

Equality Impact Assessment Template

Please complete this template using the [Equality Impact Assessment Guidance document](#)

Date: January 2019

Title of proposal (include forward plan reference if available)	Care Home Fees – Older People 2020/21 (Key Decision Ref. No. SMBCXXXXX)
Directorate and Service Area	Adult Social Care Health & Wellbeing
Name and title of Lead Officer completing this EIA	Daljit Bhangal
Contact Details	0121 569 5510 daljit_bhangal@sandwell.gov.uk
Names and titles of other officers involved in completing this EIA	n/a
Partners involved with the EIA where jointly completed	n/a
Date EIA completed	04.02.20
Date EIA signed off or agreed by Director or Executive Director	
Name of Director or Executive Director signing off EIA	Stuart Lackenby
Date EIA considered by Cabinet Member	

1. The purpose of the proposal or decision required

See [Equality Impact Assessment Guidance](#) for key prompts that must be addressed for all questions

(Please provide as much information as possible)

On 19 April 2017, Adult Social Care presented a report to members (Residential Care Home Fees model and rates 2017-18 (Minute No. 87/17) seeking approval for the use of a proposed costing model to form the basis of discussion and fee setting for Care Home Fees for Older People in future years. Cabinet approved the recommendations.

The model was used to calculate the Care Home Fees for 2018-19. It is proposed this model is used again to calculate fees for 2020-21. This report seeks approval for the Director of Adult Social Care, Health and Wellbeing to communicate the resultant Fees to the relevant providers and implement the revised fees from 1 April 2020.

2. Evidence used/considered

The council is responsible for the commissioning, contracting and payment of residential care home placements (residential and nursing) for older people who meet the access criteria and do not have assets in excess of the limits set by the Government. Individuals are charged for their care depending on their individual financial circumstances in accordance with the rules set out by the Government.

The council purchases placements in care homes for older people. Placements are purchased at standard rates set by the council. There are four categories of standard rate, Residential, Residential Dementia, Nursing Homes and Dementia Nursing. In addition to placements made at standard rate the council has a significant number of agreements with homes for specific individuals where payments made are in excess of standard rate either via a negotiated fee, usually for individuals with specific needs or where a Third-Party contribution has been agreed.

On 31 August 2016, (Key Decision Ref. No. SC03), following extensive discussion with the sector the Council established the base rate for care home fees in Sandwell. During this process as referenced in the Cabinet report, the council wrote to the West Midlands Care Association on 24 March 2016 requesting the substantiating information for additional costs that the sector claimed, it had previously been agreed would be provided. A response was received on 16 May 2016; however, this response did not cover all areas of information requested, nor did it contain any verification of additional costs incurred by providers in Sandwell. The council wrote again

on 16 May 2016 to request this and a final response was received on 24 May 2016 in a letter erroneously dated 18 May 2015.

As reported to cabinet on 31 August 2016, the council reviewed the information submitted by the West Midlands Care Association. The responses provided did not offer any additional evidence of costs in the sector nor in the opinion of the council did they provide any further persuasive information or case for the council to increase the previous financial uplift offered

On the 19 April 2017, Adult Social Care presented a report to Cabinet (Residential Care Home Fees model and rates 2017-18 (Minute No. 87/17) seeking approval for the use of the proposed costing model to form the basis of discussion and fee setting for Care Home Fees for Older People in future years. Cabinet approved the recommendations.

The model approved was developed via a working group which consisted of Officers of the Council representatives from the West Midlands Care Association WMCA. The group agreed terms of reference and met to establish the principle and detail of a proposed cost model.

The model has taken into account increases to the National Living Wage, increases to auto enrolment pensions and links to various Consumer Price Indices (CPI) and links to the Council pay award.

The model has been used to calculate the proposed Care Home Fees for 2020-21, this report seeks approval for the Director of Adult Social Care, Health and Wellbeing to communicate the resultant Fees to the relevant providers and implement the revised fees with effect from 1 April 2019.

3. Consultation

The model approved was developed via a working group which consisted of Officers of the Council representatives from the West Midlands Care Association (WMCA). The group agreed terms of reference and met to establish the principle and detail of a proposed cost model.

The Chief Executive of the WMCA was notified by email on 24 January 2020 of the outcome of the calculation and asked to consult all care home providers that are subject to standard rate fees, with comments requested by 7 February 2020. To ensure that all providers were contacted, a list was requested of those contacted and this revealed that there were a few who had not been contacted and this was remedied, and they were subsequently contacted.

The feedback from the sector consultation by the WMCA was as follows:

- Occupancy is an issue which causes problems for Providers and makes the increase further below the fair cost of care than it seems at first glance.
- All the providers were concerned that the way of calculating the fee which is not based on a realistic price, means that every year the situation gets worse.
- One of the main issues is the minimum wage increase which the costing model does take into account, but as it wasn't based originally on the wage bills of Providers, it is getting further adrift.
- All the providers expressed a wish to pay their staff more and would be open to the idea of an increase, based on a sign up to increased wages for staff.
- Providers asked if it is possible to consider doing a cost of care exercise as carried out by Birmingham – see below
- The Council pays less for Nursing Care than Residential without FNC – please see below
- 3 Homes expressed the opinion that the rate is not sufficient to keep their businesses viable – the identity of these homes has been requested twice but providers do not want to share the information with the council at this stage
- A home writing separately indicated that the wages will be increasing by 6.2% from April and the increases the council is offering does not even maintain the status quo. The provider states the past few years have pushed most operators in the area to the brink and because of higher operating costs not being matched by increase in fees and how they strongly believe this may become the final straw and asked the council to reconsider this
- Figures provided to the WMCA by providers through the consultation were:
 - Increase required – 7.5%
 - 23 to 38% behind the cost of care (a spreadsheet with figures has been offered if the council wants it) – see 2.8 below
 - Nursing should be £615.54 excluding FNC
 - Residential will be £455.90 and Nursing £449.98

Separate to the consultation, one corporate care home provider with 6 homes in Sandwell had already written to the council and stated they had forecast in-year pressures in relation to staff, non-staff costs and technology investment from April 2020 to be 7.5%. They identified that the increase they received for 19/20, when weighted against actual occupancy, delivered a 3.6% increase across all of their care categories despite their cost pressures being 5.5%, which meant they had to absorb pressures themselves in relation to the difference, which they argued inhibited sustainability and investment. This provider argued that the gap between the current standard base fees in Sandwell and their view of the real cost of providing care according to the Laing and Buisson methodology continued to grow, and they indicate the fee increase that should therefore be paid is as follows:

Residential	Dementia Residential	Nursing	Dementia Nursing
44%	36.1%	26.4%	32.7%

The provider also noted that those residents who are subject to 'negotiated' rates where there is no third party paying a top up have not had the benefit of an increase to standard

rates. They requested that this anomaly be remedied, so in these scenarios, they assert that providers should benefit from an inflationary linked uplift to be applied to the standard rate component of the fee as a minimum, as they have no way of building in inflation to the initial fee. It is noted that the assessment of £1,175,920.00 to uplift standard rates, which is within projected budget, includes both negotiated fees and where there is a third party paying the top up. While only 1 care home provider has raised this formally, the CCBU receives contact from care providers when they implement rates each year to ask why there is a discrepancy where only those top ups paid by third parties have standard rates increased. It is likely to become an issue more so in future years as the number of care homes charging standard rate alone has diminished and therefore the council is likely to pay more and more 'negotiated' rates i.e. where they pay the top up. They have asked for a separate meeting with senior officers and elected members.

4. Assess likely impact

The recommendations of the report relate to the setting of care home fees which relate to payments to providers. As such there is no specific impact arising in relation to any of the protected characteristics / equality groups identified in the Equality Act 2010.

In the event that Cabinet agrees to the increase to care home fees as proposed in this report the revised fees will be paid with effect from 1 April 2020. There should be no impact of this decision on existing service users. There remains a risk in respect of whether there are sufficient placements in the sector which accept the council's standard rate, which could imply that the rate the council pays is not sufficient, however it is considered this is mitigated because the council would be obliged to meet any shortfall in the event there were no placements available at standard rate.

The setting of care home fees is a mathematical exercise and as such is between care home providers/the sector and the council.

Councils are required to be cognisant of their duties around market management and ensuring a stable market by not setting fee levels below an amount which is sustainable for providers in the long-term. Indeed, if the fee level set is not sustainable for providers, the Care Act 2014 identifies that local authorities need to be able to step in where a provider fails and to ensure continuity of care, so it would be counter-productive to set fees at a level that the market cannot sustain, as the council ultimately may end up paying more in addressing any crisis that manifests from provider failure in the event that managing any continuity of care has any financial implications, notwithstanding the Care Act 2014 provides significant flexibility in what local authorities are required to do in managing provider failure.

Please complete the table below at 4a to identify the likely impact on specific protected characteristics

4a. Use the table to show:

- Where you think that the strategy, project or policy could have a negative impact on any of the equality strands (protected characteristics), that is it could disadvantage them or if there is no impact, please note the evidence and/or reasons for this.
- Where you think that the strategy, project or policy could have a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relationships within equality characteristics.

Protected Characteristic	Positive Impact	Negative Impact	No Impact	Reason and evidence (Provide details of specific groups affected even for no impact and where negative impact has been identified what mitigating actions can we take?)
	✓	✓	✓	
Age			✓	The proposals in this report will affect the price paid for residential placements for Older People only; however, this should not adversely impact on individuals as the Council will be required to meet its statutory duties and commission placements for individuals.
Disability			✓	The proposals of this report make no distinction regarding disability.

Gender reassignment			✓	The proposals of this report make no distinction regarding gender reassignment.
Marriage and civil partnership			✓	The proposals of this report make no distinction regarding marriage and civil partnership.
Pregnancy and maternity			✓	The proposals of this report make no distinction regarding pregnancy and maternity.
Race			✓	The proposals of this report make no distinction regarding race.
Religion or belief			✓	The proposals of this report make no distinction regarding religion or belief.

Sex			✓	The proposals in this report will be applied fairly and consistently irrespective of gender.
Sexual orientation			✓	The proposals in this report will be applied fairly and consistently irrespective of sexual orientation.
Other				

Does this EIA require a full impact assessment? Yes No

If there are no adverse impacts or any issues of concern or you can adequately explain or justify them, then you do not need to go any further. You have completed the screening stage. You must, however, complete sections 7 and 9 and publish the EIA as it stands.

If you have answered yes to the above, please complete the questions below referring to the guidance document.

5. What actions can be taken to mitigate any adverse impacts?

N/A

6. As a result of the EIA what decision or actions are being proposed in relation to the original proposals?

N/A

7. Monitoring arrangements

Adult Social Care will monitor the availability of placements within the Borough.

8. Action planning

You may wish to use the action plan template below

Question no. (ref)	Action required	Lead officer/ person responsible	Target date	Progress

9. Publish the EIA

The EIA will be published on CMIS in conjunction with the Cabinet Report.

Where can I get additional information, advice and guidance?

In the first instance, please consult the accompanying guide “Equality Impact Assessment Guidance”

Practical advice, guidance and support

Help and advice on undertaking an EIA or receiving training related to equalities legislation and EIAs is available to **all managers** across the council from officers within Service Improvement. The officers within Service Improvement will also provide overview quality assurance checks on completed EIA documents.

Please contact:

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