people and to agree an approach for the future commissioning of placements in this cohort of care homes.
2. To provide an update on work undertaken to gain an understanding of provider costs for care homes for older people and for other services and to approve the proposed approach for fee setting for care and support services for 2024/25 ahead of further consultation.
3. To provide an update on work currently being undertaken to strengthen quality assurance arrangements for care homes for older people.

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### Background

4. Care homes for older people play a vital role in supporting the city's most vulnerable residents. The Council requires residential and nursing care services for older people to provide:
  - a safe, secure, and stable environment, with onsite 24/7 access to care and support.
  - the opportunity to promote choice, engagement, and meaningful activities for its residents and family members.
  - dignity and respect for all residents.
  - a good quality of life for residents.
  - appropriately skilled and qualified workforce that is competent to meet the individual needs of residents.

### National and Local Context

5. **The Welsh Government White Paper on Rebalancing Care and Support** published in January 2021, highlights the complexity of the care and support market landscape in Wales that comprises over 1,000 providers, mostly from the independent sector. It describes three critical areas where focused action is needed to improve and rebalance care and support:
  - Refocusing the fundamentals of the care market away from price towards quality and value where a more diverse provider base including not-for-profit providers can grow.
  - Reorientation of commissioning practices towards social value commissioning focused on managing the market and outcomes.
  - Evolution, integration, and simplification of joint planning and delivery to enable local systems to support alternative and more innovative models of care.

Welsh Government conducted a consultation on the approach between May – August 2023. The responses to this consultation are currently being reviewed.

6. To support the rebalancing agenda, the **Code of Practice for Part 2 of the Social Services and Well-being (Wales) Act** and the **guidance for Part 9** have been redrafted to provide clearer and stronger requirements for local authorities to implement the Section 16 duty. This duty requires local authorities to promote social enterprises, co-operatives, user-led services and other third sector organisations for the provision of care and support and preventative services. In Cardiff it has been decided to implement separate Section 16 Forums for Adult Services and Children's Services in recognition of the different challenges and opportunities facing the two social care markets in the city. Planning for

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the relaunch of the Adults Services Section 16 Forum is currently underway, with the first full meeting expected to be held in January 2024. The aims of the Forum will be to:

- Transform care to achieve greater well-being and sustainability.
  - Rebalance the care market to achieve greater diversity of service providers.
7. Section 16 service providers are in the minority in Cardiff's care home market and during the current year, 2 care homes operated by a charity have closed and a further 2 owned by a housing association are for sale. The work undertaken by the new Section 16 Forum will assist commissioners to gain a better understanding of why it is not currently attractive for Section 16 service providers to enter or remain in the care home market and to explore what action the local authority can take to address this in the future.
8. The Cardiff and Vale **Regional Market Stability Report (MSR)** was put before Cabinet and Council in October 2022. The report considered the overall sufficiency and stability of the care and support market for regulated services. It reflected that a change was required to care and support models with a strong emphasis on citizens remaining at home for longer, reducing the need for residential care but also in response to demographics which indicate an increase in need for specialist care. Consequently, it identified that more specialist care home capacity was required to support people with dementia and at end of life and it was predicted that an increase of 58 nursing care beds would be required per year across the region.
9. The MSR also indicated that occupancy levels in care homes for older people were below sustainable levels in some instances due to the impact of Covid 19, and that providers lacked confidence regarding the future sustainability of their business models with a reluctance to make capital investment due to the way in which the Council commissions placements. Consequently, there was a risk of disorderly withdrawals from the care home market. Since the MSR was published in October 2022, 2 Cardiff care homes have exited the market due to issues related financial sustainability, 2 more have exited for other reasons.
10. Cardiff's **Ageing Well Strategy** sets out a number of key aims:
- Support older people to stay active and connected in an age friendly city.
  - Support older people to live independently at home through strengths-based preventative services.
  - Work in partnership to deliver high quality sustainable care and support.

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- Support informal carers and valuing their role.
  - Ensure our services meet the needs of the most vulnerable.
  - Proactively modernising our services.
11. The clear intention of the Ageing Well Strategy is to focus on prevention and reablement, supporting people to remain at home through a range of measures including better use of equipment, adaptations, and technology and through an ambitious development programme of specialist older persons / extra care housing. There is a clear intention to move away from the use of general residential care, towards more cost effective and sustainable forms of care which support the independence and wellbeing of service users.
12. An analysis of changing demand for care home placements is located at **Section 2 in Appendix B.**
13. The Ageing Well Strategy recognises the need to work in partnership with the care sector to ensure the delivery of high quality, sustainable care and support and in particular to support the sector to meet the changing demographic makeup of the city, and commissioning priorities of the Council, which will increase demand for specialist care, such as nursing and nursing dementia care.
14. Currently Adult Services secures care home placements on a spot purchase arrangement where providers are invited to bid for each individual placement. A Dynamic Approved Provider List (DAPL) is used for tendering that is intended to support the development of an active market of quality providers. For care home providers to become “Approved Providers” and join the DAPL, they need to pass an accreditation process that gives the Council a level of assurance that they are a reputable provider that can appropriately deliver the services that are required.
15. The commissioning of each package of care on an individual basis means that Adult Services does not risk block booking beds that are not then utilised. However, commissioning in this way presents challenges to providers, there is no guarantee of work with the Council that would encourage them to invest in their premises or to make changes to their delivery models. The lack of certainty about future income also makes it difficult for them to secure investment in their services. It is also bureaucratic and onerous for both Council officers and providers.
16. There are currently 37 care homes for older people in Cardiff collectively registered to provide 1,899 beds. It should be noted that not all these will be in use at any one time for a number of reasons such as

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refurbishment of rooms or workforce issues. 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.

17. Of the 7 Cardiff care homes that are not yet accredited, these care homes are collectively registered for 301 placements. 6 have placements commissioned by Adult Services through historical arrangements and work is underway to support them to become accredited and enrolled. It should be noted that although these homes are not yet accredited by the Council, they are regulated by Care Inspectorate Wales.

18. In 2022/23 the Council spent £36.3m on care home placements for older people, 28.78% of the total Adult Services commissioning budget.

### Issues

### Data Analysis

19. An analysis of available data for care home placements for older people in Cardiff has been undertaken. An Executive Summary of key data is located at **Appendix A** and the care home market data analysis in full is located at **Appendix B**. Both Appendix A and B are confidential due to the commercially sensitive information contained within. Some key findings that are not exempt from publication are set out below.

20. As at 23 September 2023, there were 674 individuals in Cardiff care homes placed or funded by Adult Services. Council placements take up 35% of all registered care home beds for older people in the city, the other 65% are either currently vacant; commissioned by Health or occupied by individuals who are self-funding their own care.

21. **Section 2 of Appendix B** demonstrates the fluctuating demand for care home placements from April 2019 to April 2023 in respect of placement type. The information is based on the total number of placements as at the start of each financial year. Over this period demand for General Residential Care has dropped by nearly 50%, from 241 beds to 129 beds, whilst demand for Dementia Residential care has increased by 66%, from just 56 beds in April 2019 to 165 beds in April 2023. Demand for general Nursing placements has decreased by 25%, from 329 to 244 beds, however this remains the highest category of placement. Demand for Nursing Dementia placements has increased over the same period by 51%, from 58 to 119 beds. While Covid has impacted on the residential care market over this period, the trend in usage is still clear, with a move towards more specialist provision.

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22. Following completion of a cost of care exercise in 2018, Cardiff Council agreed standard cost of care rates for care home placements for older people for four separate types of home:

- Older Person Residential
- Dementia Residential
- Older People Nursing
- Dementia Nursing

The current standard cost of care fee levels for 2023/4 are set out in the table below.

**Table 1: Standard Costs of Care 2023/4**

Category	Cost of Care Home
Residential	£912.29
Dementia Residential	£979.40
Nursing	£903.79
Nursing Dementia	£1001.17

23. Although cost of care rates are in place, the service is frequently paying above these rates. This can occur for a number of reasons; however, it is frequently due to a lack of bids at the cost of care rates. **Section 3, Part 3 in Appendix B** shows a breakdown of the amount paid for care home placements as at September 2023 and how these relate to the set cost of care rates. The data shows that the service is regularly paying above the cost of care rates for placements. The highest percentage of placements above the current standard cost of care rate is General Nursing and Nursing Dementia placements reflecting demand for these categories of placements and the challenges that the service faces in securing them.

24. An analysis of bidding patterns undertaken in Quarter 2 of 2023/24 is located in **Section 4 in Appendix B. Part 1 of Section 4** shows the number of bids received in the period for all placements via the DAPL and **Part 2** shows the number of care homes bidding via the DAPL and the range of associated placement costs.

25. **Section 4, Part 3 in Appendix B** also provides details of the number of placements made via Direct Awards. An analysis of the reason why direct awards were made indicates there are legitimate reasons for these. A full breakdown of the rationale for direct awards is located at **Section 4, Part 4 in Appendix B**. The reasons for direct awards include but are not limited to the following examples which reflect service user choice and change in needs:

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- choice where an individual or their family have identified a specific care home (possibly due to location). In some cases, an individual or their family may choose a care home where charges are more than the set cost of care rate or lowest bid through the DAPL. In those cases, a third party such as a family member or representative would need to accept responsibility for the additional payment and enter into an agreement with the Council and the care home provider.
- changes in need to achieve continuity of care where an individual has been admitted to a care home on a temporary basis for respite or to support hospital discharge and needs to remain there on a longer-term basis.
- Escalation of need that require an individual to move from residential to nursing care and the change can be met in their current home, without the individual having to move, due to the home's dual registration as a residential and nursing provision.

26. This data analysis and the issues it has revealed have been used to inform the approach to fee setting for 2024/5 and the proposed approach to future commissioning, both of which are set out below:

### Fee Setting Guidance and Good Practice

27. Statutory guidance to local authorities on the commissioning of social care services is set out within Welsh Government statutory guidance **'Commissioning Framework Guidance and Good Practice. Standard 10 (2010)** This guidance sets out the factors a local authority should take into account when considering fees: The Guidance states,

*'Commissioners will have to take into account the full range of demands on them and their strategic priorities, as well as the resources they have at their disposal in developing their commissioning strategies.*

*Fee setting must take into account the legitimate and future costs faced by providers as well as the factors that affect those costs and the potential for improved performance and more cost effective ways of operating. **The fees need to be adequate to enable providers to meet the specification set by the Commissioners together with regulatory requirements..***

*Commissioners must have a rationale to explain their approach to fee setting. The primary concern is that services operate safely and effectively to promote the welfare of the service users and carers and meet regulatory requirement"*

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### Fee Setting for Care Homes for Older People

28. A three-year Fee Setting Strategy was implemented in 2019 with the aim of bringing any packages of care receiving below the Council's set cost of care level up to the set rates over a three-year period. While the arrangements allowed for packages of care at the cost of care rate to receive an annual uplift, any packages of care higher than the set rates would not receive an annual increase, as these packages were considered higher than the Council would expect to pay. Uplifts to the cost of care rates for 2022/23 onwards have included the Real Living Wage (RLW) uplift for workers in registerable posts.
29. Adult Services initiated a new cost of care exercise for providers of care homes for older people in September 2022 with the intention of developing a new Fee Setting Strategy that would cover a 3–5-year period from April 2023. However, the low number of participants in the exercise meant that the cost data that was collected could not be viewed as representative of the sector and would not be a reliable basis on which to develop a new Fee Setting Strategy. It was also acknowledged that implementing a new Fee Setting Strategy at that time would not be sensible as it would commit the Council to a medium-term financial commitment at a time of great financial uncertainty in respect of its budget and at a time when providers continue to be uncertain about how the current rising costs will impact on their cost of care over the next few years. For that reason, it was agreed in the Budget Report for 2023/24 to extend the existing Fee Setting Strategy for a further year.
30. Therefore, the approach to fee setting remained the same. Placements already above the uplifted cost of care rate did not attract an annual uplift. Providers impacted by this arrangement and concerned about the ongoing sustainability of the placements were invited to contact the local authority for a discussion. A number of providers did this, and decision-making has been reviewed on a case-by-case basis in light of the outcome of the discussions.
31. The 2023/24 fee setting included an additional uplift for Residential Dementia, Nursing, and Nursing Dementia placements. This was intended to acknowledge, to some extent, the additional carer hours that are involved in providing these placements. As can be seen from the data in **Appendix B**, however the actual cost that the Council is paying for these placements is often significantly higher than the cost of care fee levels set.

### Proposed Approach to Fee Setting for 2024-25



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32. In August 2023, Adult Services again attempted to carry out a new Cost of Care Exercise following the Welsh Government's "Lets Agree to Agree" methodology. To do this the service worked collaboratively with the Cardiff Nursing and Residential Care Home Association (CNARHA) committee with the intention of informing the development of a new Fee Setting Strategy for 2024/2027. To be sure that enough providers participated in the exercise to make it viable, expressions of interest were sought prior to the start of the exercise. At the commencement of the exercise 10 providers accounting for 41% of care homes for older people committed to participate which was felt to provide enough in each cohort to make the exercise viable. However, due to unforeseen circumstance several providers who had committed to participating were unable to do so and therefore the numbers that submitted their cost templates and participated in the interviews were lower than anticipated. Additionally, those who participated provided a wide range of responses in relation to costs which meant it has not been possible to identify "normal" costs for each category. This meant that once again the exercise could not be relied upon to provide a representative position of the four categories of care homes.
33. However, whilst it was not possible to conclude the Cost of Care Exercise in the way it was intended, the information that was submitted by those who were able to participate provided a helpful insight into provider costs. This information, coupled with feedback from a provider survey on current costs and expected costs pressure for 2024/25 undertaken in November 2023 ( see paragraphs 40-43), along with the detailed analysis that officers have undertaken around bidding patterns, current costs and benchmarking (See **Appendix B, Sections 3, 4 and 5**) have informed the approach to fee setting for 2024/25.

### **Financial Issues Impacting on the Care Home Market**

34. Occupancy level in care homes have increased and have largely returned to pre-pandemic levels, however care homeowners are facing a number of challenges. Those with mortgages and / or development loans are experiencing very significant increases in borrowing rates (for example up to 5.5% above Bank of England base rates) and tighter loan covenants. Loan covenants are agreements made between a debtor (borrower) and a creditor (lender), which expressly outline conditions that a borrower must meet. Within the care homes sector, this is generally related to requirements such as minimum occupancy that must be maintained, minimum weekly incomes (which in turn impacts on the costs that provider must charge) and in some cases a percentage of rooms that should be occupied by self-funders. Lenders are increasingly viewing the care sector as high risk.

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35. The feedback provided by those care homes that participated in the Cost of Care Exercise revealed how volatile costs current are:

- Providers indicated that they found it difficult to accurately predict financial pressures for 2024/25.
- The RLW announcement was made following completion of cost templates so at that time providers were uncertain of the impact this would have.
- Providers felt that interim uplifts would best meet their needs during the current period of financial uncertainty. However, they understood that the Council's annual financial planning arrangements meant that this would not be practicable.
- An expected decrease in utility costs for 2024/25 may not impact on all providers as some providers have lower cost contracts that were put in place prior to the cost-of-living crisis so they expect an increase when there are renewed.
- Providers felt it was difficult to accurately quantify the number of care and support hours required for different cohorts of placements (e.g. nursing / nursing dementia) with a wide range of lower and higher needs for individuals within the categories.
- Providers indicate that costs have risen for investments in buildings such as general maintenance due to cost-of-living increases.
- There was a general concern from those participating that low numbers of submissions to the Cost of Care Exercise may not provide a reliable indication of future cost due to the volatile nature of operating costs and high interest rates.

36. It is accepted that there may be a significant difference between 'fees paid' and 'costs of delivery'. The Welsh Government commended 'Lets Agree to Agree' toolkit acknowledges that the price for care has to be *negotiated* as with any other contract, that “ ***there will always need to be a balance between what is an acceptable price, is affordable to the public purse (the tax payer) and what is fair for providers in order that they can deliver a sustainable business***”.

37. The National Commissioning Board (NCB) Standing Committee's Cost of Care Report (Final Draft – 6<sup>th</sup> November 2023) highlights that public sector commissioners (local authorities and local health boards) are under significant financial strain. Most, if not all commissioners, are forecasting significant overspends in the current year (2023/4) and significant budget deficits for 2024/5. Therefore, to assure public value, it is broadly accepted that there is a real likelihood that statutory bodies will have no choice but to contain costs. Furthermore, it recognises that commissioners will require greater levels of transparency regarding

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operators' business models, costs of capital and sources of financing and levels of returns, including profits on capital invested and corporate returns.

38. While it is recognised that putting a new Fee Setting Strategy in place for 2024 - 2027 would provide a clear understanding for providers of the Council's intentions and commitments over the period of the strategy, it is once again felt unwise to propose this approach in the current financial climate. It is understood that in the next year, the Council will face its most challenging financial situation yet and there continues to be significant uncertainty about the on-going impact of the cost-of-living crisis on care home providers. It is therefore recommended a new Fee Setting Strategy should not be put in place in 2024 but instead the following approach to fee setting is taken which will provide a clear set of principles that govern how the annual fee uplifts are determined and how a standard cost of care is calculated for the new financial year. The approach proposed, subject to further consultation, is as follows:

- Ensuring that cost of care rates reflect the need to uplift staffing costs to meet the Real Living Wage (RLW) that has been set at £12 a 10.1% increase. The RLW increase will be attributed to the workforce element of provider costs only.
- To provide an uplift that considers the increase in costs other than staffing, based on predicted inflationary pressures.
- Identifying separately the types of placements most in demand, and for which there is likely to be increasing need in the future. These placements offer a higher level of care and support, and most frequently cost the Council more than the current cost of care rates. To seek to reflect the additional care costs of these homes in a way that is affordable to the Council.
- Recognising the concerns of the providers that Return on Capital Employed is not fully represented in the cost of care rates, while understanding that any significant increase in this respect will be unaffordable in the current financial climate without additional investment from Welsh Government.
- The current arrangement whereby those placements above the new uplifted cost of care rate are not awarded an uplift will continue. It is anticipated that this will impact on approximately 254 placements. This approach is not without risk and may lead to provider challenge and issues regarding the future sustainability of some placements. In such instances Adult Services will need to review comments received from the providers on a case-by-case basis.
- Ensure that final fee setting decisions are informed by further consultation with providers so that commissioners can

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understand the expected impact of the proposals before formal decision-making takes place. It will be important to recognise that whilst it may not be possible for the Council to meet the gap between existing fees and the increased costs that providers have indicated they are experiencing, it is important that the providers are able to voice the impact of not doing so on market sustainability and sufficiency and that this can be fully considered.

- Share information and raise any concerns identified with the National Commissioning Board and Wales Government policy leads to inform Social Care Futures and Fair Work developments in order to contribute to national work being undertaken to begin to close the funding gap.

### Feedback on Cost Pressures – All Care Providers

39. In addition to the cost of care work with providers of care homes for older people, all providers were asked to provide information about their cost pressures. The results of this survey undertaken in November 2023 have also been considered and where possible have been taken into account in the fee setting proposals set out below. The key findings from the survey are detailed in paragraph 40 - 43.

40. Response rates to the survey from the care home sector was disappointingly low with only 11 completed surveys submitted, 8 of which were from care homes for older people and 3 from care homes for other population groups. Some sections of the completed submissions were invalid due to the way they were completed making it difficult to undertake a detailed analysis of findings. However, the feedback that could be analysed was consistent with the messages summarised in paragraph 35. Additionally, care home providers highlighted increased costs for food as well as insurance costs as financial pressures.

41. 24 surveys were returned by Domiciliary Care providers but 3 did not complete the section on cost pressures correctly and therefore had to be discounted from the analysis. Increased costs for staffing (including training, recruitment and meeting the RLW differential for back office/management staff) was highlighted as a significant pressure, along with travel and mileage (including fuel, insurance, parking tickets incurred and general costs for travel time etc.), utilities and establishment costs, increases in business / commercial insurance and PPE. It is likely this last cost pressure is related to the anticipated end in March 2024 of the Welsh Government funded PPE scheme.

42. 4 surveys were returned for Supported Living & Extra Care providers but 2 had to be discounted from the analysis on cost pressures due to a lack

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of information provided. Of those providers who correctly completed this section of the survey, cost pressures were highlighted to be increases in insurance, utility and staffing costs, the latter related to the Real Living Wage.

43. In addition to cost pressures, the survey asked providers to submit details of their pay rates for Care Workers and Senior Care Workers. All providers who submitted a response confirmed that they are currently paying above the Real Living Wage rate for Care Workers with Supported Living and Extra Care providers paying the highest rates and Nursing Home providers paying the lowest rates. Supported Living and Extra Care providers also pay the highest rate for Senior Care Workers, with the lowest rate being paid by Care Homes for older people with dual registration .

### **Approach to Annual Fee Uplifts for 2024/5 for other Groups of Commissioned Social Care Providers**

#### **Care Homes for Other Population Groups**

44. A separate approach will be taken to fee setting for care homes for other population groups. Understanding the costs for this cohort of care homes that typically provide specialist care and support to people with Learning Disabilities, mental health issues and substance misuse problems, is challenging due to the range of different models of care delivered by this cohort of providers and varying individual needs of the service users. While in the case of Learning Disabilities the cost of placements is among the highest, this is inextricably linked to complexity of need. The importance of sustaining these placements is recognised and the need to reflect their additional costs accepted, therefore it is proposed that uplifts for these placements are calculated in line with the principles set out above, except that all placements receive an uplift. Longer term plans are in place to further develop specialist supported living schemes, which will reduce reliance on expensive residential placements while helping individuals to remain closer to home. A pipeline of such schemes has been identified and will be delivered over the next 3 years. With placements for mental health and substance misuse, needs can vary and therefore case by case decision-making on fee uplifts will take place for those care home placements that are above the proposed new cost of care rate for care homes for older people. Again, alternative accommodation and support arrangements to mitigate the need for residential care for people with mental health issues are under development and will be part of a 3-year development plan.

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### **Domiciliary Care**

45. An effective domiciliary care provision is essential to support the Council's Ageing Well Strategy and the move from residential to care at home. Unlike many councils Cardiff has an active domiciliary care market and can provide the essential care needed. In November 2021, the Council approved a Domiciliary Care Fee Setting Strategy which was informed by national and regional Cost of Care Exercises, benchmarking of prices across several local authorities, and analysis of provider costs and rates that the Council was paying for Domiciliary Care at that time. It was agreed that a pricing envelope would be set for future fees in the city that clearly reflects a fair price of care, supports providers to be sustainable, viable and produce high quality care whilst ensuring best value for the Council and the public purse. The ceiling rate agreed at that time was felt to be generous and it was anticipated that due to competition in the market, provider rates would typically be somewhat below the ceiling rate which reflects current experience.
46. No change to the approach to fee setting for Domiciliary Care is proposed for 2024/25, with the continuation of the floor and ceiling. Arrangements will continue to reflect the approach set in 2021 when the Fee Setting Strategy was agreed, with a floor level that is felt to be the lowest fee level the Council would expect to pay that reflects sustainability and a ceiling rate that reflects the maximum fee it expects to pay, except in exceptional circumstances. However, it is noted that the difference between the floor and ceiling may have changed over the interceding period. It is proposed that fees will reflect the Real Living Wage increase and the predicted rate of inflation going forward. This proposal will be subject to further consultation with providers, while recognising the limited scope of the council budget.

### **Other Services Commissioned by Adult Services**

47. The annual uplifts for other services commissioned by Adult Services will also follow the approach set out in 2023/24, taking account of the range of current contractual arrangements in place, with some adjustments in recognition of the difference in timing of contractual uplifts and date of implementation of the Real Living Wage for eligible staff.

### **The Proposed New Approach to Commissioning Care Home Placements for Older People**

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48. The analysis undertaken in the Market Sustainability Report (MSR) around sufficiency and stability highlighted the need for commissioners to collaborate closely with the provider market and to give providers certainty about future activity and fee levels. It is recognised that without this certainty they will not have the confidence needed to invest to modernise service models and expand capacity where needed.

49. The current method of commissioning care home placements through the DAPL has a number of disadvantages which are impacting both on the current cost of placements and the ability of the Service to manage the market towards meeting future needs.

- There are challenges in securing nursing and dementia nursing placements and also respite placements, low numbers of providers are bidding on a consistent basis.
- Although every placement is put out to the market individually, a process that is administratively burdensome for both the Service and the providers, the actual prices paid for placements are often above the standard cost of care rates.
- It is difficult to build collaborative relationships with such a large number of providers or develop partnerships with the flexibility and commitment that is needed to meet the demographic challenges ahead.
- In relation to the 30 care homes on the DAPL, Cardiff has 19 homes that require investment to make them fully compliant with the Regulation and Inspection of Social Care (Wales) Act 2016 (RISCA) and suitable to provide services to residents with higher levels of need. 15 are partially compliant and 4 are non-compliant. There is a need to upgrade these homes, however, the current arrangements of purchasing placements on an individual spot basis does not give providers any assurance about the number of placements the Council will commission with them, and this provides a challenge when they are seeking to secure investment to improve their homes because there is no guarantee that their vacancies will be filled.

50. It is recognised that a new approach to commissioning is required that:

- Supports market management – in order to successfully address the Service's commissioning priorities i.e. a reduction in the amount of general residential placements and increase the number of nursing and dementia nursing placements available and increase in providers offering short term respite placements.

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- Creates the right conditions to encourage providers to invest in their homes so they can meet the population needs and to improve sufficiency and quality.
- Ensures that any new capacity created is at an affordable level whilst paying fair fee levels to ensure sustainability.
- Strengthens quality assurance processes and improves overall quality and value for money.

51. An internal project group was established to identify different commissioning models that could provide a new approach to future commissioning. This group was made up of representatives from Adult Services, Legal Services and Corporate Commissioning and Procurement. Four options were considered in detail which are listed below. A summary of the full options appraisal undertaken by the group is located at **Appendix C** which details the benefits and risks of each option.

- **Option 1 - Remain as is, continuing to use the DAPL** – commissioning all placements via the DAPL, either using existing processes or via improved and more relevant processes that address the issues with the current arrangements.
- **Option 2 - Use of Block Contracts** – which enable contracts to be put in place with providers for a specified type and amount of care over an agreed timescale for an agreed rate. Providers are paid for a set number of placements at the agreed rate, whether these are used.
- **Option 3 – Use of Framework Arrangements** which enable contracts to be put in place with a range of framework providers. These frameworks would allow commissioners to “call off” placements as needed. Frameworks can be arranged into “lots” for specific types of care that reflects the cohorts of placements that are required (e.g. respite, general nursing etc).
- **Option 4 – A Hybrid Model using the DAPL with Frameworks** for lots that reflect the cohorts of placements the Service find most challenging to secure.

52. The recommended option identified by the group and approved by the Adults, Housing and Communities Commissioning Board on 16<sup>th</sup> September 2023 was Option 4 for the following reasons:

- A combination of Dynamic Approved Provider List together with a few Framework Arrangements would better support market management and market-shaping than the current arrangements - with the Frameworks reflecting the types of placements Adult



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Services have most challenges in securing currently and which are frequently more costly.

- Frameworks present less financial risk than block contracts where providers are paid for an agreed number of beds whether they are full. Adult Services have block contracted on occasions in response to specific needs (e.g. to support hospital discharge) but this has presented challenges as it is not always possible for providers to fill vacancies if there are compatibility issues with existing residents, also if the level of demand reduces over the term of the contract then payments may be made for empty beds.
- However, Frameworks provide an opportunity to offer more security for providers. This is expected to increase their investment opportunities required to improve the quality-of-care homes, particularly those that are not currently RISCA compliant (e.g., rooms with ensuite facilities) and this will improve their sustainability.
- Agreeing a fee level for providers who are part of the Frameworks will also support more accurate financial projections, and critically will help ensure the affordability of care provision.
- Continuing to operate the DAPL alongside Frameworks with a number of specialist lots will have a number of benefits. It will ensure that all providers who tender for the Frameworks have previously onboarded to the DAPL and will have already been checked against appropriate quality standards. This will support the tender arrangements for the Frameworks.
- The maintenance of the DAPL for other types of placements where demand is reduced (e.g. general residential) would continue to support choice for individuals and enable the Service to maintain fair and equitable procurement arrangements for these type of placements. The maintenance of the DAPL would also provide an opportunity for placements that cannot be secured via the Frameworks, to be offered to the wider cohort of accredited providers.
- Frameworks for specific cohorts of providers would also provide greater opportunity to develop a more collaborative working arrangement with a smaller number of providers who are committed to working with the Council, strengthening relationships between commissioners and providers but also providing an opportunity for providers delivering similar types of care to share learning to improve the experience of service users.
- This hybrid model will also continue to provide choice for service users if enough providers tender for the Frameworks.

53. If this proposed approach is agreed as set out in Option 4, further work will be undertaken in consultation with Legal Services and Commissioning and Procurement to develop the specific operational

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requirements of the hybrid model along with the practical steps that will need to be undertaken to support its implementation. Discussions will also be undertaken with colleagues from the University Health Board to explore opportunities for collaboration in respect of the development of the Framework in relation to nursing placements.

### **Re-commissioning of the IT System that Supports the Delivery of the DAPL.**

54. An IT supplier called *adam* provides the end-to-end IT system that underpins the processes of procuring and managing both care home and domiciliary care placements. All approved providers have access to the system and use it on a day-to-day basis to make bids for placements and confirm provision of services.
55. The current contract with *adam* was put in place on 4<sup>th</sup> November 2018 for 4 years with an ability to extend for a further 2 years. This arrangement ends on 3<sup>rd</sup> November 2024. A new contract for hosting the DAPL and the Dynamic Purchasing System (DPS) used to secure Domiciliary Care packages will need to be put in place prior to the end date. If option 4 is agreed, arrangements for hosting the new Frameworks will also need to be negotiated with the IT supplier. Several developmental requirements have been identified that will need to be addressed to improve Adult Service's use of the IT system in the future and *adam* colleagues have confirmed a commitment to work with the Service to address these matters in the new contract.

### **Improving Quality**

56. All care homes are regulated by Care Inspectorate Wales (CIW) under the RISCA regulations. Cardiff's current approach to monitoring quality comprises of contract monitoring visits to audit the standard of service delivery, safe recruitment practice and workforce related matters such as training and development as well as understanding the experience of residents.
57. The Regional Care Home Service Specification which accompanies the individual placement contract currently used by Adult Services for care homes for older people has an outcome focus and sets out the standards that care home providers are expected to achieve in service delivery. There are 18 service and individual outcomes set out in the service specification that fall under the following broad categories:
- Autonomy, Choice, Control, Dignity and Respect
  - Staying Healthy - Protecting and Improving Health.
  - Individual Wellbeing

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- Workforce, Leadership and Management

58. Planned monitoring visits are undertaken by Contract Monitoring Officers within the Contracts and Service Development Team and it is expected that under usual contract monitoring arrangements, a care home will have at least one monitoring visit per year but this will be enhanced where there are concerns regarding provider quality. The provider's quarterly monitoring reports and half-yearly quality of care reports required by CIW are also reviewed by Contracts Officers and intelligence about provider performance is shared in monthly Joint Quality Management Meetings (JQMM). Membership at this meeting includes representatives from CIW, Wales Ambulance Service, University Health Board Nurse Assessors and colleagues from Adult Services' Case-Management and Safeguarding teams.

59. Quality Assurance visits are also undertaken by the Dementia Quality and Care Team (DQCT) within Adult Services. This is a social work team which specifically consider the experience of the individual living in the care home and their agreed outcomes. The team also advise on good practice in dementia care and assist providers to improve the physical environment of the home to support improved outcomes.

60. Provider performance issues are carefully managed using the formal regional Escalating Concerns Procedures: *Quality Services – Delivering What Matters*. These procedures are underpinned by a culture of partnership working and a shared commitment towards supporting providers to ensure corrective or development action plans are put in place and that these there are robustly monitored to ensure they are sustained. While the focus is on supporting the provider to improve, where necessary, where a service is failing to the extent of posing undue risks to service users and/or staff there are provisions to suspend or withdraw the service in a planned manner with proper governance, and with full communication with the provider and service users. The procedures are enacted where:

- Cardiff and the Vale of Glamorgan Councils have been notified of significant issues by another local authority, the UHB or regulatory body and the provider is unable or unwilling to make the improvements required of them under usual monitoring arrangements.
- repeated low level concerns or a serious single concern is raised by a case manager or other staff, service user or their representative/advocate. The nature of the concern/s highlights a risk to the wellbeing of service users or staff.

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The procedures identify a 4-stage approach to managing provider performance concerns depending on the severity of the concern. These range from a Quality Assurance Meeting for lower-level concerns to a Service Operations Support Group where it is identified that there are serious concerns that have major adverse repercussions for individuals making care unsustainable or unsafe resulting in the need for a service to close. The process does not preclude escalating the process where there is a clear rationale to do so.

61. In July 2023 Adult Services commissioned the Institute of Public Care (IPC) to review existing processes that care home providers have in place for quality assurance and the local authority's arrangements for contract monitoring and quality assurance to support the Service to strengthen and improve quality assurance arrangements for care home. Several care home providers were also involved in the review.
62. In response to the findings of the review, an assessment tool informed by research into good dementia care has been introduced to provide consistency of approach for quality assurance visits. Work has also been undertaken to streamline processes and reduce duplication. A dementia learning network for providers was launched in November that will support them to share best practice and learn from research to improve service delivery and outcomes.
63. Adult Services intend to use the messages from the IPC review to engage in further discussions with care home providers about strengthening current arrangements to improve cohesion, reduce duplication and reinforce the focus on outcomes. Specifically work will be undertaken to address the following areas of quality assurance:
  - The monitoring of service user outcomes
  - Capturing service user feedback
  - A provider self-assessment tool
  - Development of a quality rating that reflects provider performance.
64. It is intended that these various components for monitoring quality will be brought together to inform an overall quality rating. It is expected that following consultation, the quality rating will become a factor in determining the awarding of new care placements.

## Consultation

65. The report does not contain a local issue so Local Member consultation has not been undertaken, however consultation has taken place with a variety of care providers to gain a good understanding of their current and future costs and the results of this are set out in the body of the report. Should the way forward set out in this report be agreed, further

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consultation will be undertaken on the proposed fee uplifts which will inform decision-making in respect of fee increases for 2024/25.

### **Reason for Recommendations**

66. To inform Cabinet of the analysis undertaken to inform the future commissioning arrangement to address sustainability and sufficiency of placements in care homes for older people. To update Cabinet on arrangements to strengthen quality assurance in the sector.
67. To seek agreement for the approach to fee setting for care homes for older people, so that annual uplifts for 2024/25 can be applied in a fair and equitable way, balanced against the Council's available resources and affordability. To note the continuation of the current approach to the 2024/25 annual uplifts for other services commissioned by Adult Services.
68. To seek agreement for proposed new arrangements for the commissioning of care home placements for older people, to include both approved provider arrangements and a number of Framework arrangements with the aim of addressing sufficiency and sustainability whilst improving quality and value and ensuring affordability for the Council.

### **Financial Implications**

69. Adult Services net commissioned care budget is £119 million for 2023/24. Fee-setting and annual uplift decisions on a budget of this size can have a multi-million-pound impact. In the context of the financial situation that the Council is facing for 2024/25, affordability considerations in terms of both price and demand will need to play a key factor in decision making. The report seeks to delegate authority for 2024/25 fee-setting decisions; these will only be able to 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.
70. The report also sets out a proposed approach for the future commissioning of care home placements for older people. This involves use of framework arrangements to supplement the current Dynamic Approved Purchasing List. Further work is planned to develop the proposed hybrid model; the need to operate within available resources, and to minimise financial risk will need to be pivotal considerations of this work and any associated decisions.

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### **Legal Implications (including Equality Impact Assessment where appropriate)**

71. The exempt Legal advice is located at **Appendix D** and the Single Impact Assessment is located at **Appendix E**. The recommendations outlined in this report are not felt to present a negative differential impact on any of the protected characteristics.

### **HR Implications**

72. There are no HR implications arising directly from the recommendations set out in this report.

### **Property Implications**

73. There are no direct property decisions contained within this report. Should the recommendations of the report lead to the need for the council to undertake property valuations, transactions or appraisals in order to meet service objectives, they should be managed and undertaken in accordance with the Council's established Asset Management processes, governance and in consultation with relevant service areas and professional teams as appropriate.

## **RECOMMENDATIONS**

74. Cabinet is recommended to:

- note the findings of the review of care home placements for older people.
- note the work being done to improve to quality assurance for care homes for older people.
- agree the approach to fee setting for older people's care home placements for 2024-25 and other services commissioned by Adult Services, subject to further consultation with care providers and confirmation of the financial allocation through the budget setting process. Delegate the related decision-making authority in respect of the annual uplifts for care and support and the new standard cost of care rates for placements in care home for older people for 2024/25 to the Director of Adults, Housing and Communities in consultation with the Cabinet Member for Social Services (Adults) the Section 151 Officer and the Director of Law and Governance.

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- agree the approach for the future commissioning of care home placements for older people, including a combination of approved provider and framework arrangements and to delegate the decision-making authority regarding any related procurement of services to the Director of Adults, Housing and Communities in consultation with the Cabinet Member for Social Services (Adults) the Section 151 Officer and the Director of Law and Governance.

<b>SENIOR RESPONSIBLE OFFICER</b>	<b>Director Name</b> Jane Thomas
	Date submitted to Cabinet Office 13/11/23

***The following appendices are attached:***

- **Appendix A:** Exempt Executive Summary of Care Home Market Data Analysis – Not for Publication
- **Appendix B:** Care Home Market Data Analysis – Not for Publication
- **Appendix C:** Options Appraisal
- **Appendix D:** Exempt Legal Advice – Not for Publication
- **Appendix E:** Single Impact Assessment

***The following background papers have been taken into account:***

- Final Draft of the National Commissioning Board (NCB) Standing Committee's Cost of Care Report