



CABINET REPORT

Date Written	6 th April 2022
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Service Area	Adult Social Services
Committee Division	Portfolio
Exempt/Non Exempt	Non Exempt
Committee Date	27 th April 2022

To: Chair, Ladies and Gentlemen

Payment of Care Home Fees 2022-2023

1.0 SUMMARY OF THE REPORT

- 1.1 Merthyr Tydfil County Borough Council, as the Social Services Authority for Merthyr Tydfil, has an obligation under Section 21 of the National Assistance Act 1948 to make arrangements for providing Residential Accommodation for persons aged eighteen or over who by reason of age, illness, disability or any other circumstances are in need of care and attention which is not otherwise available to them.
- 1.2 Local Authorities have to ensure that they had a methodology for setting care home fees that comply with “Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice”.
- 1.3 Local authorities need to have mechanisms in place to discuss costs and performance with providers. Fee setting must take into account the legitimate current 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 working.
- 1.4 The fees set need to be adequate to enable providers to meet the specifications set by the commissioners, together with regulatory requirements and as you will be aware, Welsh Government has made funding of £43.2m available across Wales to help meet the cost commitment across Local Authorities and Health Boards with implementing the Real Living Wage for Social Care Workers.
- 1.5 The Welsh Government’s Programme for Government has made a commitment to pay social care workers the Real Living Wage (RLW). The RLW is independently calculated by the Resolution Foundation and overseen by the Living Wage Commission, in an annual process. The RLW rate for the UK (excluding London) announced in November 2021, is £9.90 per hour.

- 1.6 Going forward the uplift will be built into the commissioning fee in order to enable the Real Living Wage to continue to be paid. In addition to the payment of the Real Living Wage there has been a need to factor in the wage differential for supervisory and management staff in the calculations.
- 1.7 Rockhaven Healthcare, who have significant experience in this area, were commissioned to support the LA and facilitate the setting of care fees for 2022/2023 with independent sector residential and nursing care homes for use by Merthyr Tydfil County Borough Council.
- 1.8 The cost of paying to the fee levels uplifted to reflect Real Living Wage salary increase and non-salary inflationary increases, for the current number of individuals in residential and nursing care, has been estimated as being circa £618k for 2022/2023.
- 1.9 Funding for this is a ring-fenced item within the Revenue Settlement Grant (RSG) by Welsh Government.

2.0 RECOMMENDATIONS that

- 2.1 The level of payments to independent sector residential and nursing care service providers paid at the rates shown in Appendix 1 be approved.
- 2.2 The increase in fees for 2022/2023 be backdated and be effective from 1st April 2022 be approved.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 The payment of care fees for contracted placements in independent sector residential and nursing homes is an issue that is highly significant for all local authorities in Wales. The Judicial Review in Pembrokeshire in 2010 gave a sharp focus to and identified a challenge for all local authorities to have a robust methodology in place to calculate fees paid to independent sector care home providers.
- 3.2 All toolkits developed had to be in accordance with the “Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice” that was issued in August 2010 by the Welsh Assembly Government under Section 7 of the Local Authority Social Services Act 1970.
- 3.3 Section 7 Guidance means that Councils must “act under” the general guidance of the relevant minister, or in respect of a devolved function, the Welsh Ministers. While following guidance is not mandatory an authority can only depart from it for good reason. If a Council deviates from guidance without a considered and cogently reasoned decision it acts unlawfully and in a manner which is amenable to challenge and judicial review, as was the case with Pembrokeshire County Council and Forest Care Homes.

- 3.4 Fee setting toolkits therefore need to comply with “Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice” in particular they must take account of the providers costs and the factors that may affect them on the basis of good local evidence. Fee setting must take into account the legitimate current and future costs faced by providers as well as factors that affect these costs, and the potential for improved performance and more cost effective ways of working. The fees set need to be adequate to enable providers to meet the specifications set by the commissioners together with regulatory requirements.
- 3.5 In order to support the care home sector during the Covid 19 pandemic, additional funding had been provided via Welsh Government through the hardship fund during 2020/2021 and 2021/2022 with occupancy rates being set at 90%.
- 3.6 At the time of the report Welsh Government are consulting on future arrangements for fee setting on a regional and national level and the impact on future care fee setting will be factored into any longer term financial planning.

4.0 METHODOLOGY

- 4.1 The approach that was taken was that the bespoke toolkit previously developed for Merthyr Tydfil County Borough Council that complied with “Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice” was re-populated and updated with current up-to-date financial information and costs.
- 4.2 Rockhaven Healthcare was re-commissioned to facilitate this task for the setting of care fees for residential and nursing care homes for 2022/2023. Rockhaven Healthcare was re-commissioned as they have detailed and specialised knowledge of the methodology used to develop the care fee toolkit in Merthyr Tydfil as well as significant experience in the area of developing fee toolkits for independent sector residential and nursing care homes.
- 4.3 Data was provided by the Independent Sector Care Home providers in Merthyr Tydfil. This information was used as the base data for the calculation of the legitimate costs of providing care and from this data the rates of care fees was calculated for the financial year.

5.0 FINANCIAL IMPLICATIONS

- 5.1 Using the methodology that has been detailed above the care fees would be as follows.

2022/2023 Fee Rate

PERSONAL CARE	2021/2022 weekly rate	2022/2023 weekly rate
Older Person	£592	£718
Dementia	£657	£794
Learning Disability	£981	£1,125

NURSING CARE (excludes the Health Board & social care FNC)	2021/2022 weekly rate	2022/2023 weekly rate
Older Person	£660	£782
Dementia	£708	£815
Young Physically Disabled (YPD)	--	£888

- 5.2 The main contributors to the significant fee uplifts are the implementation of the Welsh Government initiative for Real Living Wage for Social Care workers (min 11.1%), increases to National Insurance (1.25%) and cost of living (CPI/RPI) increases (5.9%).
- 5.3 The cost of paying to the fee levels uplifted by Real Living Wage salary increase and non-salary inflationary increases, for the current number of individuals in residential and nursing care, has been estimated as being circa £618k for 2022/2023.
- 5.4 Funding for this is a ring-fenced item within the Revenue Settlement Grant (RSG) by Welsh Government and a Cabinet agreed earmarked reserve.
- 5.5 The work that has been undertaken with Merthyr Tydfil CBC and Rockhaven Healthcare relates exclusively to the financial position of the care homes that sit within the geographical boundaries of Merthyr Tydfil.
- 5.6 It is therefore difficult to compare fee rates across different local authorities as the financial circumstances for the care homes in other local authorities will be different and will not bear a direct comparison. This is because to comply with “Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice” fee setting toolkits must take account of the providers’ costs and the factors that may affect them on the basis of good local evidence.

6.0 INTEGRATED IMPACT ASSESSMENT

6.1

	Positive Impacts	Negative Impacts	Neutral / Not Applicable
1. Merthyr Tydfil Well-being Objectives	2 of 4	0 of 4	2 of 4
2. Sustainable Development Principles - How have you considered the five ways of working: <ul style="list-style-type: none"> • Long term • Prevention • Integration • Collaboration • Involvement 	3 of 5	0 of 5	2 of 5

3. Protected Characteristics <i>(including Welsh Language)</i>	2 of 10	0 of 10	8 of 10
4. Socio-economic Disadvantage	4 of 6	0 of 6	2 of 6
5. Consultation and Engagement	Undertaken	Due to be Undertaken	Not Required
	1 of 1	0 of 1	0 of 1
6. Data and Evidence to inform the proposal	Yes		No
	1 of 1		0 of 1
7. Biodiversity and the resilience of Ecosystems	Maintained	Enhanced	Reduced
	0 of 1	0 of 1	0 of 1
Summary			
The main positive impacts are:	The main positive impact is the recruitment and retention of care staff and sustainability		
The main negative impacts are:	No negative impacts have been identified.		

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COUNCILLOR TONY ROGERS
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BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Fulfilled Lives, Supportive Communities Commissioning Framework Guidance and Good Practice	August 2010	Unit 5
England and Wales High Court (Administrative Court) Decision Forest Care Home Limited v Pembrokeshire County Council	December 2010	Unit 5

Merthyr Tydfil County Borough Council Cost of Care Analysis 2016/2017	September 2016	Unit 5	No
Does the report contain any issue that may impact the Council's Constitution?			

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

Independent Sector		
Proposed Payments for Residential and Nursing Care Services 2022/2023		
	Rates 1 April 2021 £	Rates 1 April 2022 £
<u>Residential Care Homes</u>		
Old Age	592	718
Dementia (EMI)	657	794
b (over pensionable age)	592	718
Mental Handicap (Learning Difficulty)	981	1,125
Others	592	718
<u>Nursing Homes</u>		
(Excludes the Local Health Board & social care FNC)		
Old Age	660	782
Dementia (EMI)	708	815
Young Physically Disabled	--	888
Drug Alcohol Dependency	660	782
Mental Illness	660	782
Others	660	782

Local Health Board Free Nursing Care Contribution (FNC) is £184.32 and LA Social Care element of FNC is £7.48 effective from the 1st April 2021 and is not included in the above. 2022/2023 rates for FNC have not yet been confirmed by Local Health Board.