



**ADULTS AND COMMUNITY
WELLBEING SCRUTINY COMMITTEE
14 FEBRUARY 2018**

PRESENT: COUNCILLOR C E H MARFLEET (CHAIRMAN)

Councillors Mrs E J Sneath (Vice-Chairman), M T Fido, R J Kendrick, Mrs J E Killey, Mrs C J Lawton, A P Maughan, C E Reid and M A Whittington

Councillor Mrs P A Bradwell (Executive Councillor for Adult Care, Health and Children's Services) was also in attendance.

Officers in attendance:-

Simon Evans (Health Scrutiny Officer), Alina Hackney (Senior Strategic Commercial and Procurement Manager), Justin Hackney (Assistant Director Specialist Adult Services), Steve Houchin (Head of Finance (Adult Care)), Carolyn Nice (Assistant Director, Adult Frailty & Long Term Conditions), Melanie Weatherley (Chair of Lincolnshire Care Association (LinCA)) and Catherine Wilman (Democratic Services Officer).

44 APOLOGIES FOR ABSENCE/REPLACEMENT MEMBERS

Apologies for absence were received from Councillor R J Kendrick.

The Chief Executive reported that having received a notice under Regulation 13 of the Local Government (Committees and Political Groups) Regulations 1990, he had appointed Councillor S P Roe as a replacement member of the Committee in place of Councillor R J Kendrick for this meeting only.

45 DECLARATIONS OF MEMBERS' INTERESTS

No interests were declared.

**46 MINUTES OF THE MEETING OF THE ADULTS AND COMMUNITY
WELLBEING SCRUTINY COMMITTEE HELD ON 10 JANUARY 2018**

RESOLVED

That the minutes of the meeting held on 10 January 2018, were approved as a correct record and signed by the Chairman.

47 CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to the fact that the Committee would ordinarily be expecting a report on Quarter 3 performance for Adult Care and Community Wellbeing.

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However, owing to the extent of the two main business items on the agenda, consideration of performance had been deferred to the next meeting on 11 April 2018.

48 RESIDENTIAL AND NURSING CARE FEE LEVELS WITHIN ADULT SOCIAL CARE

The Committee considered a report on residential and nursing care fee levels within Adult Social Care, on which the Executive Councillor for Adult Care, Health and Children's Services was due to make a decision on 22 February 2018. The report was jointly presented by the following officers:

- Assistant Director of Adult Frailty and Long Terms Conditions
- Assistant Director of Specialist Adult Services
- Head of Finance, Adult Care and Community Wellbeing
- Senior Strategic Commercial and Procurement Manager

Melanie Weatherley, the Chair of the Lincolnshire Care Association, was also present for the item, to provide the perspective of the representative association of residential and nursing care home providers.

The Committee was advised that its agreed comments would be passed to the Executive Councillor for Adult Care, Health and Children's Services prior her making the decision on 22 February 2018.

The focus of the report was the rationale for the calculation of the 'usual cost' for three levels of service: residential, nursing and high dependency across all types of need (older people, physical disability, learning disability and mental health). These costs had last been determined in 2015 for three financial years (2015/16, 2016/17 and 2017/18), and the proposal was for the usual costs again to be approved for the subsequent three financial years: 2018/19, 2019/20 and 2020/21.

The Committee was advised that the previous exercise in 2014/15 had failed to provide sufficient clarity on the cost of Learning Disability placements and therefore the usual cost had been based upon the baseline costs for Adult Frailty and Long Term Conditions. To address this, a separate programme of activity had been carried out on the Learning Disability provider market, which had led the creation of a proposed new cost model as well as a distinct set of usual costs for Learning Disability services.

The Committee was also advised of the importance of due process and the reasonableness and logic underpinning the usual cost. The report detailed the process; who had been involved; and the full details of consultation process. Overall, 48% of the care homes had replied to the consultation exercise.

The report contained a full explanation of the model, which had been constructed to develop the usual costs, which had drawn on both national and local data.

The Committee was also advised of the contract changes, which were proposed as part of the decision.

After consideration of the presentation from the officers, the Chair of the Lincolnshire Care Association stated that the consultation exercise had been constructive, and there was an understanding of the financial pressures that applied to the County Council. Overall, the levels of fees proposed represented a 'fair' price.

Although not part of the proposed decision, reference was made to NHS funded nursing care, which was paid to providers by clinical commissioning groups in accordance with a national tariff. In this regard reports by accountants (Mazar's) on behalf the Department of Health had led to determinations on the level of NHS funded nursing care. Overall the level of nursing costs for nursing homes was not sustainable. There were essentially two options available to providers: deregistration of nursing care beds; or continue to meet the shortfall in funded nursing care. The latter option was not sustainable to many providers. In addition, the high costs of agency nursing and the difficulties of recruiting nurses in Lincolnshire were cited as contributory factors.

The Committee explored this topic further and was advised that the approach of the Care Quality Commission (CQC) to nursing care was important. The CQC did not define the term 'available' nurse. Where large providers operated in large premises it would be easier to have a nurse available on site. For smaller providers the costs would be particularly high. The roles of the executive nurses at the clinical commissioning groups were also cited as a factor. They held the legal responsibility for nursing provision and NHS funded nursing care was a separate element to the Council-paid fees.

In addition to the above, members of the Committee also raised the following issues:

- The proposed level of fees included the financial year 2020/21, and hitherto there had been no indication of the continuation of the Better Care Fund into this financial year. The Committee was advised that this level of uncertainty applied to all local authorities, who currently relied on the Better Care Fund. A green paper on the funding of adult social care was expected to be issued by the Government in September 2018.
- The staffing ratios specified in the levels of fees for learning disability would be determined by an individual's level of need. If the level of need increased or decreased the agreed staffing ratio could also change.
- Reference was made to Continuing Health Care, funded by the NHS, which was not part of the proposal in the report, and the approach of the local clinical commissioning groups to this.
- Generally information on the level of rates charged by each provider would be commercially sensitive, but the local authority could provide advice at the time of the placement on the fees charged by specific providers.
- The Lincolnshire Care Association represented about 60% of the residential and nursing care beds available in Lincolnshire. Homes which were part of a national chain did not generally join local associations, as they tended to be members of Care England.

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The Committee agreed to support the five recommendations in the report to the Executive Councillor and agreed to make additional comments as set out in part 2 of the resolution.

RESOLVED

1. That the recommendations to the Executive Councillor for Adult Care, Health and Children's Services on residential and nursing care fee levels within Adult Social Care be supported;
2. That the following additional comments to be passed to the Executive Councillor in relation to this item:

"The Committee recorded its gratitude for the work undertaken in the preparation of the proposed level of fees, including the required detailed calculations to support the proposals. The Committee also welcomed the extent of the engagement of residential and nursing care providers in the consultation, in particular the Lincolnshire Care Association (LinCA), who was represented at the meeting by their Chair.

"Prior to the Committee reaching its conclusion, particular consideration was given to the impact of nursing costs on providers. The Committee was advised by the Chair of LinCA that the current position was not sustainable in the long term for many providers, and some providers had already deregistered nursing care beds, rather than cover the shortfall in their costs. The shortage of nurses in Lincolnshire and the high costs of agency nurses were also cited. Alternative solutions are being explored with clinical commissioning groups and other health colleagues. An example is considering how nursing provision could be delivered in order to meet the requirement of an 'available' nurse, a term which is not defined by the Care Quality Commission. The Committee was advised that the executive nurses in clinical commissioning groups hold the legal responsibility for nursing provision and NHS funded nursing care is an addition to the Council-paid fees."

3. That the Health and Wellbeing Board be requested to consider how clinical commissioning groups could be engaged on developing available nursing provision in relation to the issues set out in (2) above; and the Health Scrutiny Committee for Lincolnshire be advised of this Committee's consideration of this topic.

**49 REPORT BY THE LOCAL GOVERNMENT AND SOCIAL CARE
OMBUDSMAN**

Consideration was given to a report by the Local Government and Social Care Ombudsman, which would be considered by the Executive at its meeting on 6 March 2018. Comments agreed by the Committee would be passed to the Executive as part of its consideration of the item.

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The Committee was advised that the Local Government and Social Care Ombudsman had issued the report following an allegation of maladministration on the part of the Council in the exercise of its adult social care function. The Ombudsman had concluded that the Council had been guilty of maladministration and that this had caused injustice to the complainant. The Ombudsman had issued a public report, which included recommendations that he considered would be necessary to remedy the injustice in this particular case and more widely. The Ombudsman's Recommendations were detailed in the report and the actions that the Council had either taken or proposed to take in addressing those recommendations.

Following questions from members of the Committee, these points were clarified:

- A full apology had been issued by the Council in advance of the Ombudsman's full investigation, and the complaint related to events in 2016.
- The complainant had followed due process, initially using Council's own complaints procedure, before the complainant had escalated the complaint to the Ombudsman.
- Following the complaint, the relevant members of staff had received further training, with an emphasis on providing families the correct information as early as possible.
- Further consideration would be given to legal advice and wider implications in the Ombudsman's report, and consideration of this was requested by the Committee.

The Committee agreed to support the six recommendations to the Executive and requested that it considers the full review of the legal, financial and operational implications of the recommendations in paragraph 60 of the Local Government and Social Care Ombudsman's report.

RESOLVED

1. That the recommendations to the Executive, as set out in the report, be supported;
2. That the Committee's request to consider the full review of the legal, financial and operational implications of the recommendations in paragraph 60 of the Local Government and Social Care Ombudsman's report be passed to the Executive.

50 LINCOLNSHIRE SAFEGUARDING BOARDS SCRUTINY SUB GROUP UPDATE

The Committee considered the minutes from the meeting of the Lincolnshire Safeguarding Boards Scrutiny Sub Group held on 10 January 2018.

It was reported that the *Thematic Review of Financial Exploitation* which was the result of a Serious Case Review by the Lincolnshire Safeguarding Adults Board and the Board's *Peer Challenge Report from the Local Government Association and the*

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Response were two topics highlighted at the Sub Group meeting which could come to the Adults and Community Wellbeing Committee at a future meeting.

Following discussion, it was decided that the Sub Group should consider these issues in the first instance and provide an update to the Committee, as part of the regular submission of the Sub Group's minutes.

RESOLVED

That the minutes of the meeting of the Safeguarding Boards Scrutiny Sub Group be received.

**51 ADULTS AND COMMUNITY WELLBEING SCRUTINY COMMITTEE
WORK PROGRAMME**

A report was considered which provided an opportunity for the Committee to look at its work programme for forthcoming meetings.

It was noted that a pre-decision scrutiny item *Shared Lives Procurement* had been added to the agenda for the meeting on 11 April 2018, since the publication of the agenda.

There was discussion around the issues of community wellbeing, social isolation and extra-care housing. It was agreed that these issues could be discussed at the meeting on 4 July 2018 which currently had no items listed. It was also suggested that the meeting could be held in Skegness, where there were some very good examples of extra care housing which the Committee could visit.

There was also a suggestion, that the community issues mentioned could form the work of a Task and Finish Group, or be the topic of a future Scrutiny Panel review.

RESOLVED

That the Committee's Work Programme and the changes made therein be noted.

52 INFORMATION ITEMS

The reports on Supported Housing and Extra Care Housing had been circulated with the agenda for information only.

RESOLVED

1. That the report on Supported Housing be noted.
2. That the report on Extra Care Housing be noted.

The meeting closed at 12.05 pm.