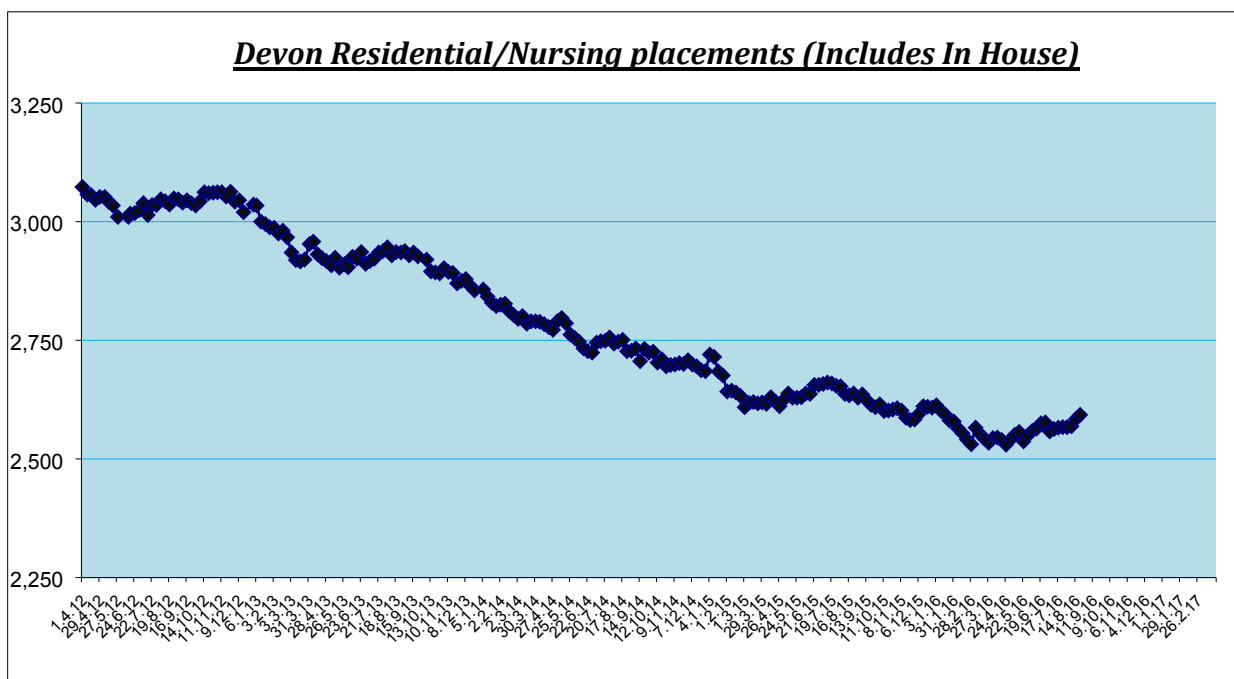


## Residential and Nursing Care: Market Sufficiency and Commissioning Approach

### Report of the Head of Social Care Commissioning

#### 1. Introduction and Background

- 1.1 The Care Act 2014 places a duty on local authorities to ensure the sufficiency of local markets (for the whole population, not just those for whom we commission care), and to ensure continuity of care in the event of a business failure.
- 1.2 Our current contract with care home providers allows for individual placements to be 'called off' against pre agreed terms and conditions on a spot purchase basis. The only requirement for the care home is that it is registered with CQC. Fees are based on two bands – standard and enhanced, broadly based on the hours of care needed. People needing care that falls outside of these banded rates have their placements individually negotiated, usually by personal brokers.
- 1.3 We currently have 263 care home providers for older people in the DCC area: 68 nursing, 195 residential.
- 1.4 Residential and nursing care home placements are sourced from the independent and private sector, with the council retaining specialist in-house provision of 34 beds.



- 1.5 We currently pay for just over 500 people in nursing homes just over 2,000 in residential homes. The number of people we place in care homes has reduced year on year, although that reduction has levelled out this year. We currently place approximately 25 people a week.

- 1.6 Residential and nursing care placements for older people represent the largest element of the spend on adult social care. This is about 48% of our total spend of £220m.
- 1.7 We currently spend £101 million on long stay placements, of which £85 million is for residential and £16 million for nursing.
- 1.8 The baseline fees DCC currently pays for older people care home placements are:
- Standard residential care = £468 per week
  - Enhanced residential care = £500 per week (for those with a higher level of need; approx. 30% of residential placements)
  - Standard nursing care = £615 per week
  - Enhanced nursing care = £640 per week

*N.B. Nursing rates include £112 per week Funded Nursing Care payment from the NHS, which has recently been uplifted to £152 per week.*

- 1.9 When it is not possible for the Council to source a care home placement within a specific area at its usual fee, the Council will make a premium payment over and above its usual fee, called a Market Premium.
- 1.10 These statistics do not include 'Top Up' payments which are paid by third parties for additional (non-care) services or choice of accommodation.

## **2. Current Position**

- 2.1 In 2011 Devon County Council faced a Judicial Review challenge of the decision it took regarding banded fee rates for the financial year 2011/2012. As a result, a new financial model was developed in 2012, taking into account the costs care home operators typically have in providing care and accommodation for older people, in order to set a fair price, whilst also securing best value for the public purse.
- 2.2 The cost model was successfully defended by the Council in the High Court in 2012 when it was challenged by a small number of providers in a further Judicial Review case. The result of these challenges is that Devon County Council has a financial model for calculating the cost of care which has been found to be rational and lawful and there have been no legal challenges since 2012.
- 2.3 The cost model was updated in 2014 to reflect engagement with Devon care home operators, and has been updated each year since to take account of inflation and other changing factors in the sector such as the National Living Wage.
- 2.4 Whilst this model informs the baseline cost of care, increasing pressure from the market has resulted in market premiums being paid in almost 30% of new cases, with the largest number of those in the North. We have seen a significant increase since autumn 2015, with the greatest rise in the nursing home sector.
- 2.5 A capital investment and grant programme is currently being developed in collaboration with the DCC Economy and Enterprise team. This aims to develop nursing capacity into areas of greatest risk.

- 2.6 We are taking a multi- agency approach to the commissioning of care home placements with the two Clinical Commissioning Groups and Torbay Council, aiming to introduce a new joint health and social care contract from April 2017.
- 2.7 The contract will cover all residential and nursing home placements made by DCC, with phase one to be those for older people and older people with mental health conditions. Phase two will follow later in 2017 to cover all other residential and nursing placements.

### **3. Engagement and consultation to date**

- 3.1 We have undertaken extensive engagement with providers, service users and staff to develop and test options for the new care homes contract.
- 3.2 Operational staff in DCC and the NHS have provided feedback on the issues they would like to see considered, and have contributed to the specification development. We will continue to ensure effective engagement with staff across all sectors including using existing models for this including the staff reference group and the DCC Adults Way We Work group.
- 3.3 We have engaged and consulted with care home providers from the beginning of this process. An initial briefing was delivered to the County Strategic Provider Group by the Cabinet Member on 12th July 2016. A whole market event was held on 4 August 2016 (co-designed by a provider focus group beforehand), attended by over 60 care home owners where providers were presented with items we aim to address in the new contract including fee models, quality assurance, trusted assessor models and vacancy management. Providers discussed each item in small groups and fed back their key points to the wider group at the end. This feedback has informed the options appraisal for the fee model as well as the wider contract detail, and this has been fed back to attendees.
- 3.4 We have a service user/carer involvement plan, and we are engaging the existing Commissioning Involvement Group in the design of the specification, in particular the quality thresholds and user/family feedback in contract monitoring. The Equalities Reference Group has been asked to consider the Equality & Diversity element of the new specification.

### **4.0 Options considered:**

- a) A full open tender with the market setting the price
  - b) A tender with a capped rate
  - c) Block contracts to guarantee supply
  - d) An open framework with the price agreed through consultation and engagement with providers, based on the existing fee model
  - e) Use of a personal dependency profile to identify individual care needs and commission the number of hours, rather than slotting into just the current two banded rates
- 4.1 Feedback from providers, staff and service users has favoured items d and e above, and we are currently working up proposals to develop these options further. It is expected that working with the market to agree a price and a contract which they then tender against will significantly reduce (if not completely eliminate) the need for market premium payments. This will bring greater budget stability to providers and reduce volatility on the social care budget. .

### **5. Other planned developments**

- 5.1 Use of a personal dependency tool will allow us to better understand the needs of older people in care homes which will help inform commissioning decisions in the future. It will also inform the development of a trusted assessor model, with regular client reviews to ensure the correct amount of care for each individual.

- 5.2 An online bed vacancy tool will give us visibility of vacancies, and is likely to be a contractual requirement. This will reduce the overheads in identifying placements for staff working in the Council and the NHS.
- 5.3 To use the principles developed for the older people care homes contract for under 65s
- 5.4 The council monitors supply and makes a regular assessment of both current and future quality and sufficiency. This has identified a requirement to increase the availability of care homes with nursing.
- 5.5 Alongside the recommissioning approach set out in this paper, it is likely we will launch a procurement to secure two new purpose-built, high quality, efficient care homes with nursing. These will each be for at least 60 beds and will be designed to the standards described by Stirling University (recognised nationally as representing best practice). This is still being discussed with NHS commissioning partners and further details will follow later in the autumn.

## **6. Next Steps**

- 6.1 We are currently designing the procurement process in order to go out to tender in the autumn. This is likely to be an open framework, allowing providers to join the framework at fixed entry points throughout the length of the contract as long as they can demonstrate they meet the quality requirements.
- 6.2 The fee model is currently being developed, based on the existing model calculations, covering core non-care costs and individual hours of care. This allows for a person-centred approach, and will be consistent across DCC and NHS commissioning. We will continue to engage with the market in developing the new fee model.

## **7. Considerations**

- 7.1 There are no considerations.

Tim Golby  
Head of Social Care Commissioning

## **Electoral Divisions: All**

Cabinet Member for Adult Services: Councillor Stuart Barker

Strategic Director, People: Jennie Stephens

## **LOCAL GOVERNMENT ACT 1972: LIST OF BACKGROUND PAPERS**

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