

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

10 MARCH 2020

REPORT OF THE CORPORATE DIRECTOR – SOCIAL SERVICES AND WELLBEING

CARE HOME CONTRACTS AND POOLED FUND REQUIREMENTS

1.0 Purpose of Report

- 1.1 To update Cabinet on Local Authority responsibilities in respect of the commissioning of residential and nursing care home services, following the implementation of the Social Services and Wellbeing (Wales) Act 2014.
- 1.2 To seek approval to continue the waiver under Contract Procedure Rule 3.2.3, from the requirement to competitively tender the provision of residential and nursing care home services for a further one year period.
- 1.3 To seek approval to enter into new contracts with existing residential and nursing care providers, and enter into contracts with any new providers identified by the Local Authority, for a contract period of one year.
- 1.4 Note that during that one year period Officers will monitor the effectiveness of the regional contractual terms and conditions, liaise with our existing accredited service providers and consider the viability of establishing an openly procured flexible and open framework of care home providers based on the terms and conditions of the regional contract and specification for a longer term duration.
- 1.5 To seek approval to implement and make payments to care homes against a revised Care Home Standard Price Schedule for 2020/21.
- 1.6 To seek approval to enter into a Pooled Fund Agreement and arrangements for older people's care home accommodation functions with Cwm Taf Morgannwg partners.

2.0 Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 This report assists in the achievement of the following corporate priorities:-
 - **Helping people to be more self-reliant** – taking early steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services;
 - **Smarter use of resources** – ensuring that all its resources (financial, physical, human and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.
- 2.2 This report also assists in the achievement of the following local strategic priorities:
 - Adult Social Care Commissioning Plan 2010-20;
 - The Remodelling Adult Social Care programme;
 - The Council's Medium Term Financial Strategy (MTFS)

3.0 Background

- 3.1 In March 2016, a report was presented to Cabinet to update on the financial assessment framework introduced by the Social Services and Well-being (Wales) Act 2014 (“the Act”). The Act provides the legislative basis for social services in Wales from 6th April 2016. The report also set out the key requirements of the Act, and the on-going work to bring the applicable regulations and codes of practice into working practice both at a regional and local level.
- 3.2 Part 9 of the Act requires local authorities to make arrangements to promote co-operation with their relevant partners and others, in relation to adults with needs for care and support, carers and children. Part 9 of the Act also provides for partnership arrangements between local authorities and Local Health Boards for the discharge of specified functions.
- 3.3 Not all of the requirements set out within the Act, and the subsequent regulations and codes of practice required immediate implementation from April 2016 – with some requirements allowing for a longer lead-in time – two of which are the development of a “common contract and specification” in relation to care homes and the implementation of pooled fund arrangements for older people’s care home accommodation functions on a regional basis, which were to be implemented from April 2018.
- 3.4 During 2017/18, Welsh Government carried out a consultation exercise in respect of a proposed health boundary change, which would see Bridgend County Borough Council (“BCBC”) being part of a new region, namely the region containing Rhondda Cynon Taf and Merthyr Tydfil County Borough Councils and Cwm Taf University Health Board, which up until April 2019 was known as the Cwm Taf region.
- 3.5 The consultation on the health board boundary change closed in March 2018, and a decision was made to implement the proposed health boundary change, thereby creating the new Cwm Taf Morgannwg region from April 2019.
- 3.6 The health board boundary change meant that BCBC was unable to meet the April 2018 implementation date for the care home regional requirements. Since the original announcement was made by Welsh Government, officers from BCBC and the (previous) Western Bay and Cwm Taf regions were in regular dialogue and correspondence with Welsh Government in respect of the implications the proposal had on how each organisation and region would be able to meet the impending care home service requirements.
- 3.7 In preparation for any potential future changes, officers from BCBC also attended Cwm Taf regional Pooled Fund care home operational board meetings, in order to ensure that arrangements that might be entered into in a new region were known and understood, prior to the potential integration of BCBC.
- 3.8 In February 2014 and subsequently in September 2016, Cabinet approved waivers under Contract Procedure Rule 3.2.3, from the requirement to competitively tender the provision of residential and nursing care home services.
- 3.9 The waivers were approved on the basis that the existing providers were the only tenderers who could technically provide such a service, due to statutory restrictions

in respect of the Council's obligation to set appropriate fees, which means that there is no competitive market place available for these services, which continues to be the case under existing legislation.

- 3.10 In September 2016, Cabinet also gave approval to enter into new contracts with existing residential and nursing care providers, and enter into contracts with any new providers identified by the Local Authority, for a contract period of up to four years.

4.0 Current situation

Care home contracts

- 4.1 In keeping with the waiver from the requirement to competitively tender the provision of residential and nursing care home services, the Social Services and Wellbeing Directorate presently operates a list of accredited providers for residential and nursing care.
- 4.2 The Social Services and Wellbeing Directorate currently has contracting arrangements with 20 residential and nursing care providers in the county borough, and on average there are approximately 420 weekly funded placements across the residential and nursing care home sector.
- 4.3 Contracting arrangements in place with residential and nursing care home providers are in the form of:
- Pre-placement Agreement – which is the overarching contract in place with the care home provider setting out contractual and service requirements and expectations;
 - Individual Care Contracts (ICC's) – which are the individual spot-purchasing contracts when specific placements are made at a care home.
- 4.4 Spot-purchasing is a process which allows the Local Authority to place an individual based on their level of need as and when they are required, rather than committing to block purchasing arrangements, which can tie the Local Authority to a certain number of placements at a fixed cost.
- 4.5 This practice is in keeping with all other Local Authority's social care arrangements for care homes across Wales, and has enabled the directorate to provide timely and flexible responses to a range of needs, as and when they are required.
- 4.6 There are also mechanisms in place to ensure the services that are commissioned meet the Local Authority's requirements, and there are also strong contracting, monitoring and safeguarding procedures in place, in order to ensure that good quality care is provided and people are safeguarded.
- 4.7 Since 2017/18, when BCBC were first made aware of the potential changes to health boundaries and regions, Local Authority officers have been working with colleagues from the Cwm Taf Morgannwg region, in order to review existing contractual arrangements with a view to reviewing and developing a 'common contract and specification', in line with the requirements of Part 9 of the Act.

- 4.8 While the form of contract and specification that has been developed is common across the region the care home services and contracting arrangements differ, and those local differences will be reflected in the documents where appropriate, based on local market pressures and service requirements.
- 4.9 These differences have been recognised within the new care home contract and specification that have been developed with regional partners and colleagues, and include: the rates that are paid to care homes within each locality, specific payment arrangements, the contract duration, the performance monitoring provisions, and the individual contracts that sit beneath the overarching regional common contract.
- 4.10 As part of the proposed contractual changes, notice period payments are now more balanced and fair between commissioner and provider, and are also now aligned to the contracting arrangements of our regional partners.
- 4.11 To ensure existing providers also had an opportunity to contribute towards the development of the new contract and specification, officers discussed the revised model at the Care Home Provider Forum in January 2020, highlighting the main differences between the revised model, and the current model in place. This initial engagement is being followed up with a final draft being circulated in February 2020.
- 4.12 In light of the above, officers wish to seek approval to enter into new contracts with the 20 existing providers (as listed in Appendix A), as whilst the service provision has not been competitively tendered, there would be considerable risks to both the Council and the residents if the Council does not enter into new contracts with the current care home providers. Therefore, it is imperative that the Council has a contract in place with each provider, to enable the authority to continue to place residents in these homes.
- 4.13 It is recognised that the needs of individuals are continually changing, and it is also recognised that the shape of the care home market can change at very short-notice. Even though officers feel there is already a robust and responsive market in place across the county borough, officers also wish to seek approval to enter into new contracts with any new residential and nursing care providers that may be required during this one year period, to be able to continue to have a robust market that meets need and demand.
- 4.14 During the one year continuation of the waiver from the requirement to openly advertise the opportunity for the provision of residential and nursing care home services Officers will monitor the effectiveness of the new regional contractual terms and conditions, liaise with our existing accredited service providers and consider the viability of establishing an openly procured flexible and open framework of care home providers based on the terms and conditions of the regional contract and specification for a longer term duration.

Care Home Price Schedule – 2020/21

- 4.15 Alongside the review of the contract and specification, BCBC officers have taken the opportunity to review the care home price schedule – which details the rates paid to care homes for BCBC commissioned placements.

- 4.16 The review is also timely as BCBC has seen an increase in the amount of third party top-up additional costs charges (“Third Party Top-Up”) that are applied across homes within the County Borough. These charges are directly applied to families/representatives of individuals residing in the care homes, and are payments that are made in addition to the cost of care and support that is linked to the price schedule funded by BCBC.
- 4.17 The below provides a summary (at this moment in time) of the Third Party Top-Up position across the care homes within the County Borough that BCBC commissions:
- Of the 421 placements funded by BCBC, 168 (40%) have a Third Party Top-Up in place
 - 14 of 21 commissioned care homes (66%) now apply a Third Party Top-Up – to enable a comparison, this figure was 25% of homes less than 10 years ago
 - All nursing homes (with the exception of Ty Nant, which is jointly commissioned with Neath Port Talbot County Borough Council) apply a Third Party Top-Up
 - The average weekly Third Party Top-Up is just over £40, but the maximum is £100
- 4.18 There are also specific pressures and challenges in the nursing care home market, in particular for nursing EMI placements. As noted above, there is no longer a nursing care home within the county borough other than Ty Nant that does not apply a Third Party Top-Up, and with the increasing complexities of care needs alongside increasing dementia rates, there is likely to be an increase in demand on nursing home services in the future.
- 4.19 The table below details how BCBC’s 2019-20 rates compare with national averages (based on 14 LA’s who responded to an information request), which are figures provided via commissioning colleagues throughout Wales:

2019/20 Rates	Residential	Residential EMI	Nursing	Nursing EMI
BCBC	£583	£622	£583	£622
Wales maximum	£638	£699	£667	£710
Wales minimum	£530	£551	£579	£610
Wales average	£575	£620	£611	£652
BCBC vs Wales	+£8	+£2	-£28	-£30

- 4.20 In keeping with the fee-setting methodology agreed with care home providers operating in BCBC, cost pressures analysis has been undertaken in January 2020 in order to determine an uplift amount that existing rates will need be increased by in order for care home providers to “stand still”, which considers financial pressures for care homes linked to legislative changes (such as National Living Wages increases) and other inflationary factors. These calculations have determined a 4.84% increase linked to this cost pressures analysis.
- 4.21 In light of these cost pressures, and recognising the differential between BCBC’s current rates paid to care homes compared to national averages, it is recommended for BCBC apply a supplementary £20 payment (service identified increase to offset Third Party Top-Ups) for nursing and nursing EMI placements and round the cost pressure of 4.84% up to 5%, to provide headroom for changes in the Consumer Price

Index over the financial year. These changes are intended to support the care home market at a time of increasing challenge.

- 4.22 Factoring in these proposals, it is recommended for BCBC to apply the Price Schedule for 2020/21 as shown below:

	Category	19/20	Uplifts		20/21
			5%	£20	
Residential Placements					
Older People	Standard	£583	£29	-	£612
Learning Disability	Enhanced	£622	£31	-	£653
Physical Disability					
Mental Health					
Older People Mental Health (EMI)	Specialist	£660	£33	-	£693
Older People Mental Health (EMI Specialist)					
Nursing Placements					
Older People	Standard	£583	£29	£20	£632
Learning Disability	Enhanced	£622	£31	£20	£673
Physical Disability					
Mental Health					
Older People Mental Health (EMI)	Specialist	£715	£36	-	£751
Older People Mental Health (EMI Specialist)					

- 4.23 The 'nursing' categories and rates shown above exclude the Funded Nursing Care (FNC) component of the nursing home rates, which is set by health and applied nationally. The FNC rate for each nursing placement is predominantly paid by health (£172.96 per week in 2019/20), although following a review of FNC rates by Welsh Government, a small proportion of the total FNC rate is now payable by Local Authorities – and this amount was £7.01 per week in 2019/20. When FNC rates are confirmed for 2020/21, they will be added to the Price Schedule.

Pooled Funds

- 4.24 Part 9 of the Act and the regulations and codes of practice made under the Act provides for partnership arrangements between local authorities and Local Health Boards for the discharge of specified functions and contain a requirement to establish and maintain a regional pooled fund in relation to the exercise of their care home accommodation functions for older people.
- 4.25 Pooled funds are a mechanism for achieving integrated systems of care that are more person-centred and improve outcomes for people. Integration through pooled funds is intended to create better quality and more efficient services and encourage partners to collaborate in a way that maximises their capacity to shape the market.
- 4.26 Pooled funds are seen as an opportunity for partners to work together to understand issues affecting quality and stability of services. Shared understanding and common goals can help to develop more strategic, collaborative solutions for improving care and providing more relevant, sustainable services.
- 4.27 The pooled fund will initially include in-county older persons residential and nursing care only at this stage, but Welsh Government has indicated that pooled fund arrangements should eventually apply to all adult care homes (including mental

health and learning disability care homes), but Welsh Government has not specified timescales for achieving this to date.

4.28 Pooled Fund arrangements will apply to commissioned services only, and not Local Authority owned and managed homes.

4.29 A draft pooled fund agreement based on the terms of the existing Cwm Taf arrangement has been prepared and is currently subject to review and agreement.

5.0 Effects on the Policy Framework and Procedure Rules

5.1 This report has no effect on Policy Framework and Procedural Rules.

6.0 Equalities Impact Assessment

6.1 There are no equalities implications arising from this report, therefore an Equalities Impact Assessment is not required.

7.0 Well-being of Future Generations (Wales) Act 2015 Implications

7.1 The implementation of the duties and responsibilities under the Social Services and Wellbeing Act (Wales) 2014 supports the promotion of two of the seven goals of the Well-Being of Future Generations (Wales) Act 2015 within the County Borough of Bridgend.

7.2 Implementing new care home contracts based on a regionally agreed common contract and specification and entering into pooled fund arrangements for older people's care home accommodation functions supports the five ways of working under the Well-being of Future Generations (Wales) Act 2015, as follows:

Long Term – during the next 12 months, officers will monitor the effectiveness of the new regional contractual terms and conditions and consider the viability of establishing and entering into a longer term regional contract and specification.

Prevention – having effective residential and nursing care home services in place with access to supplementary supporting services is intended to prevent admission to hospital, which are costly for public services and can have a negative impact on individuals.

Integration – the new contract and pooled fund arrangements that will be entered into are integrated with Cwm Taf Morgannwg (regional) partners.

Collaboration – the common contract & specification and pooled fund arrangements have been developed in collaboration with Cwm Taf Morgannwg (regional) partners.

Involvement – officers discussed the revised model at the Care Home Provider Forum in January 2020, to ensure existing providers had an opportunity to contribute towards the development of the new contract and specification.

8.0 Financial Implications

8.1 During the 2018/19 financial year, the Local Authority commissioned 20 in-county providers to provide 420 residential and nursing placements (on average) per week, and BCBC have spent approximately £8.5 million on the delivery of residential and nursing care in the borough. This is a 'net' total amount, which also factors-in income received from individuals as determined by charging assessments and regulations that are set by Welsh Government.

8.2 In order to implement the new contract and the revised Price Schedule from 2020/21, there is a financial implication forecast to be in the region of £800k per annum. The table below provides a breakdown of these additional costs, and also shows where it is intended for the additional cost to be met from.

Cost implication	£ Amount	Met by
4.2% cost pressure linked to NLW increase	£547k	BCBC NLW budget pressure agreed in MTFS
0.8% cost pressure linked to other costs	£98k	BCBC price inflation funding
£20 nursing placements supplement	£157k	WG Social Care Workforce & Sustainability Pressures Grant 2020-21
TOTAL	£802k	

8.3 Recognising the fact that the Welsh Government Social Care Workforce & Sustainability Pressures Grant 2020-21 (SSG) is allocated annually, there is a risk that this funding may not be available in part or in full after 2020/21. If BCBC's grant allocation does reduce from 2021/22, then BCBC have the option to either renegotiate rates with care home providers (as rates are set and agreed annually), or to meet the £157k cost pressure through existing resources and/or by making efficiencies elsewhere within the directorate. Consequently the revised fees will only be agreed on the basis of a one year increase.

8.4 There is no cost implication to the recommendation of entering into the pooled fund arrangements, as there is no payment made to RCT County Borough Council to host and manage the fund, and all payments that BCBC make into the fund are fully offset by payments made from the fund to BCBC in order to make payments to care home providers.

9.0 Recommendations

9.1 It is recommended that Cabinet:

- Give approval to continue the waiver under Contract Procedure Rule 3.2.3, from the requirement to competitively tender the provision of residential and nursing care home services for a further one year period.
- Give approval to enter into new contracts based on the agreed common contract and specification with existing residential and nursing care providers (Appendix 1), and enter into contracts with any new providers identified by the Local Authority, for a contract period of one year.
- Note that during that one year period Officers will monitor the effectiveness of the new regional contractual terms and conditions, liaise with our existing accredited service providers and consider the viability of establishing an openly procured flexible

framework of care home providers based on the terms and conditions of the regional contract and specification for a longer term duration.

- Give approval to implement and make payments to care homes against a revised Care Home Standard Price Schedule for the 2020/21 financial year – paragraph 4.21.
- Delegate authority to the Corporate Director for Social Services and Wellbeing, in consultation with the Section 151 Officer and Head of Legal and Regulatory Services, to negotiate and enter into a Pooled Fund Agreement and arrangements for older people's care home accommodation functions with regional (Cwm Taf Morgannwg) partners.

Susan Cooper

Corporate Director – Social Services and Wellbeing
March 2020

Contact Officer: Pete Tyson – Commissioning Manager
Telephone: (01656) 642667
E-mail: peter.tyson@bridgend.gov.uk
Postal Address: Civic Offices, Angel Street, Bridgend CF31 4WB

Background documents:

Cabinet report dated 4th February 2014
Cabinet report dated 6th September 2016