

CYNGOR SIR POWYS COUNTY COUNCIL.

**PORTFOLIO HOLDER DELEGATED DECISION
June 2017**

REPORT AUTHOR: Dylan Owen
Head of Transformation for Adult Services

SUBJECT: Engagement of external support to review the Council's Open Book Fee Setting methodology for residential and nursing care placements.

REPORT FOR: Decision

1. Summary

The purpose of this report is to seek agreement to commission short-term external support in line with Financial Regulations to review the Council's Open Book fee setting process to ensure that it remains:

- a safe, robust and appropriate fee setting methodology;
- able to support the Council in delivering its statutory duties.

The commissioned external support will also seek to recommend changes to the way fees are set for residential and nursing care homes if the Open Book process is found to no longer represent best practice.

The Council has a statutory duty under the Social Services Wellbeing (Wales) Act 2014, to provide access to and commission a range of social care services to meet the assessed care needs of residents. As part of this duty, the Council has to ensure that local residential and nursing care markets have sufficient capacity to meet residents' assessed needs.

Fee setting processes for the council's own residential care homes are detailed within the contracts held with BUPA who manage the homes on the council's behalf. Cabinet agreed to revise the way external residential and nursing care home fees were calculated in 2012. The agreed changes resulted in the introduction of the 'Open Book' process. This process takes into account both actual income generated by care homes from all areas (including self-funders) and costs incurred in delivering care, and helps officers to understand individual providers' legitimate costs and the factors which influence those costs. Under this method, providers give information to officers about their income and costs.

Introduction of the Open Book process in 2012 was challenging, and a small number of providers initially resisted engagement with its implementation. Since 2012, the Open Book process has been used in conjunction with annual

uplifts, agreed as appropriate by Cabinet, to set individual and differential prices for care homes based on their respective costs.

However, in general, residential and nursing care providers have seen resident acuity levels rise, and have also had to accommodate the implications arising out of the implementation of the National Living Wage and the introduction of statutory additional pension commitments. In response to these and other cost drivers, three external residential and nursing homes have challenged fees calculated through the Open Book process. This outlines a belief that the process is not robust enough to take account of all providers' costs and pressures added via increasing levels of resident acuity, or generate a sufficient profit margin to support ongoing investment within their homes.

2. Proposal

It is proposed that independent external support is commissioned to:

1. Undertake a desk top analysis / review the robustness of the Open Book Fee Setting process and its level of adherence to statutory requirements within processes for setting residential and nursing care fees. This includes reviewing the reasonableness of the underlying assumptions and principles on which the Open Book process is built.
2. In the event of the review concluding that the current Open Book no longer represents best practice, to:
 - i. Consult with all external care home providers to establish a register of their respective cost drivers and individual care home characteristics;
 - ii. Work with officers from PCC to make recommendations for any necessary changes to existing fee setting processes, including recommendations for the full replacement of the Open Book process if required.

Anticipated fees are estimated at £30k plus VAT and disbursements, which would be funded from the Open Book budget reserve.

3. Options Considered/Available

Options considered were:

1. To continue with the existing Open Book process for setting fees without undertaking a review of its continued robustness / appropriateness for setting fees. This option is not recommended as it would increase the risk of the fee setting process being subject to judicial review by one or more of the care homes challenging the processes' resulting fees.
2. To continue with the existing Open Book process for setting fees for 2017/18, whilst a review is undertaken of the open Book process in line with the proposal detailed above. This option is recommended as it will:

- Indicate to the market that the Council is listening to providers concerns, enabling the council to continue to commission appropriate care home placements at an agreed fee whilst the fee setting methodology is reviewed.
 - The review will enable the robustness of the current fee setting model to be examined without disruption to the care market.
 - Help build ownership and commitment to any future fee setting methodology.
 - Support the calculation of any future fee increase due (if any)
3. Cease using the Open Book process to set residential and nursing care fees, and agree an alternative method with care homes. This option is not recommended as timescales do not permit the development of an alternative, robust fee setting methodology for 2017.

4. **Preferred Choice and Reasons**

The preferred choice is to implement option two. The reasons are as stated within the recommendation/option above.

5. **Impact Assessment**

5.1 Is an impact assessment required? No

6. **Corporate Improvement Plan**

Adoption of the report recommendation and the review of the current fee setting methodology would support following three Corporate Improvement Plan priorities:

1. **Remodelling council services to respond to reduced funding:** Significant work has already been done to review older peoples' accommodation needs and to agree future evidence based investment plans. Reviewing the way care homes' fees are calculated will support the ongoing investment planning / market development work across this vital sector.
2. **Developing the Economy:** The review of the Council's care home fee setting methodology will ensure that the Council is able to continue to support local businesses through commissioning services at an economically viable rate for both providers and the council.
3. **Supporting people in the community to live fulfilled lives:** The corporate Development plan acknowledges that Powys is home to a range of communities. Care homes often represent residents' closest communities. Ensuring care home fees are set at an appropriate sustainable level will support care homes to invest in

care home infrastructure / care delivery that supports people to live fulfilled lives.

7. **Local Member(s)**

This report covers the whole of the County Council area.

8. **Other Front Line Services**

Does the recommendation impact on other services run by the council or on behalf of the Council? No

9. **Corporate Communications:** No communication action required.

10. **Support Services (Legal, Finance, Corporate Property, HR, ICT, BPU)**

Corporate Property: Welcome the review of the process and trust that there is also consideration being given to providing adequate budget for putting the buildings into good repair and condition.

Business Support: Note the content of the report.

ICT: Note the content of the report.

Legal: The recommendation can be supported from a legal point of view

Finance: The Finance Business Partner notes the content of the report and can confirm the current 'Open Book' process has the risk to being subject to judicial review by one or more of the care homes challenging the processes' resulting fees. This agreement is to commission short-term external support to review the Council's Open Book fee setting process, to ensure that it remains a safe, robust and appropriate fee setting methodology which will ensure sustainability in the residential and nursing care market. This will be funded from the Open Book reserve held corporately.

Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

The focus of this report is to ensure sustainability in the residential and nursing care market and to have a positive impact on equality across all of the protected characteristics which could be affected.

11. Scrutiny

Has this report been scrutinised? No

12. Statutory Officers

The Solicitor to the Council (Monitoring Officer): “ I note the legal comment and have nothing to add to the report”

The Strategic Director Resources (S151 Officer): The Strategic Director Resources (S151 Officer) supports the approach.

Members’ Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If the Portfolio Holder has an interest he should declare it at the start of the meeting and complete the relevant notification form and refer the report to Cabinet for decision.

Future Status of the Report

Members are invited to consider the future status of this report and whether it can be made available to the press and public either immediately following the meeting or at some specified point in the future.

Recommendation:	Reason for Recommendation:
To approve the commissioning of short-term external support to review the Council’s Open Book process, and to make recommendations for changes to fee setting processes, if the Open Book process is found to no longer represent best practice.	<ul style="list-style-type: none">• Commissioning external, independent support will indicate to the market that the Council is listening to providers concerns, enabling the council to continue to commission appropriate care home placements at an agreed fee whilst the fee setting methodology is reviewed.• The review will enable the robustness of the current fee setting model to be examined without disruption to the care market.

	<ul style="list-style-type: none"> • Help build ownership and commitment to any future fee setting methodology within the residential and nursing care market. • Support the calculation of any future fee increase due (if any)
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Relevant Policy (ies):	N/A		
Within Policy:	N/A	Within Budget:	Y

Relevant Local Member(s):	Whole County
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Person(s) To Implement Decision:	Dylan Owen
Date By When Decision To Be Implemented:	1st July 2017

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