

## Annex C: market sustainability plan

### **Section 1: Assessment of the current sustainability of local care markets**

#### **a) Assessment of current sustainability of the 65+ care home market**

Overall, our view is that we currently have sufficient capacity. However we have concerns about the diminishing availability of nursing care. Two homes have recently decided to cease providing this service; in one case directly because of difficulty in recruiting nurses. This appears to be primarily a consequence of the wider workforce shortage rather than a straightforward financial issue. We also have some difficulty finding suitable placements for older people whose dementia is associated with challenging behaviour of a kind that cannot easily be managed in a normal care home setting, and we are currently seeking tenders, in partnership with the ICB and the Cumbria, Northumberland Tyne and Wear mental health NHS FT, for a service specialising in supporting residents in this category.

The dispersed population in rural areas of the county can also lead at times to problems in finding local placements in areas where the level of need can sustain only a modest level of capacity. In some sparsely populated areas of Northumberland anyone needing care home accommodation would have to move into an establishment a considerable distance away from where they previously lived. One regrettable tendency over the past two decades has been the closure of many of the small care homes which at one time provided local options in rural Northumberland, with most new developments being larger and possibly more institutional care homes in market towns and larger settlements. Our hypothesis is that these changes were to some extent accelerated by a “fair cost of care” exercise carried out in 2003, which led to a substantial increase in fees, making new care home developments more attractive and creating overcapacity, which smaller care homes were less able to survive. We made a conscious decision in 2012 to move away from fees based on cost models, to reduce the incentive to build new homes, and we revised our fee structure five years ago to add a fee premium for small care homes, in the hope of at least slowing the trend of closures of those homes.

While we do at times have capacity constraints on our ability to support rapid discharge from hospital into short-term care home accommodation, the primary underlying reason for this is the capacity constraints in homecare, since currently a high proportion of short-term discharge placements in care homes are temporary arrangements pending a home care plan.

This is, for a number of reasons, a particularly difficult time at which to make firm judgements about the sustainability of care homes. The direct and indirect impacts of the Covid pandemic, unprecedented labour market issues affecting staff recruitment and retention, and more recently the rapid rise in inflation, have produced a situation in which it is exceptionally hard to distinguish between short-term difficulties which require temporary additional funding and support and long-term structural issues.

In 49 of the 70 homes in Northumberland, during the early waves of the pandemic more than one resident died with Covid recorded as one of the causes of death, usually the main cause; during the first wave there were five homes in which ten or more residents died; in the second wave there were nine. It is a credit to the staff

and managers of the homes that none became unable to continue to operate, though some came close to that. For some homes, the continuing consequence is unusually low occupancy levels, both as a direct result of the deaths of residents and because of lingering reluctance among older people and their families to accept the perceived risks of living in a care home.

Low occupancy may partially have masked the impact on care homes of labour market issues, but recruitment and retention difficulties have become increasingly apparent since summer 2021. Some homes are now telling us that, although they have vacant rooms, they are unable to take new admissions – or have decided to keep part of the home out of use – because of staff shortages.

All care homes in Northumberland are signed up to the local authority's contract, which is a call-off contract open to any qualified provider. Providers are under no obligation to accept referrals, and some are generally not willing to do so without a top up payment, but in general we do not have difficulty finding accommodation at authority rates, except in cases where the person needing care has particularly complex needs or when there are reasons to constrain the search to a narrow geographical area.

Our view before Covid was that our fees appeared to be sufficient to maintain the existing care home sector, with some new developments – including developments which we did not need believe to be necessary, and advised against because we believed that they would either struggle to attract sufficient residents or cause difficulties for existing care homes. Broadly that continues to be our view, though there are clearly present unusual pressures on all care services.

Inflation – and in particular the increase in energy costs – is a serious concern for care home operators, because of the nature of their resident group. Based on the “fair costs” survey, we estimate that care homes spent around £24 per week per resident on energy costs in April 2022, and that figure will have substantially increased since. Recruitment and retention difficulties are also affecting all care providers' costs and income. The results of the “fair cost of care” survey do not reflect all of these pressures, because of the timing of the period covered by the data collection.

Of the 70 care homes for older people in the county, 50 are rated by CQC as “good” and 3 as “outstanding”. 16 are rated “requires improvement” and one has not yet been rated.

#### **b) Assessment of current sustainability of the 18+ domiciliary care market**

We do not currently have sufficient capacity in home care services. The workforce in these services fell sharply following the end of Covid restrictions in summer 2021, and most providers have since then struggled to recruit and retain sufficient care workers to improve the position. For much of the past year, there have had at any one time been 200 or more people for whom we have assessed that home care would be the best way to meet their eligible needs, but for whom we have not at that time been able to arrange that service. Our understanding from discussions with other local authorities is that this position is not exceptional, but it is clearly not acceptable, and we describe in Section 3 of this plan how we will be using the grant to address one of the most pressing of the current issues.

The issue in this sector is not primarily a gap between the fees which we are paying and the costs of the service, though some providers are struggling to cover

their costs because recruitment and retention difficulties are preventing them from providing the service on the scale assumed in their business plans, and therefore making it difficult for them to cover overhead costs premised on a larger volume of activity. The issue is rather that employment in home care is not currently attractive enough.

Before Covid, capacity issues in home care were primarily concentrated in the most rural parts of Northumberland, such as the National Park and the North Pennines. Now they arise in all parts of the county.

During the last decade the number of organisations providing mainstream home care services in the county has significantly increased. Previously, “preferred” providers in each area of the county had been able to meet most needs, but the number of smaller providers has grown – there are now 48 home providers signed up to the council’s contract, most of them small. Our contractual arrangements were changed in 2019 to reflect this trend, which may have some benefits for user choice but has also created a more fragmented sector and made it more difficult to maintain for the Council’s social care teams and commissioners to maintain close relationships with providers. Referrals which the “tier 1” preferred provider for a local area cannot meet are passed on first to “tier 2” providers who have satisfied the Council that they have a solid track record in that area, and then if necessary to “tier 3” providers who have signed up to the contract, as any registered provider can do. In every month since June 2021, at least 20% of referrals have not been picked up by any contracted provider when first offered, requiring us to implement a variety of contingency plans.

There has been some instability among smaller home care providers in our area since summer 2021, with five providers ceasing to operate. In some cases another provider took over their workers and care packages; in others we have had to become more closely involved in finding new arrangements. The primary issue for us is the overall capacity of the care workforce rather than the number of providers.

There are a small number of home care providers which specialise in the private market, with higher costs and an expectation that visits will be longer and will provide support beyond meeting eligible needs. In current circumstances, the Council is increasingly often finding it necessary to arrange services from these providers outside its contract and at higher rates.

Current fee levels are set at three different levels based on the geographical area. The lowest rates are paid in South East Northumberland, which has a relatively concentrated population, with less travel time and fewer difficulties in finding locally-based care workers. The highest rates are paid in and near the National Park and North Pennines. Rates also vary depending on the length of the visit. In the South East of the County, we pay £18.15 for a visit that lasts an hour; in the most remote rural areas, we pay £17.85 for a half-hour visit (equivalent to an hourly rate of £35.70).

Of the 48 home care providers on our contract, 38 are rated by CQC as good and 2 as outstanding. 6 are rated “requires improvement”, and 2 are not yet rated.

## **Section 2: Assessment of the impact of future market changes (including funding reform) over the next 1-3 years, for each of the service markets**

We expect the main market impact of the charging reforms over the next three years to be on the care home sector, though in the long term we would expect that

when significant numbers of people living in the community start to reach the cap, there may be an increase in demand for formal homecare, as this becomes free at the point of use. This would be in line with the Scottish experience reported in the Impact Assessment of free formal care substituting for high levels of support by informal carers. More immediately, it is possible that the extension of the means test could in some cases have a similar impact, since it will cap the weekly charge payable by some service users who currently meet the full cost of their service, removing the financial disincentive to ask for more formal care.

There are currently around 800 self-funders in care homes in Northumberland, a number which has been increasing recently, in part because of recovering occupancy levels in care homes as the impact of Covid reduces, and in part because of the effect of clarification in 2018 of the legal position about when the local authority has a duty to make placements of people who do not have the mental capacity to make their own decisions. There are also about 160 residents whose placements have been made by the Council but who are paying the full fees for their placements. (Residents in this category will be paying more if local authority fee rates increase.) About 90 residents on the local authority's contract currently have a third party paying a top-up.

One potential impact of the full implementation of Section 18(3) which concerns us is that care home operators may be put in a position where they need to choose between accepting only state funded residents or only residents prepared to pay higher private fee rates (either under a private contract or through a top up). This is because if a home accepts any residents at local authority fee rates, all new residents, and by April 2025 existing residents, will on the face of it be entitled to insist that they should be paying the same rates, unless they are getting a significantly different service. Currently, all care homes in Northumberland have both publicly-funded and private residents, though the proportions vary considerably. When we surveyed all homes in July 2022, there were 22 care homes where the number of private residents was at least half the number of residents on the Council contract and less than double that number. These homes may face the most difficult choices.

If homes do become forced to make a choice, there may be a number of undesirable consequences, particularly in rural areas where the population is sufficient to sustain only one or two local care homes:

- if those care homes opt to take only private/top up residents, less well off older people may have to accept care home placements distant from their local communities
- some care homes which currently accommodate a mix of residents may become unviable whichever option they take: if they cease taking state funded residents, they may not be able to fill enough of their rooms; if they take only state funded residents, they may not be able to cover the costs of a service which was designed to attract affluent older people
- **[REDACTED DISCUSSION OF POTENTIAL LEGAL ISSUES]**

The impact assessment published by DHSC in January includes a discussion about the issues which will arise from Section 18(3) in areas where there is limited local choice of care homes, but its suggested solutions may not be realistic in rural areas – in particular it is unlikely to be viable for the local authority to encourage

the development of new care homes that accept local authority rates, in areas where local demand is unlikely to be sufficient to support multiple care homes.

Care home operators are in most cases commercial businesses, which will be concerned about their future. It is unlikely to be possible to negotiate changes on the scale which may be required without some conflict. A significant minority of care homes in Northumberland are affiliated to a regional care home association which frequently sends the County Council and some other local authorities correspondence threatening legal challenges to decisions about fees. Despite that, our relationships with most of the care home operators in the county are currently good, though many providers are likely to find next year's planned changes disturbing.

In home care, workforce and demographic issues currently seem likely to be bigger challenges to the sustainability of the sector than the charging reform, though the demands placed on front-line staff by eligibility assessments for independent personal budgets are likely to be greater in home care. There is a possibility that needs assessments of the estimated 500 people currently receiving private home care may cause some disruption to providers, if it brings to the attention of service users their existing right to ask the local authority to make arrangements for them under its contract, but we are not currently able to estimate the scale on which this might happen.

The impact of demographic change is slower than the abrupt recent deterioration in the care workforce from summer 2021, but in the long run may be at least equally concerning. In some rural areas of Northumberland there has been a persistent trend of increasing numbers of older people and reducing numbers of younger adults who might be recruited to provide them with care and support.

**Section 3: Plans for each market to address sustainability issues identified, including how fair cost of care funding will be used to address these issues over the next 1 to 3 years**

**(a) 65+ care homes market**

In the medium to long-term, our aim is to reduce the proportion of older people with care needs who can only be supported in a care home, by promoting the development of other accommodation options which make it possible to support people who need high levels of care, or care which is readily available on call. This is discussed further in part 3(b), since we think it will also be crucial to the prospects of sustainable home care. One key obstacle to this is that funding streams for housing for older people with care needs are more complicated than the funding of care homes – for instance national initiatives intended to promote extra care housing have generally focused on capital funding for individual schemes rather than the more complex task of creating a clearer financial framework which might stimulate developers in the way that the relatively clear funding arrangements for care homes have attracted interest from property developers and financial investors whose background has often not been in the care sector.

We are currently not sufficiently clear about the ways in which care home providers will respond to the new context created by the full implementation of section 18(3) to have a firm view about how this will affect fee levels and fee structures. Our objective will continue to be to maintain good quality local options in both rural and urban areas of the county, including smaller homes, which may

be both more local and less institutional. Some of the levers that we currently use to promote quality and diversity in the sector may no longer be as effective and the planned new arrangements, if homes become more segregated between those which accept public sector pay rates and those which do not, and the introduction of independent personal budgets and direct payments for residential care may make it harder to sustain our current approach, in which we use fee differentials as a means of maintaining a diverse care home sector. We plan to do more detailed work with providers over the next few months to improve our understanding of how they are likely to respond to the changes and how we can work with them to reduce the risks that the reforms will lead to instability or have undesirable side effects.

At the time of preparing this provisional market sustainability plan, the overall financial context in which local authorities will be operating next year appears extremely challenging, and commitments within our existing care home contract to meet the costs of pay and price inflation will place significant strain on the council's finances. If current recruitment and retention difficulties continue, the first call on grant funding in 2023/4 is likely to be further measures to improve pay rates for care workers, within a scheme which we established from April 2022 in which providers are able to receive higher fees in return for a commitment to pay care workers above the statutory minimum rates. For subsequent years, we may need to review whether this scheme remains possible within the new funding arrangements.

We expect to have to allocate some of the funding in 2023/4 and more in 2024/5 to address issues arising from the extension of Section 18(3), but we are not yet in a position to decide on the scale of that.

The "fair cost of care" survey has produced no clear evidence of a need for significant fee increases to match actual costs as they stood in April 2022, with the possible exception of nursing care – which raises some complex issues because local authorities are prohibited under Section 22(3) of the Care Act from funding the provision of nursing care by a registered nurse, and the apparent funding gap identified by the survey largely relates to the employment of nurses, and the element of the return on operations which arises from the employment of nurses, which we think may fall under the same prohibition, though we are not clear whether it is intended to be covered by the funded nursing care payments. We will be discussing this issue with the North East and North Cumbria ICB.

In the current year, we will make a temporary increase to the fees paid to care homes for the remainder of the year, in general recognition of the pressures that they are currently under, most of which are not directly picked up by the "fair cost of care" survey.

#### **(b) 18+ domiciliary care market**

In this sector too, the "fair cost of care" survey has not produced clear evidence that, as at April 2022, there was a significant gap between fee levels and the actual costs of providers, though some providers were under financial strain because of the difficulty of sustaining a sufficient workforce to be able to provide care on the scale necessary to meet their financial objectives.

The problems caused by recruitment and retention difficulties are more acute and more severe in this sector than in care homes, and we will be using £310K of the 2022/3 grant to fund a scheme in which we will increase fees to homecare

providers if they commit to paying their workers the full HMRC approved mileage rate of 45p per mile when they drive to visits. Currently, mileage rates are typically around half this level, and home care workers have been understandably reluctant to take on visits which require travelling significant distances by car at the fuel prices they are now paying. Discussions with home care providers have made it clear that this is a significant current issue, particularly in rural areas of the county. We expect this scheme to continue for the foreseeable future, and, subject to grant conditions, we intend it to be a first call on the grant in future years.

We will also be making a temporary increase to base fees paid to homecare providers, on the same basis as with care home fees, recognising the general fragility of the sector.

In the longer term, we share the widespread view that significant changes to the terms and conditions of home care workers will be necessary to return to a position in which we are reliably able to meet people's care and support needs in the way that we would wish to. But we think that the demographic pressures, particularly in some rural areas, may make it impossible to meet all needs without the development on a large scale of attractive housing options for older people in locations where care and support can relatively easily be provided. The need is not only for extra care schemes with 24-hour on-site staffing – in some cases where an older person has been living in unsuitable housing in a small village or hamlets in rural Northumberland, and it has been challenging to source home care to support them there, a move to a town-centre scheme designed to be attractive, accessible and easily maintained has substantially reduced or entirely eliminated the need for home care visits, as well as making it easier and less expensive for home care workers to provide support when it is needed. We are working on schemes across Northumberland, on various models and under various funding arrangements, and our Market Position Statement makes it clear that this one of our highest priorities.