

Report Title Here

Gross Payments

Date of meeting:	9 January 2025		
Report to:	Cabinet		
Report of:	Deborah Butcher		
Portfolio:	Adult Social Care		
Wards affected:	All		
Is this a key decision:	Yes	Included in Forward Plan:	Yes
Exempt/confidential report:	No		

Summary:

To seek approval to implement gross payments for Adult Social Care residential and nursing care homes.

Recommendation(s):

- (1) To approve the implementation of gross payments for Sefton and out-of-borough care homes.
- (2) To delegate authority of decisions on the implementation programme plan for gross payments and any future changes to how gross payments are made to care homes to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Cabinet Member for Adult Social Care & Health and Deputy Leader.
- (3) To delegate authority of decisions on any amendments on how gross payments are made (for example the inclusion of any third-party top-up payments) are delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Cabinet Member for Adult Social Care & Health and Deputy Leader and the Executive Director of Corporate Services and Commercial.
- (4) To note that reports on the implementation of gross payments and associated debt impacts and debt recovery work will be submitted to Cabinet and other Council governance groups as part of wider debt management reporting.

1. The Rationale and Evidence for the Recommendations

- 1.1 Sefton's current annual expenditure on care home placements is in the region of £52m. The sector remains strategically important and consists of in the region of 3,621 bedspaces, with Sefton commissioning around 50% of these.
- 1.2 Sefton's current contractual arrangement with care homes is to pay them the Local Authority contribution to the cost of placement only; net of the Service User's financial contribution toward their assessed care needs and any agreed third-party top up for additional services. Care home Providers have historically highlighted that these arrangements are administratively burdensome and result in additional costs for them with respect to administering such payment arrangements. The last benchmarking exercise showed only two other regional Local Authorities pay net.
- 1.3 Currently Adult Social Care pays care home providers net of client contributions, and the care homes are responsible for collecting client contributions of approximately £11.6 million per annum.
- 1.4 Clients who are in Sefton funded care home placements who are financially assessed to pay a client contribution, pay their contribution direct to the Care Home. Where Care Homes are unable to collect the client contribution then Sefton are responsible for paying this to the Home and collecting the debt from the client or their representative. There has been an increase in requests from care homes to the Council to pay client contributions which they have been unable to collect on our behalf. There are usually 40-50 requests per year, but currently Payments and Billing staff are dealing with on average 10 requests per month. In the last year the cost of unpaid client contributions that care homes have requested the Council pay is £276,000, and we have little control over this.
- 1.5 The Care Act 2014 and recent Local Government Ombudsmen (LGO) input has led to other Local Authorities paying the full gross cost of the care home placement to the Care Home Provider and then arranging for the Service User's contribution to be collected by the Local Authority directly. It is viewed that this is beneficial for Service Users and their families as it removes financial matters from their 'relationship' with the Provider, however such views do take into account that Third-Party Top-Ups would be included in such arrangements and are the predominate issue.

Previous reports have highlighted that paying gross would assist the Council to:

- Adhere to what is viewed as being good practice (such as that outlined in LGO decisions), greater adherence to the Care Act and the mirroring of neighbouring Local Authorities payment arrangements.
 - Reduced risk of Service User finance abuse and Safeguarding's as Providers will not have visibility of their finances.
 - Identify at an earlier stage where contributions are not being paid.
 - Improved market oversight on Provider fee levels – as a key element of the project will be to ascertain from Providers their fee levels and third-party top-up rates.
- 1.6 In addition, paying gross can also be viewed as supporting the overall policy decision of ensuring that the Council implements the aims of the Care Act and also amends its

processes in line with what is viewed as being good practice, especially with respect to supporting the care home market and making arrangements for Service Users less onerous.

- 1.7 As previously approved by cabinet Adult Social Care has set up a gross pilot project with 5 care homes, and residents of these homes or the person who manages their finances will instead pay their client contribution to the council, rather than it being collected by care homes. Any top-up arrangements in place with the care home will remain unchanged. The response from home managers has unanimously been positive.

Update on the pilot

- 1.8 The pilot consists of 5 homes throughout Sefton. There are 72 residents in these homes who are being funded by Adult Social Care and who pay a client contribution. The total value of the client contributions is £17,210 per week.
- 1.9 All homes were visited to gather information regarding individual clients including their payment history. Two Payment & Billing Officers have been appointed within the Client Support service to support with the project and a Social Worker post was created to support people who lack capacity and have no formal representatives.
- 1.10 The pilot went live in July 2024 for the period 10 June – 7 July 2024. To-date we have issued 366 invoices totalling £352,684.37 with £342,786.44 paid to date, an overall collection rate of 97.19%. A key factor in the high collection rate level has been the 2 additional Payment & Billing Officer posts created to support the pilot project, who were proactive in contacting Residents or their representatives to support with payment arrangements.

Proposed implementation

- 1.11 It is envisaged that the implementation of gross payments across all care homes will take up to two years, however additional Staffing resources may be put in place to reduce the implementation period, subject to resources being available from current Staffing budgets.
- 1.12 With respect to the implementation of gross payments, should the recommendations be approved, then it is proposed that the implementation plan for individual care homes is linked to the implementation of the new Sefton care home framework, which was approved by Cabinet in May 2024. Work on the development of this framework is taking place, which includes formulating new contractual terms and conditions. It is proposed that these reflect that payments to care homes under any new contract would be paid gross. Therefore, it is proposed that for the implementation of gross payments, those Sefton homes which sign up to the new framework will be the main cohort of homes to have gross payments implemented in the first instance.
- 1.13 However, it is recognised that the implementation plan for Sefton homes will also need to take into account other operational factors such as prioritising homes / groups of homes that may have a significant number of Residents within them and who will therefore benefit from a more timely implementation.
- 1.14 It is therefore recommended that decisions on the implementation programme plan for gross payments be delegated to the Executive Director - Adult Social Care, Health and

Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Cabinet Member for Adult Social Care & Health and Deputy Leader.

- 1.15 It is also proposed that the implementation solely relates to the client contribution element of fee rates and not any top-up arrangements in place with the care home, which would continue to be paid directly to the care home by the third-party. However, this approach will be subject to ongoing review, and should the approach be looked to be amended, then it is recommended that decisions on any such amendments are delegated to the Executive Director - Adult Social Care, Health and Wellbeing / Cheshire & Merseyside ICB Place Director, in consultation with the Cabinet Member for Adult Social Care & Health and Deputy Leader and the Executive Director of Corporate Services and Commercial.

2. Financial Implications

The level of income collected in client contributions for care home residents in 2023/24 was £18.7million, of this £11.6million was collected by care homes. Based on current collection rates for care packages (85%), if this was applied to client contributions collected by care homes, then care home debt could increase by a further £1.74million. However, given the additional staffing resource supporting with the project, we would anticipate a higher collection rate of at least 90% which would mean the increased debt would be £1.16 million. Based on the current pilot collection rates of 97.19% the increase in debt would be £330k. This is based on Adult Social Care staff conducting intensive work to contact residents or their representatives regarding making payments, and is only sustainable for the first 1-2 invoices generated.

The current level of care home debt is £10.85million, the largest portion relates to pending court of protection cases where clients lacking capacity cannot access their finances, and property cases where Sefton accrues a debt.

Full implementation of gross payments will therefore lead to an increase in bad debt and the need for the service to fund this if it is written off.

This paper outlines that there will be phased roll out of gross payments therefore any financial pressure will take time to develop however the service can't wait for the issue to materialise before identifying funding. As a result a sum of £0.400m will be added to the services efficiency programmes, most notably with respect to the care home sector from 25/26. It is however, hoped that such levels of debt be reduced given the overall strategic aim to make less care home placements, and going forward the implementation of Direct Debit arrangements will also support with collections and debt prevention. This extra cost will therefore be reviewed each year as part of the council's budget setting process.

The risk of debt is mitigated by ensuring people are provided with advice and support on financial arrangements when they or their family members move to a care home placement. Adult Social Care also acts as corporate appointee and refers to the Court of Protection to minimise the risk of debt. Where people own property, deferred payment agreements are offered in order to secure charges against property. Further documentation has also been developed for people to sign as a further check, and other opportunities are continually explored to prevent debt. Where debt does occur, debt oversight and collection processes have been strengthened.

3. Legal Implications

- Care Act 2014
- Care & Support Statutory guidance

4. Risk Implications

Adult Social Care debt is included in the Service Risk Register due to the potential financial risk.

5. Staffing HR Implications

If full implementation of gross payments arrangements were to be implemented across all care homes then with current staffing levels it is predicted that a full implementation would take 2 years for all 1,300 paying residents, and from the date agreement to fully implement is given. This is based on a 12-week cycle of 150 residents being transferred. Therefore, if an additional 2 staff were recruited the full implementation would take 1 year (Grade G, approximate cost £72k, this does not take into account project management capacity).

6 Conclusion

The rationale for the recommendations in the report have been formulated based on the positive outcomes of the pilot project, and to ensure that Sefton continues to support the Sefton care home market.

Alternative Options Considered and Rejected

To continue with current payment arrangements – this option has been considered and rejected due to:

- The positive outcomes of the pilot.
- The need to ensure that payment arrangements are compliant with best practice Care Act guidance, and reduces the chances of legal challenge/complaint.
- Enables Sefton to intervene at an earlier stage if client contributions are unpaid, so reducing financial abuse.
- Removes financial matters from the relationship between residents and care homes.
- Improved market oversight of Provider fee levels.
- Reduces the administration burden on care home providers.
- The benefits of paying gross for self-funders who own property and are taking up a deferred payment agreement with the council, whereby their placement is commissioned by the council under contracted rates, ensuring property equity lasts longer.

Equality Implications:
The equality Implications have been identified and mitigated.
Impact on Children and Young People: Care Homes do support younger adults aged 18 and above who will therefore benefit from the recommendations in this report.
Climate Emergency Implications:
The recommendations within this report will have a Neutral impact.

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What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.7900/24) and the Chief Legal and Democratic Officer (LD.6000/24) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

Engagement has taken place with key stakeholders such as care homes as part of ongoing engagement and during the pilot project.

Implementation Date for the Decision :

Following the expiry of the “call-in” period for the Cabinet decision.

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Appendices:

There are no appendices to this report

Background Papers:

There are no background papers to this report