

Report To:	EXECUTIVE CABINET
Date:	21 March 2018
Executive Member/Reporting Officer:	Councillor Brenda Warrington – Executive Leader Sandra Whitehead – Assistant Director of Adults
Subject:	NEW CARE HOME MODEL
Report Summary:	<p>This report sets out, and seeks approval to change the current policy around contractual arrangements with care homes which was previously agreed by the Council in 2012.</p> <p>It is proposed that current service users who could be financially adversely affected by the proposed policy change will have the difference met.</p> <p>A report to the Strategic Commissioning Board on 20 March 2018 considers the proposed fees, consequential funding, the revised enhanced payment criteria and the transitional arrangements, and this information is included within the report as information to the Executive Cabinet.</p>
Recommendations:	<p>THAT SUBJECT TO APPROVAL OF FUNDING BY THE STRATEGIC COMMISSIONING BOARD ON 20 MARCH 2018 EXECUTIVE CABINET AGREE:</p> <ol style="list-style-type: none"> 1. To change the current contractual policy arrangements so that all care homes in Tameside are contracted on the same basis; 2. if 1 above is approved, that the NHS Standard Contract (shorter form version) be used to enter into any contract with care homes; 3. that current service users should not be disadvantaged by the change in contractual policy arrangements and any financial difference will be met; 4. to the criteria for the Enhanced Payment and the transitional arrangements proposed as set out in paragraph 7.19 and appendix C of this report; 5. to continue with the contractual arrangements on third party top-ups which are restricted to environmental factors that service users may choose prior to residing in the care home; 6. To establish a framework agreement using the 'light touch regime' provided by Regulation 76 of the Public Contracts Regulations 2015, such framework agreement to mirror the provisions of a dynamic purchasing system allowing access to new entrants into the care home market.
Links to Community Strategy:	<p>The service is consistent with the following priority transformation programmes:</p> <ul style="list-style-type: none"> • Enabling self-care • Locality-based services

- Planned care services

Policy Implications:

Removal of the current contractual On/Off Framework arrangement will result in financial implications for some service users who are assessed as paying the full contribution to their care as well as those currently paying top-up contributions in Off Framework care homes.

Where current service users are adversely affected the intention is for the Council to cover the rate differential.

**Financial Implications:
(Authorised by the Borough
Treasurer)**

The funding and associated costs of Care Home fees forms part of the Section 75 Pooled Budget. The proposal in this report for the Council to meet the cost differential for the 17 people affected by the removal of the Off Framework rate will result in increased costs to the Council of £29,000 per year.

This cost increase is not currently provided for in the Strategic Commission's Medium Term Financial Plan, and so will need to be managed within existing Adult Social Care budgets.

The funding and associated costs of Care Home fees forms part of the Section 75 Pooled Budget. The proposals outlined in this report will result in cost increases to the Strategic Commission as outlined below in 2018/19 ;

	£'000		
	TMBC	T&G CCG	Total Strategic Commission
Net Cost Increase as a result of rate increase(s)	766	214	980
Movement from Off to On Framework	152	36	188
Total Net Cost increase	918	250	1,168

The cost increases linked to the rate increase are included in the Strategic Commission's Medium Term Financial Plan, although it should be noted that provision has not yet been made for the movement from Off to On Framework rates

**Legal Implications:
(Authorised by the Borough
Solicitor)**

Any change to Council policy brings with it a risk of judicial challenge and/or complaint. It is therefore very important to ensure the Council has engaged on a meaningful and effective consultation exercise, and carried out a full equality impact assessment, which is of particular significance where vulnerable people are concerned, as in this case. Members must therefore ensure they have read and understood the EIA attached at appendix F of this report.

The Council has previously been challenged by the Local Government Ombudsman when it changed its policy on contracting with care homes in 2012, and so it has been careful to ensure the concerns raised in that challenge have been met during this exercise. This will be achieved by ensuring service users who currently contract with the Council are not financially

disadvantaged by the decision to change the basis on which the Council contracts with the care homes.

The care homes should not be financially disadvantaged by this change which is designed assist them in their future planning and quality improvements under the CQC inspection regime which is a key requirement for their business.

Clearly there is the potential for challenge in any contractual arrangement, but this type of contract is now governed nationally by the NHS and their standard contract terms and conditions, and so the scope for such challenge more limited. Where local conditions create variations this will need to be carefully managed locally through individual negotiations.

Prior to making any financial decision a review of the most recent local government ombudsman ombudsman in this area.

Risk Management:

As set out in Section 10 of the report

Access to Information:

The background papers relating to this report can be inspected by contacting Tim Wilde.



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1. INTRODUCTION

- 1.1 The current contractual relationship with the care homes is coming to an end and there is a need to continue with this relationship to allow the Council to fulfil its statutory duty to provide care and support to meet service user's needs.
- 1.2 The Commissioners have been contracting with the sector under an On/Off Framework arrangement following a Key Decision in August 2012 (and subsequent tender). The On/Off arrangement carries slightly different contract terms and conditions for On and Off Framework providers, as well as different fee levels, and it is proposed that this arrangement is no longer fit for purpose in 2018, and all care homes should start from the same base with the same contract, be paid the same fees for the service and have the same opportunity to apply for the enhanced payment.
- 1.3 The change of policy will have an adverse financial impact on some residents in Off Framework care homes. There are 17 service users identified that the Council contracts for, but who are recharged to full contribution towards to cost of care, and the change of policy will adversely affect them. Any increase in fees (over and above any applied inflationary increase) will be directly charged to the service user. Conversely, there are a number of relatives of residents in Off Framework care homes (who may be paying a third party top-up) who will benefit from the change of policy, i.e. any increase in fees by the Council will reduce the amount of third party top-up paid by the relative (on the assumption that the gross fees remain the same).
- 1.4 As the proposal is a change in policy a consultation exercise has been undertaken to seek the views of those affected by the change, as well as with wider stakeholder. The outcomes of this consultation is considered later in the report (Section 5)
- 1.5 Historically, the Council has contracted with providers using Council developed contract terms and conditions, which includes the current agreement with the providers, albeit they were modified to meet the conditions required by the NHS as the local health commissioner (the Primary Care Trust as it was then) is a signatory to the contract.
- 1.6 However, instructions from NHS England state that where healthcare services are being purchased (which includes nursing care in care homes) then the NHS contracts must be used and agreement to use the NHS Shorter Form contract is sought.
- 1.7 Changes in the Public Contracts Regulations (latest version was published in 2015) and the way in which the Council undertakes tenders (using The Chest for electronic tendering) has opened up other ways to establish 'Approved Lists'. It is proposed that the Commissioners use a Dynamic Purchasing System to establish a new list of providers, which will also be used should the Commissioners need to tender for any specialist services for care home provision in Tameside. Glossop will be excluded from this process as, whilst the local CCG covers Glossop and will continue to be party to the contract, Derbyshire County Council remains responsible for the care homes in the Glossopdale neighbourhood.

2. BACKGROUND

- 2.1 In 2012 the Council, along with the then Tameside & Glossop Primary Care Trust (PCT), worked closely with the care home market to develop a new contract as well as a standard methodology to calculate the usual cost of care (taking account of the providers' costs) to determine fee rates across the various bed types.
- 2.2 A Key Decision dated 15 August 2012 approved that:
 - The Council should procure a framework of approximately 1,200 care beds (750 residential & 450 nursing) with the fee structure as set out in the report and other matters as set out in the report.

- Where the Council commissions care from care homes in Tameside which are not on the Framework:
 - Placements should retain their existing fee for a transitional period of three months following commencement of the Framework
 - After that period, the fees will be as set out [in the report]
- With effect from commencement of the Framework the Council should allow top up fees as set out in section 13 of the report
- With respect to all new placements following the commencement of the Framework, the Council should withdraw from any placement or not accept a duty where a resident is assessed as being able to meet the full cost of the care and either able to manage the placement or having access to the resources to do so) as set out in [the report].
- The placements in Glossop Care Homes should be treated as being out of Borough placements.

2.3 Following the Key Decision a tender was undertaken with the care home sector, with the outcome being based purely on quality (following representation from the sector and the significant amount of work put into the cost of care methodology). This tender was evaluated by representative from both health and social care and the creation of the On/Off Framework Care Home list was established. The contract started on 10 December 2012 and was for a 5 year period (ending on 9 December 2017).

2.4 Prior to the policy change (which created the On/Off Framework arrangement) the Council had never tendered for the service as all providers had the same contract; which was established with providers to facilitate the service users' choice as determine by the National Assistance Act 1948. It was only the establishment of the On/Off Framework arrangement that required a tender as there was a difference between the fees and the contract between On/Off Contracts, hence the need for a fair, open and transparent process to determine which providers were awarded which contract.

2.5 Following an additional tender (required to increase the number of nursing beds on the On Framework) the number of homes/beds On/Off Framework as at May 2013 is noted below:

Category of care	Off Framework		On Framework	
	No. of Homes	Total beds	No. of Homes	Total beds
Residential	13	391	16	778
Nursing	3	122	11	476
Totals:	16	513	27	1254

Note: Two care homes had only a proportion of the beds included On Framework (Hyde NH & Riverside Care Centre) and only single beds are paid at the On Framework rate hence the discrepancy in the total bed numbers noted above (1,767 in total) and the number of registered beds of 1,838.

2.6 At the time the decision was taken the care home market in Tameside was different than the present time, i.e.:

August 2012			January 2018		
Type of Home	Number	No. of Beds	Type of Home	Number	No. of Beds
Residential	29	1106	Residential	27	1091
Nursing	14	683	Nursing	11	548
Total	43	1789	Total	38	1639

- 2.7 During the time of the current contract five care homes have closed, one care home completely deregistered from nursing care to provide residential care only (and following an extension increased the number of beds) and another home changed the registration of one unit (20 beds) from nursing to residential. The overall impact of these changes has reduced the residential capacity by 15 beds and the nursing capacity by 135 beds.
- 2.8 Of the five care homes that closed, one was an On Framework home with the remaining four being Off Framework.
- 2.9 At the start of the contract period the vast majority of providers were compliant with the Care Quality Commission (CQC); however, during the contract period the CQC amended the way they regulated registered services and started to rate providers based on the essential standards, which was later replaced by the fundamental standards. The current compliance ratings of the providers are noted later in this report.

3. CURRENT SITUATION

- 3.1 The market has evolved and changed during the course of this contract, with the loss of beds in the borough, specifically nursing beds. This is impacting in Tameside (and surrounding areas) in facilitating timely discharges from hospital.
- 3.2 In August 2012 there were significant vacancy levels in Tameside, i.e. 158 (14.3%) residential and 118 (17.3%) nursing vacancies. As of February 2018 these figures are 90 (8.2%) residential and 38 (6.9%) nursing vacancies.
- 3.3 The placement profile for the Council and Tameside and Glossop Clinical Commissioning Group (CCG) has reduced over the last 5 years, e.g. in August 2012 the Commissioners purchased an average of 940 beds per week, while in July 2017 the Commissioners purchased approximately 747 beds per week. This reduction is a demonstration of the impact of the local policy for supporting people to remain living at home, in their local communities for as long as possible.
- 3.4 The fact that vacancy levels are decreasing yet the Commissioners are purchasing fewer beds is down to a number of factors, i.e. reduced capacity in the market (specifically nursing beds), increased level of self-funders and increased purchasing in the borough by other authorities (due to paucity of placements in those localities). In January 2018 approximately 18% of the local bed base was commissioned by other local authorities.
- 3.5 It was noted earlier that the CQC introduced a revised rating system approximately 3 years ago. The rating profile of homes in the borough as at 21 February 2018 is presented below:

Rating	No. of Homes	% of Homes	No. of Beds	% of Beds
Outstanding	0	0%	0	0%
Good	19	50%	748	46%
Requires improvement	18	47%	873	53%
Inadequate	1	3%	18	1%

- 3.6 The above can also be broken down into Off, On Framework & Enhanced Payment providers:

Rating	Off Framework		On Framework		Enhanced Payment	
	Count	Percentage	Count	Percentage	Count	Percentage
Outstanding	0	0%	0	0%	0	0%
Good	5	42%	3	75%	11	50%
Requires Improvement	6	50%	1	25%	11	50%
Inadequate	1	8%			0	0%
Total:	12		4		22	

- 3.7 Off Framework Providers are struggling to perform to the expected standards (as required by the CQC), with only 33% of the homes demonstrating compliance. The majority of these homes do not charge top-ups to residents, with the notable exception of one provider (currently rated 'Good') who charges a top-up in the region of £70-80 per resident per week.
- 3.8 The small numbers of On Framework (without enhanced payment) homes makes any statistical analysis difficult, but the majority of these providers are performing well with none rated 'Inadequate'.
- 3.9 The Enhanced payment providers are performing better than the Off Framework providers, with 50% of them achieving a CQC rating of 'Good'.
- 3.10 The care home market in Tameside is dominated by a single national provider - HC-One owns 16 care homes in Tameside (745 beds or 45.5%). All of HC-One homes are On Framework, with the majority attracting the enhanced payment premium. This equates to 61.5% of the 1212 On Framework beds in the borough.
- 3.11 The CQC rating profile of HC-One is not as good as the overall profile in Tameside, i.e. 37.5% (6 homes) are rated 'Good', 56.3% (9 homes) rated 'Requires Improvement' with 6.3% (1 home) rated 'Inadequate'.
- 3.12 The fees in Tameside have increased in line with the agreed methodology (contained within the August 2012 Key Decision), which takes account of the providers actual costs in delivering the service. The increase in the National Minimum Wage and the introduction of the National Living Wage are key factors that have driven the increase in the fees. The methodology for calculating care home fees changed in 2016 as the Council was required to take account of the National Living Wage to calculate the impact of this in advance of the implementation (rather than in retrospect). The methodology slightly changed to make the process more efficient and built on the information received over the previous years.
- 3.13 The levels of need of the residents in care homes is also increasing, which can be partly attributed to the Commissioners commitment to supporting people to remain in their own homes for as long as possible, i.e. when service users do require to be in a care home their needs are greater now than they have been in the past.
- 3.14 The staffing ratios have not changed dramatically during this time as, although they should be determined by the levels of need of the residents, the care homes are also constrained by the available budget (whilst still maintaining financial viability). Historically (under the Registered Homes Act 1984) providers were required to have staffing ratios of 1:8 (care workers: residents) in residential homes. The model that has been used to calculate the fees for 2017/18 allowed for staffing ratios of 1:7.
- 3.15 Providers have, for some time, noted that the recruitment and retention of competent nursing staff has been challenging. This is not just a local issue but is continually reported nationally. The reduction in the numbers of nursing beds is a symptom of the challenges in recruiting nurses. The large increase in FNC paid to providers (£110/resident/week in 2012 to £155/resident/week in 2017) was in recognition of this issue and that providers are now relying more on agency workers (and staffing agencies charge substantially more per hour than directly employed staff).

- 3.16 Latterly, the providers have also stated that it is difficult to recruit and retain care workers. This is due to other local providers (not the care sector) paying staff more for work that has far less responsibility.
- 3.17 The need for providers to use agencies to ensure they have enough staff to meet residents' needs is putting more financial pressure on providers, with one provider paying 25% of the staffing bill on agency staff (primarily nurses).
- 3.18 The present contract – a joint contract with the Council and the CCG - is based upon the Council's standard Adult Social Care Contract with modifications to ensure it is broadly compliant with the NHS Standard Terms and Conditions (as agreed by Hempsons who were commissioned by Tameside & Glossop PCT to ensure this was so).
- 3.19 The current contract was extended from 10 December 2017 until 31 March 2018 to allow the Commissioners to undertake appropriate consultation about the proposed change of policy (see the Consultation section at point 5 and Appendix B).
- 3.20 Discussions with the sector have been on-going for some time regarding the future of the contract and the On/Off Framework structure. Unsurprisingly those care homes Off Framework are keen for this to be removed and all homes be treated the same. Those homes On Framework, and specifically those who receive the Enhanced Payment, are keen to ensure that their fees are not reduced should the Commissioners decide to have a single rate for all providers.
- 3.21 One of the drivers affecting the future direction of the care home sector is the policy to ensure people remain at home for as long as possible/safe to do so. This is affecting the market and will impact on the future provision required, i.e. it is envisaged that more resources will be community based and when service users do require 24 hour support they will require more specialist residential or nursing care (rather than standard residential care).
- 3.22 The Council and CCG have also been working closely to build on current practice and to develop new processes and documentation to provide assurance that the service is being delivered in accordance with the contract and to support providers to be CQC compliant. This development of new documentation has taken account of existing good practice, good practice from neighbouring authorities, NHS England Vanguard schemes and the Independent Age eight quality indicators, as well as the CQC Key Lines of Enquiry. The new documentation/process has now been agreed with the care home providers and is being implemented from February 2018.
- 3.23 Given the current agenda to fully integrate health and social care the Council and CCG has, for some time, been exploring the option of using the NHS Standard Terms and Conditions as the basis for contracting with the care sector. The initial thought was to 'future proof' the contractual arrangement in readiness for any transfer of the contracting function to the NHS Tameside & Glossop Integrated Care Foundation Trust. However, as the fees were based on the existing contract, and some of terms and conditions in the NHS Vanguard model of good practice contract (Nottinghamshire Council & Nottinghamshire CCG) were more onerous than the current contract, it was agreed that the basis for consultation would be the current contract.

- 3.24 Subsequent to this consultation NHS England published instructions for the new NHS Standard Contract (“NHS Standard Contract 2017/18 & 2018/19 Technical Guidance”) in which it states that “14.2 ...*In a situation where NHS commissioners and a local authority are intending to sign the same single contract with a provider, however, and where the service being commissioned involves a healthcare service, then the NHS Standard Contract must be used*”. This was also confirmed in discussion with the NHS England National Care Home Lead on 19 January 2018. On this basis (as the CCG is a signatory to the contract) it is proposed that the NHS Shorter Form contract is used as the contractual framework, incorporating the local specification and other relevant policies, e.g. safeguarding.
- 3.25 Tameside is unique in in the North West with its current approach to working with the care home market, i.e. we are the only authority to have an On/Off Framework arrangement and to place limitations on the ability for providers to charge top-ups. Rationalising the approach in the way envisaged in this report will therefore bring the Council in line with the North West.

4. STRATEGIC FIT

- 4.1 The service will meet the current objectives as outlined in the Care Act 2014 - under the Care Act, local authorities have taken on new functions. This is to make sure that people who live in their areas:
- Receive services that prevent their care needs from becoming more serious, or delay the impact of their needs;
 - Can get the information and advice they need to make good decisions about care and support;
 - Have providers offering a choice of high quality, appropriate services.
- 4.2 The Council's Community Strategy supports the delivery of the six Sustainable Community Strategy aims listed below:
- Prosperous Tameside
 - Supportive Tameside
 - Learning Tameside
 - Attractive Tameside
 - Safe Tameside
 - Healthy Tameside
- 4.3 The Commissioners are also working closely with the Greater Manchester Health & Social Care Partnership and is leading on the workstream to improve the quality of care homes services. The new contract will include provision for the development of the services during the contract period. Such developments currently being considered include:
- Maximising the use of technology (including the continued use of the local Digital Health service)
 - ‘Teaching Care Homes’ (designed to empower and embolden the workforce in care homes, with a desire to harness and promote care, knowledge and skills development)

5. CONSULTATION

5.1 Given that the proposal is a change of policy that was approved by a Key Decision in August 2012, and a number of residents may be financially disadvantaged by this policy change, the Commissioners undertook a consultation exercise to obtain views of people using the service, care homes and the wider public. This consultation started on 11 December 2017 and took a number of forms to give people the best opportunity to provide feedback:

- A questionnaire included on The Big Conversation (attached as Appendix A)
- The same questionnaire was sent to providers for distribution within the care homes (for residents and relatives) and also for completion by the providers themselves
- A request that providers invite a representative from the Joint Commissioning & Performance Management Team to a resident/relatives meeting
- Direct contact with the residents who would be financially disadvantaged by the change of policy (facilitated by the Neighbourhood Teams).

5.2 The end of the consultation period was 31 January 2018, which allowed 7½ weeks for comments to be returned (the minimum duration is 6 weeks).

5.3 The Council commissions an advocacy service which is available should Service Users require some support to understand/make decisions. At the start of the consultation period a representative from the Joint Commissioning & Performance Management Team attended their team meeting to brief them on the proposals should that have any queries from residents/relatives.

5.4 At the time of writing this report 34 questionnaires were returned (either electronically or on paper versions). A representative from the Joint Commissioning & Performance Management Team attended 3 residents/relatives meetings (please note that this would have been more but some homes had outbreaks of diarrhoea & vomiting which prevented meetings taking place), however, all residents & relatives did have the opportunity to respond by completing the questionnaires.

5.5 The Neighbourhood Teams made contact with 4 residents and/or their relatives to discuss the proposals (it was noted that 17 residents would be financially disadvantaged by the change of policy). The main reason for the Council contracting on behalf of a Service User, where they have assets in excess of £23,250 (the upper financial limit), is that the Service User lacks the capacity to enter into a contract for themselves nor do they have any other support available to them to assist them in contracting with the provider.

5.6 Appendix B shows all the responses to the consultation and a summary of these responses is noted below. Please note that whilst 34 questionnaires were returned not all questions elicited a response. The percentages noted below relate to those responses received rather than the number of questionnaires received.

Removal of the On/Off Framework arrangement

5.7 50% of the respondents agreed with removing the existing arrangement on the understanding that it should help to increase the quality of the provision. Some people gave a very positive response to the proposal, i.e. those who would be financially better off (relatives currently paying top-ups).

5.8 The Council endeavoured to speak to the service users (who would be affected) themselves, however, one of the criteria for the Council to contract on behalf of service users is that they lack the capacity to contract directly with the care provider. The response from the service users themselves was not obtainable.

- 5.9 However, there were a number of service users' who did have relatives to advocate on their behalf and all of those who could be contacted (4 relatives) were against the proposal.
- 5.10 Concerns were raised about the quality of the service in care homes, that provider should comply with standards and that the CQC/Commissioners should do something about improving standards.
- 5.11 2 responders (9%) do not agree with the proposals. One responder did not give a reason whilst the other noted they didn't believe that allowing 'Off Framework' homes to "*increase fees for unspecified reasons giving them carte blanche to print money*". It is believed this response was in relation to the removal of restrictions on top-ups rather than the removal of the current framework arrangement as the fees would be set rather than allowing the providers to set whatever fee they wish.
- 5.12 The Commissioners agree that the removal of the off-framework arrangement could be beneficial to allowing off framework providers to invest in their service to improve standards. The Commissioners also take on board the comments about being more proactive to ensure that standards are met and to this end have also invested in a Quality Improvement Team (currently funded for 3 years) to help providers raise standards.
- 5.13 A large proportion of service users (or relatives) identified as being assessed as paying the full contribution towards the cost of their care did not respond. In any event any financial concerns they may have going forward will be negated by the proposal that the Council meets the shortfall.

Removal of the restrictions to third party top-ups

- 5.14 There were mixed views from respondents with regards to the removal of restrictions for third party top-up (for new residents). Some were in favour (22% or 4 responders) with 11% (2 responders) categorically stating that they don't agree with the proposed policy change.
- 5.15 Other views, which appear to disagree with the proposed policy change include:
- People shouldn't have to pay top-ups for care (22%)
 - Top-ups should be for additional facilities (6%)
 - Might have an adverse impact on [service user's] finances (6%)
 - Concerns that all homes will charge top-ups if proposal accepted (11%)
- 5.16 Overall, it is deemed that 56% of responders did not agree with the proposed policy change hence the proposal not to change.
- 5.17 HC-One gave a response to the proposed removal of restrictions, i.e. "*we do not feel that this will make a substantial difference to providers in Tameside and shouldn't been seen as a way of bolstering provider's financial stability*". No other providers commented on the proposal.
- 5.18 Some responders were critical that this could cause problems in the longer term for new residents/families and make some care homes unaffordable.

- 5.19 Longer term there could be a financial risk for the Commissioners, i.e. where a resident has been living in a care home for a number of years (privately funded) and they seek financial support due to their finances dropping below the upper threshold, the Commissioners will need to assess the person. The Commissioners will need to take into account where they are living to determine where their needs can be met. In some circumstances, especially if a service user has been living in a home for a number of years, the care home is the only place that can meet the service user's needs. In these instances the Commissioners would need to meet the gross cost of the placement (without charging top-ups) irrespective of what the usual cost of care is (following a Best Interest Assessment to determine if the service user needs to stay at the home).
- 5.20 Taking account of the responses to the consultation, and the potential for increased financial risk to the Commissioners this proposal will not be taken forward and the new care home contract will continue to include the restrictions on top-ups.

Use of a Dynamic Purchasing System in lieu of the current approved list

- 5.21 Only one provider has commented on this and they expressed views about how this would be used by the Commissioners, i.e. they are fearful that this could be used by the Commissioners to have providers engage in bidding for service users with ever decreasing costs being put forward to increase occupancy levels.
- 5.22 It is not the Commissioners intention to use the DPS framework in this way, i.e. the Commissioners will have published (and agreed with providers) a set of rates that are deemed acceptable (the usual cost of care). There are no plans to use the DPS framework to undermine these published rates.
- 5.23 The Commissioners may use the DPS framework to aid future tenders for specific services that care homes in Tameside can bid for, e.g. should the Commissioners look to commission a specific service (for example a specialist mental health provision) the DPS framework will be used to request tenders.

6. OPTIONS CONSIDERED

- 6.1 A number of options have been considered for working with the care home sector.
- 6.2 Not contracting with the care homes at all – this was discounted for the following reason:
- The Council has a statutory duty to assess service users and meet those assessed needs. One of the services required to meet those assessed needs is 24 hours residential care provision and therefore not contracting with the care home is not an option as this would breach a statutory duty.
- 6.3 Continuing with the current arrangements, i.e. the On/Off Framework – this was considered but discounted for the following reasons:
- the CQC rating profiles of the off framework providers is poorer than other homes and continuing to pay the off framework providers a lesser fee than others would potentially continue this trend – this would not benefit those residents in the home and would result in a lesser quality service;
 - there are fewer vacancies in the borough now than 5 years ago when the framework was introduced and, given the need to ensure 'patient flow' from the hospital into a care home of choice, the economy needs good quality care home beds to achieve this;

- one provider (who owns 2 off framework care homes) believes that the time and effort he puts in, given the level of risk and reward, is not viable and has considered selling the care homes. It is not known whether these would be sold as a going concern or whether those beds would be lost to the economy (58 beds) and would mean that a large number of residents would need to be relocated, which will have a detrimental impact on their health and well-being.
- Should an off framework provider decide to close there may not be enough vacancies in Tameside to accommodate all the residents of that home.

6.4 Removing the On/Off framework arrangement and contracting with all providers on the same basis, including the option for all providers to apply for the enhanced payment - this is the preferred option for the following reasons:

- The care home market has evolved and so is different than 5 years ago when the On/Off framework arrangement was established. The number of vacancies is significantly less than that time even though the Commissioners are purchasing approx 150 beds less and there is a need to ensure there are enough beds in the system to meet need;
- The increased investment into the off framework homes will assist to maintain their financial viability and allow the owners the opportunity to invest in the business to improve services;
- It is a simpler system to understand for all stakeholders (service users, families, assessment staff, finance, etc.) and so should reduce any confusion;
- As all care homes will be paid the same fees, with a consequent reduction in top-ups, service users (and their families) will have a greater choice of which care homes they can choose from. This will benefit the service users (and their families) and assist flow in the system;

6.5 Removing the restrictions on top-up charges and allowing all providers to charge whatever fee they wish and let market conditions determine whether the fees are appropriate – this was considered but discounted for the following reasons:

- Feedback from the consultation exercise has identified a negative response to this proposal with people stating that this could adversely affect placements in the future;
- One main provider has stated that this will make little difference in Tameside and shouldn't be seen as a way of bolstering a provider's financial stability.

7. PROPOSAL

To remove the On/Off Framework arrangement

7.1 As already stated within this report 58% of the registered beds in Off Framework care homes are rated either Requires Improvement or Inadequate. This equates to 264 beds and, whilst the Commissioners do not fund all of these placements, the Commissioners have a responsibility to ensure that the care provision is of a reasonable standard to meet needs (*"Care and Support Statutory Guidance 12 February 2018 at paragraph 4.2 says The Care Act places new duties on local authorities to promote the efficient and effective operation of the market for adult care and support as a whole. This can be considered a duty to facilitate the market, in the sense of using a wide range of approaches to encourage and shape it, so that it meets the needs of all people in their area who need care and support, whether arranged or funded by the state, by the individual themselves, or in other ways."*)

7.2 The removal of the On/Off Framework arrangement will provide additional funds to those Off Framework providers to give them the opportunity to reinvest in the services to make the appropriate improvements.

- 7.3 It is acknowledged that the removal of the On/Off Framework arrangement will financially disadvantage a small number of services users. To mitigate any disadvantage, the commissioners will pay the difference between the Off & On Framework rates and the proposed rates.

Recommendation to use the NHS Contract

- 7.4 Should the approval be given to remove the On/Off Framework the next logical step is to contract with the care homes using the same terms and conditions (currently there are some differences between the On and Off Framework contracts).
- 7.5 As the CCG will be co-signatories to the contract NHS England has stated that the NHS contract is used, i.e. information on the NHS website states "*The NHS Standard Contract is mandated by NHS England for use by commissioners for all contracts for healthcare services other than primary care*" (source: <https://www.england.nhs.uk/nhs-standard-contract/>). Care homes are not primary care and therefore the NHS contract must be used.
- 7.6 The Commissioners therefore have the option of using either the full-length NHS Standard Contract or the NHS Shorter-form Contract. Following assessment of both forms of contract, discussions locally, with NHS England and the vanguard site in Nottinghamshire CCG, the NHS Shorter-form Contract is deemed to be the most suitable.
- 7.7 Following consultation with NHS England and confirmed in discussions with the lead commissioner in Nottinghamshire CCG (a vanguard site for a shared contract based on NHS terms) it has been agreed that CQUINs are not applied to the care homes contract. This is reflected in the 'Particulars' element of the contract.
- 7.8 Should the NHS standard contract be adopted this would enable other commissioners (CCGs) to use the agreement as 'associate commissioners', reducing the administrative burden on the provider and other commissioners, i.e. the providers would not have to contract separately with each CCG but would use our agreement as the basis for the contractual relationship.
- 7.9 Given the current agenda to integrate health and social care, including the aspiration that services transfer the Integrated Care Foundation Trust at some stage, it would also seem reasonable to 'future proof' the agreement for a future transfer.
- 7.10 It is proposed that the contract period will be for 5 years (1 April 2018 until 31 March 2023).

The Enhanced Payment criteria

- 7.11 The existing agreement includes an Enhanced Quality Scheme, which was designed to reward those providers that put extra investment into the workforce, as well as demonstrating community engagement and using 'life stories' to enhance the quality of the service. The measures included in the contract are 'proxy' quality measures
- 7.12 The proposed new measures would also be 'proxy' measures and the measures are noted below (full details can be seen in Appendix C):
- The Provider has organised 3 (three) or more events that involve the wider community in the previous 12 (twelve) months.
 - 70% of Residents with life stories completed within 2 (two) months of admission. This relates to those Service Users who are:
 - Funded by the Commissioner
 - Are intended as Permanent Service Users
 - Have been in the Home for longer than 2 (two) months

- 85% of Staff are QCF qualified to level 2 (two) and/or are registered on a QCF level 2 (two) course (excluding modern apprentices). Registered manager qualified at level 4 (four).
- Completion of 6 (six) steps or Gold Standard Framework Accredited
- The Provider will have an overall rating of 'Good' or 'Outstanding'
- The Provider attends 75% of the Care Home Provider Forum meetings
- 80% of the monthly monitoring forms are returned

7.13 The above measures are based on the previous contract but have been amended to reflect the following:

- The Providers are having difficulties with recruitment and selection, and particularly retention of the workforce – previously 85% of the workforce had to be qualified but the new measure includes qualified and those registered to undertake a qualification;
- Providers now have to pay for qualifications at the start of the course and Workforce Development Funding is only available when the candidate has completed the course, whereas previously other funding was available on completion of the various modules – the last Skills for Care statistics noted that 40% of new starters leave care within the first year;
- Providers that have engaged with Commissioners have tended to meet the relevant standards and provide a better quality of service;
- The removal of Investors In People Silver (IIP) as providers have stated the fees for IIP have increased significantly and they believe it doesn't necessarily improve the quality of care delivery . As the Council decided not to continue investing in IIP it is proposed to remove this.
- The quality of care in care homes has received a lot of publicity and is of strategic importance to the Council. One of the public ratings of quality is the CQC rating, so this has been added to the criteria.

7.14 All other measures have remained the same, i.e. life story work, community involvement and completion of Gold Standard Framework or the 6 steps (for palliative and end of life care).

7.15 The proposed Enhanced Criteria has been circulated to the providers and, generally the feedback received has been positive. The only exception to this is the inclusion of the CQC ratings as this is beyond the control of the providers.

7.16 The Commissioners have included the CQC Rating within the criteria for the following reasons:

- The Commissioners have been criticised for paying an enhanced premium to providers that are rated either Requires Improvement or Inadequate by the CQC. The questions raised is how, as Commissioners, can we continue to pay an enhanced rate when the provider cannot meet the fundamental regulatory standards?
- The Commissioners have recently amended the contracts performance process to better reflect the CQC Key Lines of Enquiry (KLoE). This will enable the Commissioners to have a better understanding of likely CQC inspection outcomes and to better support the providers (on the assumption that they will be open and honest when completing the pre-visit questionnaire and submitting the monthly data returns). If they are honest about the current service the Commissioners can better support them to improve.
- The Commissioners have recently invested in a new Quality Improvement Team, who will be focussing on working with the providers to improve the service.

The transitional process from the current Quality Payment Scheme to the new Enhanced Payment scheme

- 7.17 It is proposed that care home providers are afforded 12 months to comply with the revised Enhanced Criteria with respect to a CQC rating of Good or Outstanding.
- 7.18 During the recent contract negotiations, including the proposal to remove the On/Off Framework arrangements, the providers were concerned about the fee levels, i.e. the providers are aware of the Commissioners financial challenges and the levels of savings required and they felt that the Commissioners, whilst removing the Off Framework element (and increasing the fees) would reduce the higher fees currently paid (for the Quality Payment Scheme) to offset the increase.
- 7.19 Some providers noted that, based on the current business models they are working to, any reductions in fees may necessitate a review of the business to see whether they could continue.
- 7.20 The Commissioners are mindful of the balance between destabilising the care homes, the number of beds required in the system and providers wishing to take advantage of the current pressures on beds required.
- 7.21 However, as the proposed enhanced criteria has not yet been approved, and one of the elements would be reliant on an external source to undertake assessment, it is proposed that those providers currently receiving the Quality Payment, but don't have a Good or Outstanding CQC rating, have a 12 month transitional period before any enhanced payments are reduced (albeit they would need to comply with the other elements).

Proposed fees for the 2018/19 financial year

- 7.22 The proposed fees are detailed in Section 8 and are subject to a separate report to SCB on 20 March 2018.

Restrictions to third party top-ups

- 7.23 The Council is currently an outlier in the Northwest in the way in which it contracts with providers (notwithstanding the On/Off Framework arrangement) in that there are contractual restrictions on what top-ups can be charged for, i.e. environmental factors.
- 7.24 The original rationale for this (as noted in the Key Decision Report in August 2012) was that, in undertaking the rigorous usual cost of care exercise, the Commissioners believed that all reasonable costs in providing the care and support had already been taken account of (for On Framework fees) and therefore no additional charges were required by the provider. Providers could however charge for environmental factors that service users chose prior to the point of admission.
- 7.25 As the On/Off Framework arrangement was being reviewed it seemed logical that the restrictions for top-ups were also considered
- 7.26 Following the consultation exercise, and the responses received from the public and providers, it is proposed that the Council's stance remains unchanged from that agreed in the Key Decision Report in August 2012, top-ups can only be charged for environmental factors that the service users choose prior to admission.

To establish a framework agreement using the 'light touch regime' provided by Regulation 76 of the Public Contracts Regulations 2015 based upon a dynamic purchasing system

- 7.27 The Commissioners have operated a list for care homes for many years to ensure that service users preference for a care home can be met. The list confirms the care homes (and contact details) in Tameside, along with the On/Off Framework status of the home, and is designed to assist service user to choose a care home by providing basic details.
- 7.28 New care homes that open up in Tameside have been able to apply for inclusion on the list as an Off Framework provider as and when they open.
- 7.29 Under Regulation 34 of the Public Contract Regulations 2015 there is a mechanism to establish a Dynamic Purchasing System (DPS) from which goods and services can be procured. This is via a wholly electronic system which is open to new entrants into the market. The establishment, and maintenance, of a DPS involves the publication of a notice in the Official Journal of the European Union (OJEU). Any provider who meets minimum standards is invited onto the DPS and there is a call for competition each time goods or services are required.
- 7.30 Under Regulation 76 of the Public Contract Regulations 2015 which applies to Social or Other Services (also known as 'light touch services') into which care home services fall, the Commissioners are allowed to determine the procedures that are to be applied in connection with the award of contracts. In doing so they must ensure compliance with the principles of transparency and equal treatment of economic operators.
- 7.31 It is proposed that the Commissioners will undertake a procurement in reliance of Regulation 76 of the Public Contracts Regulations 2015 and establish a framework agreement similar in operation to a Dynamic Purchasing System. The award of contracts under the DPS will be determined by service user preference. The minimum standard criteria for access onto the DPS shall be any CQC registered care home in Tameside who is willing to sign the Commissioner's contract. The DPS will be open to new entrants that pass the minimum standard criteria. The Commissioners will ensure that an OJEU notice will be published for the duration of the arrangements.
- 7.32 It is further proposed that the use of the light touch regime will include flexibility to include commissioning opportunities pertaining to the local care home market e.g. for a specialised mental health service within a home in Tameside. Participants on the framework will have already been 'pre-approved' and therefore removing a stage from the procurement process.
- 7.33 The establishment of this list for Tameside care homes will not exclude service user choosing care homes outside of Tameside, for example, to be closer to family, in accordance with the Care Act 2014 and Statutory Guidance.
- 7.34 Legal Services will be consulted prior to establishing this process to ensure that the Commissioners are compliant with the Public Contract Regulations 2015.

Implications for the CCG

- 7.35 The CCG are a signatory to the existing contract and will continue to be signatory for the new contract, and changes in policy/arrangements are being considered in line with their governance procedures, i.e. Strategic Commissioning Board.

8. FINANCIAL IMPLICATIONS

KEY POINTS OF CONSIDERATION

Employee related costs

- 8.1 The National Living Wage (NLW) rate was confirmed at £7.83 on 20 November 2017 (lower than the previously assumed £7.90)
- 8.2 The cost of care model continues to reflect a differential rate for those workers under the age of 25 (currently representing 17% of the workforce – slightly higher than national average of 14%) – NLW guidance stipulates that this is an appropriate methodology to follow.
- 8.3 If the above mentioned age differential was removed it has a significant impact on the fees proposed with most bed categories increasing in excess of 12%.
- 8.4 Nationally approved Funded Nursing Care (FNC) rates are included at £158.16 per week following the announcement of 2018/19 rates on 6 March 2018.
- 8.5 Staffing ratios per bed remain unchanged in the existing fee level methodology. However these will need to be reviewed with the introduction of telehealth and assistive equipment within care homes.
- 8.6 A 1% sickness allowance has been included in line with CIPFA good practice.

Accommodation / Other overheads

- 8.7 General inflationary uplifts of 2.4% have been applied in line with the latest Office for Budget Responsibility (OBR) inflationary outlook report (November 2017) – whilst inflation is expected to peak at around 3% during Quarter 4 2017/18, it is forecast to reduce to 2.4% by March 2018, reducing further to 2.2% over the subsequent 12 month period.
- 8.8 The current draft fee proposal includes an element of headroom for providers.
- 8.9 Areas of exception to the above rate are utility costs, against which an inflationary uplift of 5% has been applied in line with forecast trends and also medical supplies against which 4% uplift has been applied.
- 8.10 The proposed allowances in the cost of care model for each of the other areas under this group are broadly in line with the CIPFA / ADASS report previously referenced – the main omission to the Council model is that we do not include an allowance for uniforms and this hasn't been challenged previously by providers (good practice states £16 per bed week which would impact fairly significantly on the proposed fee)

Returns / Profit Margin

- 8.11 Return on Land and Buildings remains at 7% based on recent Care Home Sales in GM
- 8.12 Profit margin remains unchanged from the previous year's assumption at 10% - this is in line with market averages and is deemed to be a reasonable allowance to allow continued investment in Care Home improvement projects.

PROPOSED FEES

- 8.13 Benchmarking of existing weekly rates payable inclusive of any top-up arrangements is provided at Appendix D. This analysis demonstrates that the Commissioners are in the lower quartile, with only Bolton and Salford currently paying lower fee rates. Information from other NW / comparator authorities will continue to be collected to provide a detailed understanding of differentials between actual rates paid and published base rates. Appendix E contains information regarding Derbyshire County Council's fees, although it is not possible to benchmark these in the same way as they follow a different fee structure.

8.14 The table below provides indicative details of the draft rates proposed from 1 April 2018, with a comparison of existing rates in 2017/18, should it not be agreed to remove frameworks. It is proposed that, from 1 April 2018, providers will be paid the standard rate, unless they apply for and achieve the Enhanced rate. On and Off Framework fee rates have been provided at this stage as, whilst proposed, it has not been agreed to remove the On/Off Framework arrangement.

	Residential & Dementia £	Specialist Dementia £	Nursing only £	Nursing + Dementia £
Current Rates 2017/18				
Off Framework	444.00	481.90	603.95	641.85
On Framework	480.00	521.00	640.25	681.25
Enhanced	516.00	560.00	676.55	720.55
Proposed Rates - April 2018 onwards				
Standard Rate	496.00	538.00	673.11	716.11
Enhanced Rate	528.20	572.90	716.61	762.41
Percentage change in Rates				
On Framework	3.33%	3.26%	5.13%	5.12%
Enhanced	2.36%	2.30%	5.92%	5.81%

Shared Rooms

8.15 Under the On/Off Framework arrangement only single rooms were allowed On Framework. The proposed removal of this arrangement means the shared room rate will need to be considered. Any financial impact in considering a rate increase will be minimal as it was identified (in November 2017) that only 2 residents occupied shared rooms in Tameside (out of 12 shared beds (in 6 rooms)).

8.16 The shared room rate has historically been lower than the single room rate and it is proposed that this price differential is maintained for the new fee structure. The current difference in the shared & single room rates (Off Framework fees) is:

Bed Type	Off Framework Rate - Shared Room	Off Framework Rate - Single Room	Price Difference
Residential	£389.60	£444.00	£54.40
Nursing	£517.00	£603.95	£86.95

8.17 To maintain the above price difference it is proposed that the shared room rate increases as noted in the table below:

Bed Type	Proposed Single Room Rate	Current Price Difference	Proposed Shared Rate
Residential	£496.00	£54.40	£441.60
Nursing	£673.11	£86.95	£586.16

Implications of all providers accessing the Enhanced Payment

- 8.18 If the proposals are accepted then all care homes will have the opportunity to apply for the Enhanced Payment. In the first year of the contract this could have the following impact:

Care Home	Anticipated start of Enhanced Payment	Full Year Impact (£)	2018-19 (£)
Home 1	01-Jul-18	28,142	21,107
Home 2	01-Oct-18	52,767	26,384
Home 3	01-Oct-18	49,249	24,625
Home 4	01-Jul-18	48,077	24,038
Home 5	01-Jul-18	51,594	38,696
Home 6	01-Jul-18	23,452	17,589
Total		253,282	152,438

- 8.19 Conversely, there are currently ten providers who currently receive the enhanced payment who are rated 'Good' or 'outstanding' by the CQC and could therefore lose this payment after the first twelve months of the contract.

9. EQUALITIES

- 9.1 In removing the On/Off Framework policy it is deemed that this would not adversely affect anyone protected by a relevant characteristic within the Equality Act 2010.
- 9.2 As the majority of funded residents in care homes are female (due to longer life expectancy for females) the proposed policy change would have a disproportionate impact on women (13 of the service users assessed as paying the full contribution towards their care are female and 4 are male). This is an indirect impact due to the life expectancy differential between men & women.
- 9.3 An Equalities Impact Assessment has been undertaken to support the proposed new arrangements and is included at Appendix F.

10. RISK MANAGEMENT

10.1 A risk appraisal has been undertaken on the recommendations in this report.

10.2 The table below sets out the risk considerations.

Risk	Consequence	Impact	Likelihood	Action to Mitigate Risk
Care homes will not agree to the NHS Shorter form contract as the basis for the new contract	Impact on the ability to contract with the care homes should they decline to sign the agreement This would mean the Commissioners cannot place service users in that home as the Commissioners have no choice but to use this contract	High	Low	Providers were informed about this in December 2017 so have been aware for a few months. A draft contract has been circulated to the care homes for their information & input Open & transparent discussions with the providers about how this contract will be managed in the short to medium term.
Providers do not agree to the removal of the On/Off framework arrangement	The contract framework would continue in its current format.	Low	None	All stakeholders have agreed to change the framework so the risk is negated.
Providers do not agree the proposed fees	The Commissioners would only be able to pay at the 2018/19 rates until further governance was obtained.	Low	Low	Providers have been made aware that the fees would be calculated using the same methodology which has been used for the previous 2 years, and providers haven't challenged this outcome.
Providers may not agree with the new enhanced rate criteria	The Commissioners would review all providers based on the current criteria whilst negotiating to amend them	Low	Medium	A transitional period of 12 months has been proposed to allow providers to comply with the revised criteria.

Risk	Consequence	Impact	Likelihood	Action to Mitigate Risk
Providers do not agree to keep to the environmental restrictions on third party top-ups	Providers will not sign any new contract that includes this criteria Commissioners will not therefore place service users at the care home.	High	Low	Providers have been consulted on the removal of restrictions and their responses have indicated it will have very little impact on their business The agreed usual cost of care methodology allows the Commissioners to purchase the majority of placements with the need for top-ups.
Providers do not agree to use the DPS framework	Providers will not sign any new contract that includes this criteria Commissioners will not therefore place service users at the care home	High	Low	Providers have been made aware of this proposal since December 2017 and been given the opportunity to voice their concerns. Support will be offered to providers to ensure they can sign up to 'The Chest' and complete the necessary tasks.
				.

11. CONCLUSION

- 11.1 The Commissioners have had a joint 5 year agreement in place with the local care home providers since December 2012. The fee structure used for this contract has been based on information provided by the care home owners to take account of the actual cost of care delivery.
- 11.2 The cost of care methodology followed the agreed methodology for the majority of the contract but latterly, and to ensure that the impact of the National Living Wage was accounted for, a number of indices were used to increase the fees (based on the original data supplied by the providers).
- 11.3 The proposed change in contracting with the care home providers is based on the changing market conditions and the impact of regulatory changes made by the Care Quality Commission, i.e. providers not being able to demonstrate they are meeting the fundamental standards – more so with the Off Framework providers.
- 11.4 Following the consultation the majority of respondents had no objections to the removal of the On/Off Framework arrangement, with the exception of those who would be financially disadvantaged. The proposal to mitigate will remove this objection.
- 11.5 The Council has reconsidered its proposal to remove restrictions on third party top-ups following the consultation and will keep this within the new contract.
- 11.6 Some concerns have been raised by providers about the new enhanced payment scheme, specifically the inclusion of the CQC rating. However, Commissioners cannot continue to pay an 'enhanced' payment when providers have not been able to demonstrate they are complying with the regulators fundamental standards. To ensure that providers are not financially destabilised in the short term a transitional period of 12 months is proposed.

12. RECOMMENDATION

12.1 As set out at the front of the report.



Residential and Nursing Care Homes in Tameside – Consultation on the proposed removal of On / Off Framework and Restriction on Top-Ups

In 2012, it was agreed that the Council would work with the care home providers differently and carried out a procurement exercise. This resulted in the borough's care homes being allocated to one of two lists, those that are "on framework" i.e. those who were successful in the procurement exercise and "off framework" being those who either didn't apply to be on the framework or who were unsuccessful in the procurement exercise.

What is the difference between an 'On Framework' and 'Off Framework' care home provider?

The providers 'on framework' were able to demonstrate (as part of the procurement exercise) that they met the quality standards required by the Council/NHS. This is not to say that the 'off framework' providers cannot meet the needs to the residents, but that they weren't able to sufficiently demonstrate this as part of the exercise or that they didn't apply to be on the framework.

There are three main differences between "on framework" and "off framework" providers:

1. The contract:

The core purpose of both contracts (on and off framework) is the resident receives the appropriate level of care and support to meet their needs. 'On Framework' care homes demonstrated they could meet the quality standards required by the Council/NHS and have more onerous terms and conditions to meet to ensure that the appropriate standard of care and support is given.

2. The fees that the Council will pay:

The Council pays a higher fee to 'on framework' providers than it does to 'off framework' providers. The fee levels were agreed following substantial consultation with the care home sector. The higher fee paid to 'on framework' providers is in recognition that they demonstrated they could meet the quality standards required by the Council/NHS as part of the tender.

The "off framework" fee although lower, represents a level that residential care can still be provided at. The lower fee, however, has in some way contributed to the fact that many 'Off Framework' care homes in Tameside have struggled to meet Care Quality Commission standards.

3. Additional charges that the care homes can charge for (third party top ups):

On framework' providers are only able to charge additional fees (or top-ups) for environmental factors that you have expressed a preference for, e.g. an en-suite, a larger room, etc. There should be no top-up for meeting the assessed needs of the resident unless you wish to pay privately for services rather than accept the free provision that the care home provides/arranges for the resident.

Off Framework' providers are free to set whatever fee they wish to and can charge top-ups for the basic service provision. As the Council will pay providers 'off framework' less than those 'on framework' the level of top-up may be greater in these homes.

Proposal

We are proposing to change the way in which we contract care homes in Tameside. There are two outcomes of this proposed change that we are seeking your views on.

1. Removal of 'On / Off Framework' arrangement

Removal of the 'On / Off Framework' will mean each care home in Tameside is contracted on the same basis, adhering to the same quality standards and paying the same amount for each resident. This will mean that the fees paid to the current 'Off Framework' providers, where the Council holds the contract, will increase by approximately £36 - £39 per person per week (depending on whether they are in residential or nursing homes). A list of all Off Framework Care Homes in Tameside can be found at Appendix A.

The majority of people who live in a Tameside care home will not be directly affected by this change as their contribution to the cost of their care is capped. However, there are a small number of care home residents who pay the full contribution to the cost of their care (under a council contract) who would be directly affected by this change, i.e. they will be charged an additional £36 - £39 per week depending on the care setting.

Overall, it is anticipated that a significant amount of care home residents (in Off Framework homes) will benefit from this as the care homes will have more money to improve the quality of service.

There is another group of people who could directly benefit from this change in policy. They are family and / or friends who are currently paying top-ups for their loved ones in 'Off Framework' care homes. It is anticipated that the cost of the top-up payment would reduce by the increase that the Council pays (e/g. £36/week), meaning that they will pay less.

2. Removal of restrictions on third party top-up charges

We are also considering another change for those care homes who are 'On Framework' which would remove restrictions of third party top-up charges. Currently 'On Framework' care homes can only charge extra for environmental factors that care home residents choose in relation to their facilities e.g. an en-suite bathroom or a larger than average room (similar to choices made when booking hotels).

Following discussions with care home providers we are considering removing this restriction for new residents and that the care home will be able to charge a top-up without having to state it is for anything specific. **This will only affect new care home residents as we will instruct care home providers not to impose this charge on existing residents.**

(Please note that 'Off Framework' homes have been able to charge unrestricted top-ups since 2012.)

We are inviting your views on how our proposals impact on you. Please tell us your thoughts by no later than **31 January 2018**. You can complete the questionnaire online at <http://www.tameside.gov.uk/tbc/residentialandnursingcare>

In case of any queries or to request more paper copies please contact commissioningteam@tameside.gov.uk.

Appendix A: List of Off Framework Care Homes (in Alphabetical Order)

AUDEN HOUSE

473 Audenshaw Road
Audenshaw
Manchester
M34 5PS

Hyde
SK14 5EZ

BALMORAL

29 Old Road
Mottram
Hyde
SK14 6LW

ST LAWRENCE'S LODGE

275 Stockport Road
Denton
Manchester
M34 6AX

BOWLACRE HOME

Elson Drive
Stockport Road
Hyde
SK14 5EZ

THE VICARAGE RESIDENTIAL CARE HOME

109 Audenshaw Road
Audenshaw
Manchester
M34 5NL

CARSON HOUSE CARE CENTRE

30 Stamford Street
Stalybridge
SK15 1JZ

CLARKSON HOUSE RESIDENTIAL CARE HOME

56 Currier Lane
Ashton-U-Lyne
OL6 6TB

DOWNSHAW LODGE NURSING HOME

Downshaw Road
Ashton-U-Lyne
OL7 9QL

FIRBANK HOUSE

24 Smallshaw Lane
Ashton-U-Lyne
OL6 8PN

HATTON GRANGE

Oldham Street
Hyde
SK14 1LN

OAKWOOD CARE CENTRE

400a Huddersfield Road
Stalybridge
SK15 3ET

POLEBANK HALL RESIDENTIAL CARE HOME

Stockport Road

Consultation

1. Are you a care home resident in Tameside? (Tick one box only)

- Yes (If yes, go to question 3)
 No (If no, go to question 2)

2. Is a family member or friend a care home resident in Tameside? (Tick one box only)

- Yes (If yes, go to question 3)
 No (If no, go to question 4)

3. Will the proposed changes to the 'On/Off Framework' impact you or your family member or a friend who is a resident of a Tameside care home directly? (Tick one box only)

- Yes
 No

4. Do you have any comments you wish to make about the proposed changes to the 'On/Off Framework'? If you, or your family member or friend who is a resident of a Tameside care home is directly impacted by our proposed changes to the 'On/Off Framework' please explain how? (Please state below)

5. Do you have any comments you wish to make about our proposal to remove the restrictions for third party top-up charges? (Please state below)

**6. Do you have any other comments you wish to make about our care home proposals?
(Please state below)**

7. Please tick the box which best describes your interest in this issue? (Please tick the one box that best describes your interest)

- A care home resident
- A relative or friend of a care home resident
- A care worker in a care home
- A member of the public
- A Tameside Council employee
- A community or voluntary group
- A partner organisation
- A business/private organisation
- Other (Please specify)

About You

8. What best describes your gender?

- Female
- Male

9. What is your age? (Please state)

10. What is your postcode? (Please state)

11. Which ethnic group do you consider yourself to belong to? (Please tick one box only)

White

- English / Welsh / Scottish / Northern Irish / British
- Irish
- Gypsy or Irish Traveller
- Any other White background (Please specify)

Mixed / Multiple Ethnic Groups

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other Mixed / Multiple ethnic background (Please specify)

Black / African / Caribbean / Black British

- African
- Caribbean
- Any other Black / African / Caribbean background (Please specify)

Asian / Asian British

- Indian
- Pakistani
- Bangladeshi
- Chinese
- Any other Asian background (Please specify)

Other ethnic group

- Arab
- Any other ethnic group (Please specify)

12. What is your religion?

- Christian (including Church of England, Catholic, Protestant and all other Christian denominations)
- Buddhist
- Jewish
- Sikh
- Hindu
- Muslim
- No religion
- Any other religion, please state

13. What is your sexual orientation?

- Heterosexual/Straight
- Gay man
- Gay woman/lesbian
- Prefer not to say
- Prefer to self-describe (Please self-describe below)

14. Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months? Include problems related to old age. (Please tick one box only)

- Yes, limited a lot
- Yes, limited a little
- No

15. Do you look after, or give any help or support to family members, friends, neighbours or others because of either, long-term physical or mental ill-health / disability or problems due to old age? (Please tick one box only)

- Yes, 1-19 hours a week
- Yes, 20-49 hours a week
- Yes, 50+ hours a week
- No

16. Are you a member or ex-member of the armed forces?

- Yes
- No
- Prefer not to say

Please return consultation to the care home in which you or your friend or relative lives. Alternatively return directly to Tim Wilde, Strategic Commissioning Team, Tameside MBC, The Hub, Stockport Road, Hattersley, Hyde, Tameside SK14 6AF

Commissioner Response to Feedback from the Consultation Exercise

Comments received from the questionnaires (either via The Big Conversation or the care homes)

Area/Theme	Comments/Concerns/Feedback	Commissioner response
Quality of provision	All care homes should be to standard agree by Council /NHS and residential client /family inspected by a governing body with reports posted in the public domain	<p>The Commissioners are working closely with providers to ensure that the quality of care and service offered meets the needs of the residents. The Commissioners undertake planned annual visits and, where necessary, work with care home to improve the service, and new processes have recently been put in place to assist with this.</p> <p>The Commissioners also liaise with the Care Quality Commission (the regulators) to share appropriate information about the quality of the service. All Care Quality Commission reports are in the public domain.</p>
	ALL care /nursing homes should meet the same high standards. We looked at nursing homes for my (late) father and believe me I would not board and animal there. Some were disgusting.	Please see the above comment
	All Tameside care homes should meet the requirements of the NHS/CQC/Council before the Council makes any payments to that home.	Please see the above comment.
	All care homes should meet the NHS/CQC/Council requirements or be closed.	<p>Please see the above comment.</p> <p>The Commissioners do not have any regulatory powers to close a care home and, because it is a home to a number of residents, the Commissioners work closely with the providers to improve services rather than 'evicting' vulnerable people from their place of residence.</p>
Changes to the On/Off Framework arrangement	We are not directly affected by these changes but may be in the future. Overall, they seem to be fair.	No response required
	This will nor [not] impact on my relative's care.	No response required

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	It may mean that the top up fees paid might be less.	On the assumption that providers gross costs remain the same then any top-up paid to an off framework provider would reduce.
	I consider that all residents in care homes in Tameside be treated equally and that the on/off framework be removed and top ups be restricted although I do not have any relative living in care homes I have worked for Tameside in the past and part of my job included monitoring the standards of the care and nursing homes and I gnis [it is] my opinion that all such places meet fully the standards of care.	No response required
	It makes sense to have a level playing field and top up fees to meet the true costs of care.	No response required
	My mum is in [care home] and we have to pay a top up. My husband and I are pensioners and finding another £184/month is asking a lot.	On the assumption that providers gross costs remain the same then any top-up paid to an off framework provider would reduce.
	The new proposal would make it less stressful and uncomplicated to understand, as it can be quite complicated with how much is paid by Tameside and how much the family has to pay toward the cost of the fees.	No response required
	It is a good idea to make it easier	No response required
	Yes improve my money	On the assumption that providers gross costs remain the same then any top-up paid to an off framework provider would reduce.
	We feel an equal playing field will help improve care for residents in all off framework homes	No response required
	As a family member this will relieve me of any top-up charges if this is abolished.	On the assumption that providers gross costs remain the same then any top-up paid to an off framework provider would reduce.
	Whilst I appreciate the cost of care is a problem, I do not think that the outlined proposals are the solution, particularly	At the moment the off framework care homes can charge whatever they wish without the need to justify what any additional fee is (over and above the Commissioner's rate). The proposal was to level the playing field, both with the fees paid by the

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	allowing 'off framework' homes to increase rates for unspecified reasons giving them carte blanche to print money.	Commissioners and by removing and top-up restrictions. However, having given regard to the comments received for this consultation the Commissioners are minded to retain the restriction on top-up charges.
	I agree that the on/off system should be removed so that all care homes would be expected to provide the same high quality of care which is a fairer system for the residents.	No response required
Removal of top-up restrictions	I think it is better that all care homes are on an equal system	No response required
	What are these top up charges for additional facilities A basic stand of en-suite wash basin and toilet for all residents	In current off framework care homes the top-up fee doesn't have to be anything specific, but reflects the fee that the provider wishes to charge. In on framework care homes the top-up fee can only be charged for environmental factors, i.e. en en-suite or a larger room.
	Do not expect family members to meet residential costs	The Commissioners have worked closely with the care providers over a number of years to identify a usual cost of care. This usual cost of care reflects what is believed to be an accurate reflection of how much a residential or nursing placement should be able to be provided for. However, providers have the opportunity to charge more than this, the costs for which would need to be paid by a third party. However, this should be made clear prior to a resident choosing to live in a care home so an informed choice can be made.
	There should be no top-ups for basic needs only extras such as larger room/en suite.	No response required
	People pay enough for their care. So shouldn't have to pay top up charges.	Please see the comment above, i.e. providers have the option to charge more than the calculated fee.
	Makes sense	No response required.
	This is very likely to cause problems for people in the future, paying for care	No response required.
	This proposal will eventually lead to all homes charging a top-up fee. In cases where the Council pays the fee and the resident has no means of paying the top-up charge - who will pay it? If the Council doesn't where will the people go for care?	In cases where all care homes charge a top-up the Commissioners would need to revisit the usual cost of care to ensure that they could purchase enough beds to meet the needs of the service users. People would still retain a choice to go into care homes that charge more than the Commissioner's usual cost of care.
	I really don't think there should be any third	The Commissioners have worked closely with the care providers over a number of

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	party top up.	years to identify a usual cost of care. This usual cost of care reflects what is believed to be an accurate reflection of how much a residential or nursing placement should be able to be provided for. However, providers have the opportunity to charge more than this, the costs for which would need to be paid by a third party. However, this should be made clear prior to a resident choosing to live in a care home so an informed choice can be made.
	I think this will benefit homes in the future, overall improving the health and wellbeing of all residents in care homes in Tameside	Unsure whether this should be in response to the removal of the On/Off framework arrangement. However, no response required.
	Would be better to remove.	No response required
	If the On/Off Framework is removed, then all care homes should be expected to provide the same quality of care if being paid the same Council fees. I believe then that top-up fees should be accounted for.	The Commissioners should be aware of all top-up arrangements in the borough and to ensure that they are charged for correctly.
	Although the removal would not affect my mother at the moment it may in the future. I would strongly object to being made to pay a top up without any additional benefits for my mother being identified or offered. In normal contract law who pays for something without knowing what they are purchasing? Surely this just gives free license to be charged whatever, without the home having to qualify or explain where monies are to be used in residents care. If a home requires more money to operate commercially & maintain standards then I would argue it is the local authority's responsibility to address this, not a resident or relative. Also I would be worried impact this would have on new residents, or people being upgraded, where no-one is available to pay a third party top-up. The L.A. is responsible for managing the market & ensuring sufficient provision is available. The effect of this proposal would	<p>The proposal to remove restrictions on top-up charges would be for new service users only, who would make an informed decision prior to living in a particular care home. Existing residents would not be affected.</p> <p>The Commissioners have worked closely with the care providers over a number of years to identify a usual cost of care. This usual cost of care reflects what is believed to be an accurate reflection of how much a residential or nursing placement should be able to be provided for. However, providers have the opportunity to charge more than this, the costs for which would need to be paid by a third party. However, this would be made clear prior to a resident choosing to live in a care home so an informed choice can be made.</p>

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	be to place the burden on current residents and their families.	
	I think it would be fairer for most people	No response required
	As per point 3 [regarding the removal of On/Off framework] I do not agree with this proposed change.	No response required
Other comments received	Cost of Local authority fund should be topped up by TMBC rate payers	No response required
	Care home proposals should primarily and fully consider the residents and their families	The Commissioners needs to balance a number of factors when considering policies. In this instance the needs of the residents and their families is very important, as is the need to ensure that any proposals are financially viable.
	I think all care homes should charge the same amount to social services funded residents and private funded residents. Also they should all meet Care Quality Commission standards and they should be checked more often.	<p>The Commissioners cannot tell the providers what they can and cannot charge for residents that are not covered under their, i.e. for private funded residents, as they have no jurisdiction to do so.</p> <p>The Commissioners are pro-actively working with the care homes to ensure that all appropriate standards are met.</p> <p>The Commissioners do not cannot influence how often the Care Quality Commission visit providers to check whether they are meeting standards.</p>
	Whilst it does not directly affect me at this moment, it would appear that there are both benefits and disadvantages with these proposals.	No response required.
	Some comments noted that respondents were confused by the questionnaire and some of the language it contained. One respondent expressed a view that this was to bamboozle the public so the Commissioners can just do whatever they like	It was not the intention to use confusing language to bamboozle people so that the Commissioners can make whatever decision they want. Where people were confused and felt they couldn't seek advice/support then an apology is given.

Comments received from Providers as part of the on-going consultation

Area/Theme	Comments/Concerns/Feedback	Commissioner response
Removal of the On/Off Framework arrangement	HC-One understand the desire to harmonise rates across the borough and agree the on/off framework distinction isn't relevant going forward.	No response required
Fees	<p>We estimate however that the value of the "on framework" premium to HC-One is approximately £1.3m. We naturally would need reassurance that any removal of the differential would not result in an overall net loss of income across the 16 homes we operate in Tameside. Any further reduction in income, especially when taken in the context of the FNC discussions in 2017, would have a huge effect on the stability of the market. We understand your desire to incentivise quality improvement. We suggest the best way to do that is to operate a gold, silver, bronze system which really incentivises improvement but in a way that is light touch and easy to administer. We understand the CCG team have a new KPI requirements so perhaps rather than creating a 2nd quality monitoring system, you might want to harmonise arrangements. Again though, the standard fee structure needs to reflect the reality of providing care in Tameside and be cognisant of providers evidenced cost of care submissions. We believe that in order to truly turn the curve of provider performance and CQC quality ratings in Tameside, there needs to be an injection of investment in residential and nursing care sector, co-ordinated with the CCG. The system wide benefits of doing this will be considerable and without a large scale investment we anticipate that the market will shrink which will lead to higher out of area costs.</p>	<p>The Commissioners consider that investing in social care is a priority and are not looking to reduce the amount of money paid to current On Framework providers, but to increase to basic fee paid to Off Framework providers to match that of On framework. The Commissioners will contract with all care homes on the same basis, which will also include an enhanced payment scheme that all providers will be able to apply for (should they meet the criteria), therefore incentivising improvement. It is anticipated that the differential between the standard rate and the enhanced rate will remain the same (subject to any annual uplifts, which may affect each rate differently).</p> <p>By investing more into the market, not just financially, but by the establishment of a Quality Improvement Team to support providers to meet the appropriate standards, the Commissioners hope to see an improvement in the local market.</p> <p>In Tameside, the Council & local CCG have worked closely over several years and was one of the only Council's & CCG's to operate a joint contract for residential & nursing care. This arrangement will not change. The new KPIs introduced by the Commissioners are to assist with overseeing the currently quality of the provision, and have not been designed with the aim of using them to determine payment. To incorporate the two systems could incentivise providers to start 'gaming' and to not necessarily accurately report on all elements and/or modify the service to hit 'targets', which could distort the assessment of quality, which could in turn mean that Commissioner's resources aren't targeted appropriately to improve standards.</p>
	For the past 5 or more years, I have been basing my business plan on the fee levels I receive as an 'on framework	Please see the above comment, i.e. fee levels for current Off Framework providers will increase, rather than a new 'average' fee

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	<p>enhanced' operator. This means that amongst many other things my care staffing levels, my staff pay, my quality control measures and my overall operation is at an enhanced level. I am concerned right now that there is a possibility that I will be put on a par with homes who do not and have not considered over the past 5 years, the importance of the level of quality we do. Also that you are going to pay them the same rate.</p> <p>You mentioned to me that you are considering an enhanced level over and above the new rate. However, we will not get to know how to qualify for this level until the last minute therefore not giving us the opportunity to achieve it, which would be highly unfair and counter-productive.</p> <p>As you know, I have tried to avoid getting into debates over recent years on fee levels. However you need to be aware the we fast approaching the state of affairs that were the case in in the 1990s where it became more viable to sell ones care home to a developer, than to continue to operate whether beds are full or not. If my fee levels going forward are reduced and you expect me to recover them by way of future 'Top Ups', I amongst other could well be forced into that difficult decision.</p> <p>I would urge you and your colleagues to ensure that any enhancement you make is achievable by the homes already achieving it and that it takes into account, the much higher costs homes face alongside the increased expectations and much higher dependency levels of clients available to us, particularly in Tameside.</p>	<p>level being created.</p> <p>The enhanced payment will be broadly based on the old criteria, which has been modified to take account of some providers views. There are also some new criteria added, which has already been shared with providers. As a key new criterion has been added, those providers currently receiving the enhanced payment will have 12 months to ensure they are able to meet the criteria.</p> <p>It is anticipated that by using the current cost of care methodology (albeit reviewed on a periodic basis to ensure its validity) that the Commissioners published usual cost of care should maintain providers viability. Providers continue to choose to charge more for environmental factors (the proposal to change this will not be enacted – based on feedback from the conversation).</p>
Removal of Top-up restrictions	<p>Whilst we acknowledge that 3rd party top-ups are becoming the norm in the majority of local authority areas in England and Wales, we do not feel that this will make a substantial difference to providers in Tameside and shouldn't been seen as a way of bolstering provider's financial stability</p>	<p>It was not the Commissioner's intention that top-ups should be seen as a means to bolster a provider's financial stability. The Commissioner's believe that the methodology used to calculate the usual cost of care is a good reflection of the actual costs required by providers to maintain their financial stability, but the proposed removal of restrictions would bring the Commissioners contract in line with the vast majority of other care home contracts. However, based on the responses to this consultation the Commissioner's will</p>

Area/Theme	Comments/Concerns/Feedback	Commissioner response
Self-funders/private residents	<p>We would like to reiterate that the local authority rate that we allow Tameside to place residents at is only for those residents who are fully funded by the local authority. Any resident or potential resident who is defined as a self-funder in the regulations (including those who are under DPA) are not eligible for the local authority rate and will be charged the full self-fund rate. We reserve the right to serve notice on any placement that has been made incorrectly.</p>	<p>be maintaining this restriction.</p> <p>This matches the decision made in August 2012 and the current contract. No change to this provision will be made in the new contract.</p> <p>Prior to notice being served the provider will need to liaise with the Commissioner's as there may be good reason why it continues to contract for, and on behalf of, a service user, i.e. that service user lacks capacity and has no other support available to them to contract on their behalf. In such circumstances the Commissioner's will continue to contract at the published usual cost of care. This is in accordance with the decision made in August 2012 (section 12.11 of the Key Decision taken in August 2012)</p>
New Contract	<p>We welcome the news that there will be a new contract within Tameside. Given our vast experience of contracting with UK commissioners we feel that we could add significant value to be part of the process in developing the new contract. We believe you should use the opportunity of a new framework contract to acknowledge the growing issue of complexity, co-morbidity and acuity as people stay at home for longer and come into residential care later than they might have done in years gone by. We believe the fee structure should be flexible, have new bandings and responsive to when people's situation and care needs change. We would also ask that you use to opportunity create one contract covering all CHC and council funded placements. The rules and regulations on equipment should be clarified and made crystal clear.</p>	<p>The Commissioners thank the provider for their offer of support. The new contract framework will be based on the NHS Shorter Form and has already been shared with providers (albeit in a draft form). The locally agreed specification has not changed from the previous contract, which providers had the opportunity to comment on in August/September 2017, and the Commissioners have taken the view that provider remain satisfied with the content of the specification.</p> <p>The Commissioner's (Council & CCG) already use a joint contract and will continue to do so, albeit the format will change to using NHS terms and conditions rather than locally agreed contract conditions.</p> <p>The latest equipment policy has been circulated to all providers in Tameside and clearly sets out the roles and responsibilities of the provider and Commissioner's</p>
Use of a Dynamic Purchasing System	<p>Again we have a significant amount of experience in using DPS systems and while not against them in principle, we would council against creating a "race to the bottom" where providers are encouraged to undercut each other and submit the lowest price to secure occupancy. Ultimately this will lead to a very unstable market. Where DPS systems work well, they are underpinned by a realistic fee structure and</p>	<p>The Commissioners intention to use a Dynamic Purchasing System (DPS) was a way of creating an electronic 'Approved List' and to be used for any future tenders. It would not be used to determine the cost of individual placements (for those who come under the contract) as these costs will have already been agreed using the cost of care methodology.</p>

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	concentrate on the provider's ability to deliver care based in the individual's needs. To do this effectively, the pen pictures of the individuals need to be consistent and accurate to allow managers to efficiently determine if a face to face assessment is appropriate	Should the Commissioners wish to use the DPS for tendering purposes it will be distinct services that providers will have the opportunity to submit prices and, as with all tender processes, those prices need to reflect the on-going requirement for a provider to maintain profitability. All relevant information will be included within the tender documentation to allow providers to submit prices they believe are realistic.

Feedback from those directly affected by the proposed change of policy, i.e. residents under the Commissioners contract who are assessed as paying the full contribution towards to cost of care (17 service users were identified)

Area/Theme	Comments/Concerns/Feedback	Commissioner response
Removal of the On/Off framework arrangement	Comments from his wife: 'This is frightening and awful' 'I have saving and now I have to pay more and now I have to look at his finance' 'I wish he just has the threshold amount' 'now I have to pay extra out of my money for living' 'I am worried that I am going to be hit with a bill'	The Commissioners have onboard that the initial increase in fees could cause anxiety, but is also mindful of the need to treat all service users equally. However, the Commissioners are proposing to levy the increased charges over a two year period, rather than at the start of the new contract, i.e. on the 1 April 2018 the charges will increase by 30% at the start of the first year, 60% at the start of the second year with the charges matching the full cost by the start of the third year. A worked example of this is shown in section 7.3 above.
	Comments from her Son: 'Yes. It impact on me financially as I am trying to live my life as much as I can.' 'My mum is seriously ill at the minute and I just don't need the stress... I am meeting with the doctor tomorrow as my mum is really ill and not eating.'	See the above Commissioner response.
	The increase cost for off framework home will have a financial impact on [service user] finances. He will have less money to spend on himself and personal items. [Service User's Daughter] also said that all care home should be on framework.	See the above Commissioner response.
	[Service User's Daughter's] view, is that she likes [care home] and is happy with the carers and care delivery. [Service User's Daughter] feels that the cost of 24 hours	See the above Commissioner response. The Commissioners cannot direct the care home provider where to spend the fees, but the increased fees to [current] Off Framework

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	<p>residential is expensive, when you are a full cost payer or home owner and the increase will have an impact on [service user] who still has a property that she is maintaining until it is sold.</p> <p>[Service User's Daughter] would prefer not an increase as this will effect [Service User]'s finances. But [Service User's Daughter] would like to know that the money will go directly to the home and the carers and not take by owner/ organisation.</p> <p>[Service User's Daughter] would like to see with the increase for off framework, will result in staff increase.</p> <p>[Service User's Daughter] would like further information on this matter and the process.</p>	<p>providers will allow them to invest more into the business to improve services.</p>
Removal of Top-up restrictions	'I don't see why it has to come from a family member or friend this should not be there responsibility'	Where providers wish to charge more for care than the Commissioners usual cost of care, and the Commissioner is contributing towards to the cost of the placement, then service users are not allowed to pay a third party contribution themselves (except in exceptional circumstances, i.e. during a 12-week property disregard period of if they are a 'Relevant Resident' (they have a property to sell but have not yet managed to do so).
	[Service User's Daughter] hopes that the increase will mean that the staff at the home get a better pay.	The Commissioners cannot direct the care home provider where to spend the fees, but the increased fees to [current] Off Framework providers will allow them to invest more into the business to improve services.
	[Service User's Daughter] has no comment to make on third party top up, as [care home] does not have a third party top up in place.	No response required

Feedback received during residents/relatives meetings

Area/Theme	Comments/Concerns/Feedback	Commissioner response
Removal of the On/Off framework arrangement	Those present agreed it was a good idea to contract with all care homes on the same basis, but improvements need to be monitored.	No response required
	Agree to contract with all care homes the same	No response required

Area/Theme	Comments/Concerns/Feedback	Commissioner response
	Agree with the proposal to contract with all care homes on the same basis	No response required
Removal of Top-up restrictions	Didn't agree to this and felt that the current restrictions to environmental factors should remain.	No response required

Proposed Enhanced Payment Scheme

ENHANCED PAYMENT SCHEME

1. ACCESS TO THE ENHANCED PAYMENT SCHEME

- 1.1 The Provider will need to be able to demonstrate compliance with all the standards noted below to be eligible for an Enhanced Payment.
- 1.2 The Commissioner will invite the Provider to apply in September of each year.
- 1.3 The Provider will need to provide evidence that each standard has been achieved.

2. OPERATION OF THE ENHANCED PAYMENT SCHEME

- 2.1 Invitations for assessment/re-assessment will be sent to Providers in line with the timescales noted below:
 - 2.1.1 mid-September – Letter of invitation for assessment/reassessment and self-assessment forms to be issued;
 - 2.1.2 end of September – applications must be received by the Commissioner;
 - 2.1.3 end of October – assessments completed;
 - 2.1.4 mid November – Providers advised of the outcome of the assessments/reassessments.
- 2.2 Should the Provider be successful the Enhanced Payment will be applied from the following April.
- 2.3 Unsuccessful Providers will have up to 3 (three) months to demonstrate compliance with the enhanced criteria. Failure to demonstrate compliance after this time will mean the removal of the Enhanced Payment for the next financial year.
- 2.4 Should the Provider fail to apply for the Enhanced Payment Scheme or successfully demonstrate the required standard any Enhanced Payments will cease from the following April.

3. ENHANCED QUALITY CRITERIA

- 3.1 The standards below are the current standards and may be modified from time to time by the Commissioner.

Standard	What we expect to see	Criteria
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Standard	What we expect to see	Criteria
Residents are supported to maintain relationships with family, friends and other networks. They are enabled to establish and maintain social networks and access community facilities.	The home works proactively to involve the wider community in the home and makes use of its resources, including for example the involvement of community groups, schools and volunteers	The Provider has organised 3 (three) or more events that involve the wider community in the previous 12 (twelve) months.
Up to date person centred support plans, pen pictures and risk assessments are in place and agreed with residents. These are regularly reviewed, consulted on and used.	Life story work has been undertaken with the majority of Residents and their families/friends and is used by Staff routinely and to inform activity programmes. A life story book should be in place within 2 months of admission. Where this is not possible due to lack of contact with the Resident's family, and the Resident having dementia or a condition which has meant their ability to provide this information is limited, the Provider must demonstrate that steps have been taken by Staff to get as much information as possible. Plans and Staff interaction with Residents reflect life story work undertaken and also that 'visual triggers' have been assessed which Staff have noted through observation of Residents. This demonstrates that care is evolving to become increasingly person-centred as Staff have more observations and more information to develop appropriate care plans with.	70% of Residents with life stories completed within 2 (two) months of admission. This relates to those Service Users who are: <ul style="list-style-type: none"> • Funded by the Commissioner • Are intended as Permanent Service Users • Have been in the Home for longer than 2 (two) months
Staff in the Home are highly capable with relevant qualifications and experience as well as regular training and investment in their development.	The Staff team has a range of skills, training and experience - QCFs or Diploma in Health and Social Care, level 2 and 3/ Nursing/ qualified first aiders available. All trained nurses should be Nursing and Midwife Council (NMC) registered and keeps up with the NMC requirements. Staff providing personal care and those left in charge of the Home have the appropriate knowledge, skills and experience.	85% of Staff are QCF qualified to level 2 (two) and/or are registered on a QCF level 2 (two) course (excluding modern apprentices). Registered manager qualified at level 4 (four).

Standard	What we expect to see	Criteria
	The Provider demonstrates on-going commitment to enhancing service provision for end of life care at the Home. This can be demonstrated through either GSF accreditation or the completion of the 6 steps process. The home must continue to be re-accredited and re-assessed annually.	Completion of 6 (six) steps or GSF Accredited
The Provider is meeting the requirements of the Care Quality Commission	The Provider is meeting the requirements of the CQC and this is demonstrated in the published reports	The Provider will have an overall rating of 'Good' or 'Outstanding'
The Provider is engaged with the Commissioner	The Provider attends the Commissioner arranged Provider forums.	The Provider attends 75% of the meetings
	The Provider consistently returns the monthly monitoring forms	80% of the monthly monitoring forms are returned

4. WITHDRAWAL OF THE ENHANCED QUALITY PAYMENT

- 4.1 The Enhanced Payment will automatically cease during any suspension of new placements as detailed in clause [insert clause in new contract].
- 4.2 During the course of the Commissioner's duty to ensure the Provider's performance it may be noted that the Provider is not complying with the Enhanced Standards. Where this is the case the Provider will be given 3 (three) months to rectify the situation. Failure to do so will mean the removal of the Enhanced Payments.
- 4.3 Notwithstanding clause 4.2 above the Enhanced Payment will cease from the date the CQC publishes a report that states the provider is not rated 'Good' or 'Outstanding' as an overall rating.

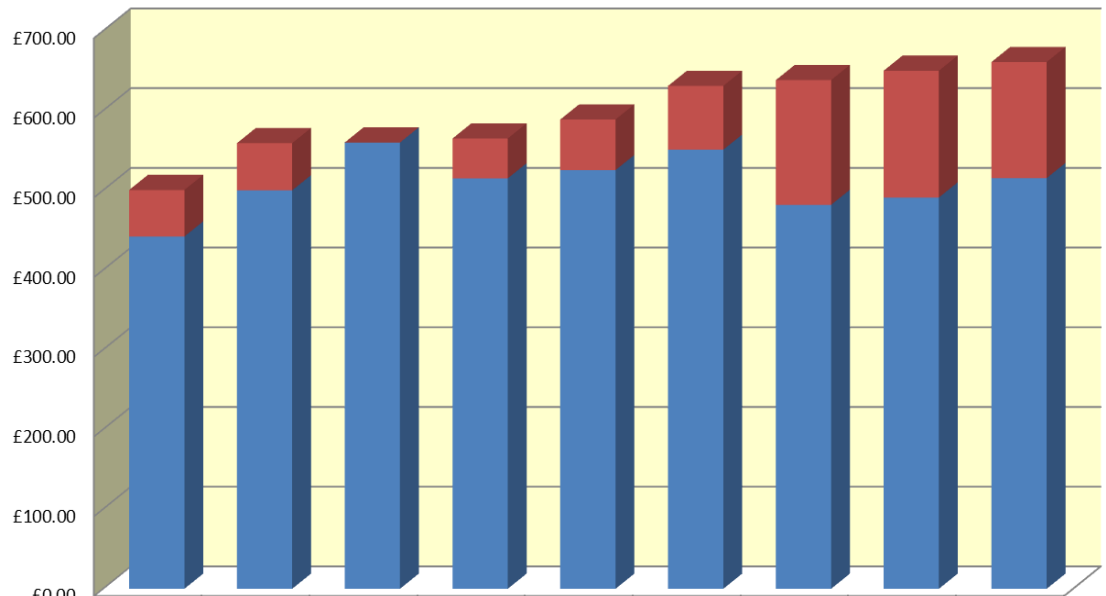
Benchmarking Data

	2017-18 Actual Fees paid (inclusive top-ups)			
	Residential	Residential with dementia	Nursing~	Nursing with dementia~
Tameside*	£516.00	£560.00	£520.10	£564.10
Trafford^	£616.68	£638.09	£633.99	£693.29
<i>Salford</i>	<i>£500.43</i>	<i>£500.43</i>	<i>£500.43</i>	<i>£500.43</i>
Lancashire	£553.24	£588.86	£558.98	£647.92
<i>Bolton</i>	<i>£508.36</i>	<i>£558.36</i>	<i>£508.36</i>	<i>£558.36</i>
Warrington	£565.00	£631.00	£642.00	£673.00
Cheshire East	£571.98	£660.93	£707.80	£671.63
Oldham	£520.00	£565.00	£520.00	£565.00
Stockport+	£615.00	£650.00	£663.00	£691.00

Weekly Residential Fees

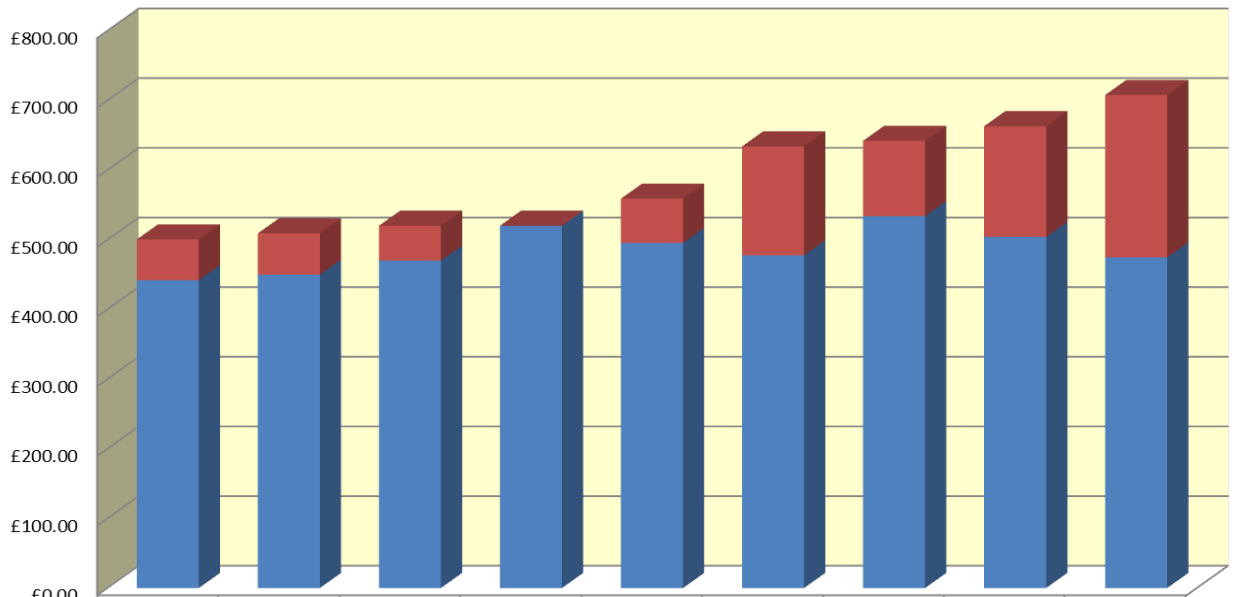


Weekly Residential w/Dementia Fees



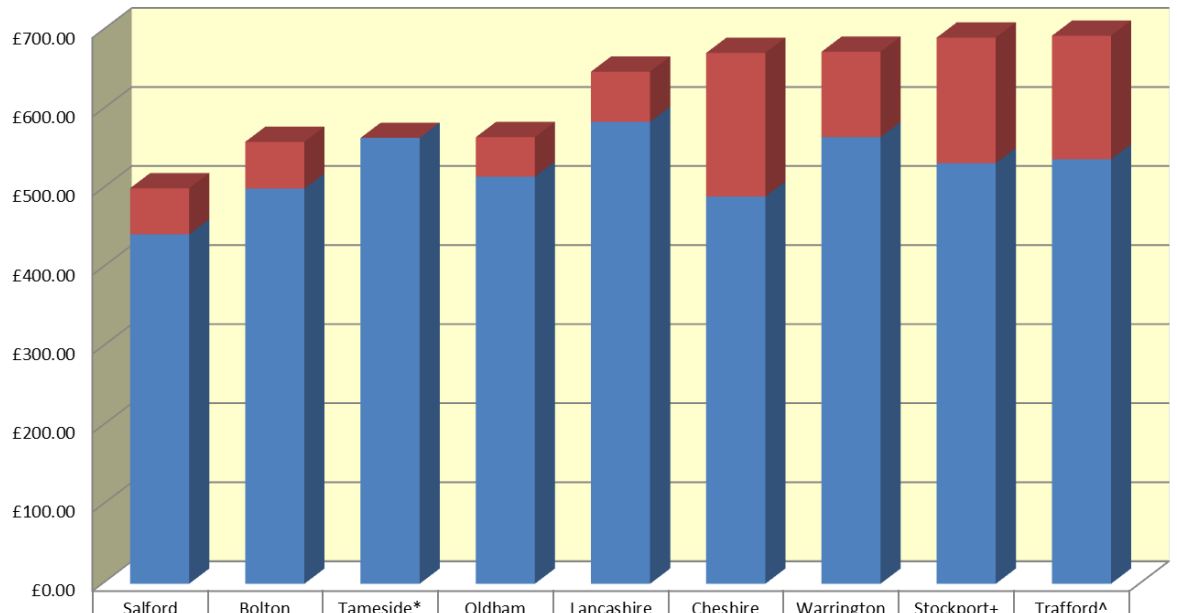
■ Average top up	£58.36	£59.17	£0.00	£50.00	£63.48	£80.00	£156.51	£159.00	£145.59
■ Base Residential w/dementia Fee	£442.07	£500.00	£560.00	£515.00	£525.38	£551.00	£481.78	£491.00	£515.34

Weekly Nursing Fees (excl FNC)



■ Average top up	£58.36	£59.17	£50.00	£0.00	£63.48	£156.31	£108.00	£159.00	£233.27
■ Nursing~	£442.07	£450.00	£470.00	£520.10	£495.50	£477.68	£534.00	£504.00	£474.53

Weekly Nursing w/Dementia Fees (excl FNC)



■ Average top up	£58.36	£59.17	£0.00	£50.00	£63.48	£181.77	£108.00	£159.00	£156.31
■ Nursing with dementia~	£442.07	£500.00	£564.10	£515.00	£584.44	£489.86	£565.00	£532.00	£536.98

Appendix E

<u>DERBYSHIRE COUNTY COUNCIL</u>				
<u>ADULT CARE FEE RATES FROM 1st October 2017 (REVISED)</u>				
NURSING CARE	Standard Rate	Quality Premium	Net of FNC	
		21.70 p/w		
			Standard	QP
Older People / Mental Health / Drug Alcohol	678.79	700.49	523.74	545.44
Physical Disability (<65)	707.98	729.68	552.93	574.63
Learning Disability	653.73	675.43	498.68	520.38
Nursing fees include FNC payment of £155.05 p/w				
RESIDENTIAL	Standard Rate	Quality Premium		
		21.70p/w		
Older People / Mental Health / Drug & Alcohol	490.49	512.19		
Physical Disability (< 65)	560.00	581.70		
Learning Disability	505.75	527.45		
DEMENTIA PREMIUM PAYMENT				
Residential & Nursing	40.95			
DAY CARE				
Residential & Nursing	36.56			

Subject / Title	Care Home Policy Change
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Team	Department	Directorate
Joint Commissioning & Performance Management Team	Adults	Adults

Start Date	Completion Date
18 October 2017	2 February 2018

Project Lead Officer	Tim Wilde
Contract / Commissioning Manager	Trevor Tench
Assistant Director/ Director	Sandra Whitehead

EIA Group (lead contact first)	Job title	Service
Sandra Whitehead	Assistant Executive Director	Adult Services
Trevor Tench	Service Unit Manager	JC&PMT
Stephen Wilde	Finance Business Partner	Finance
Michelle Walsh	Deputy Director of Nursing & Quality, NHS Tameside and Glossop	FNC Team, CCG
Tim Wilde	Team Manager	JC&PMT

PART 1 – INITIAL SCREENING

An Equality Impact Assessment (EIA) is required for all formal decisions that involve changes to service delivery and/or provision. Note: all other changes – whether a formal decision or not – require consideration for an EIA.

The Initial screening is a quick and easy process which aims to identify:

- *those projects, proposals and service or contract changes which require a full EIA by looking at the potential impact on any of the equality groups*
- *prioritise if and when a full EIA should be completed*
- *explain and record the reasons why it is deemed a full EIA is not required*

A full EIA should always be undertaken if the project, proposal and service / contract change is likely to have an impact upon people with a protected characteristic. This should be undertaken irrespective of whether the impact is major or minor, or on a large or small group of people. If the initial screening concludes a full EIA is not required, please fully explain the reasons for this at 1e and ensure this form is signed off by the relevant Contract / Commissioning Manager and the Assistant Director / Director.

1a.	What is the project, proposal or service / contract change?	<p>To change the policy of On/Off Framework providers that was established in 2012 by removing the Off Framework category and to contract with all care homes on the same basis.</p> <p>Also consulting on the removal of restrictions for the current On Framework provider to charge top-ups, i.e. they can only charge top-up payments for environmental factors that a service user has chosen, e.g. larger room, en-suite. The removal of restrictions would be for new service users only (providers would not be able to arbitrarily charge existing residents an increased fee).</p>
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1b.	What are the main aims of the project, proposal or service / contract change?	There is a recognition that the current On/Off Framework arrangement established in 2012 is no longer suitable in the current market and that the Off Framework providers are struggling to meet the requirements of the Care Quality Commission. It is proposed that the Off Framework category is discarded and that the fees paid for service users is the same across all care home, with the potential that all care homes will be able to apply for the Quality Premium payment. The aim is that all providers are treated equally and it will allow the [former] Off Framework provider to invest in the service to improve standards.
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1c. Will the project, proposal or service / contract change have either a direct or indirect impact on any groups of people with protected equality characteristics? Where a direct or indirect impact will occur as a result of the project, proposal or service / contract change please explain why and how that group of people will be affected.

Protected Characteristic	Direct Impact	Indirect Impact	Little / No Impact	Explanation
Age	<input type="checkbox"/>			The majority of residents in care homes are over 65 years of age
Disability	<input type="checkbox"/>			Residents in care homes now tend to have a number of co-morbidities
Ethnicity			<input type="checkbox"/>	
Sex / Gender		<input type="checkbox"/>		Given the disparity in life expectancies between men & women the majority of residents in care homes are female.
Religion or Belief			<input type="checkbox"/>	
Sexual Orientation			<input type="checkbox"/>	
Gender Reassignment			<input type="checkbox"/>	
Pregnancy & Maternity			<input type="checkbox"/>	
Marriage & Civil Partnership			<input type="checkbox"/>	

Other protected groups determined locally by Tameside and Glossop Single Commissioning Function?

Group (please state)	Direct Impact	Indirect Impact	Little / No Impact	Explanation
Mental Health		<input type="checkbox"/>		Residents may feel anxiety about the proposed change, albeit that this change will not directly affect them
Carers			<input type="checkbox"/>	
Military Veterans		<input type="checkbox"/>		There may be some military veterans within the Off Framework care homes who would be affected by the policy change
Breast Feeding			<input type="checkbox"/>	

Are there any other groups who you feel may be impacted, directly or indirectly, by this project, proposal or service / contract change? (e.g. vulnerable residents, isolated residents, low income households)

Group (please state)	Direct Impact	Indirect Impact	Little / No Impact	Explanation

Wherever a direct or indirect impact has been identified you should consider undertaking a full EIA or be able to adequately explain your reasoning for not doing so. Where little / no impact is anticipated, this can be explored in more detail when undertaking a full EIA.

1d.	Does the project, proposal or service / contract change require a full EIA?	Yes	No
		<input type="checkbox"/>	
1e.	What are your reasons for the decision made at 1d?	Due to the demographic of service users who may be impacted as a result of the proposed change in policy (age and disability) it is necessary to undertake a full EIA. Due to the change in policy there may be a small number of people who are financially disadvantaged, i.e. the Council contracts for 17 people who have been assessed as paying the full contribution towards their care (the usual cost of care for Off Framework residential care is £444/week and 17 people have been assessed as paying £444/week). There are (in total) 117 service users in Off Framework care homes but the majority of these only pay a contribution towards their care and therefore will not be affected by any increase in the gross cost of care.	

If a full EIA is required please progress to Part 2.

PART 2 – FULL EQUALITY IMPACT ASSESSMENT

2a. Summary
<p>The current five year arrangement the Council & NHS Tameside & Glossop (the Commissioners) has with Tameside care homes established the Off & On Framework arrangement which expires at the end of March 2018.</p> <p>As with the current arrangement, the proposed new pre-placement contract will be a joint contract with the Council and NHS Tameside and Glossop (and the provider). This approach reduces the burden on providers to comply with two contracts, and reduces the contract monitoring burden on the Commissioners as this is undertaken jointly.</p> <p>The existing arrangement has a detailed fee uplift structure which required the care homes to submit information noting what they actually spent delivering the care & support for the previous year. This is taken into consideration when calculating the fees for the forthcoming year, which latterly also took account of the implementation of the national living wage. The contract also included an Enhanced Payment scheme that rewards providers for achieving a range of criteria that are used as measures of quality – these include the attainment of Investor in People award, the percentage of staff who have NVQ qualifications, completion of Gold Standard Framework or Six Steps end of life care accreditation/training, completion of Life Stories and organising events that include the wider community.</p> <p>The Commissioners current arrangement of Off & On Framework care homes has distinctly different fee levels, with Off framework provider receiving between £36-£39 less per person per week than On Framework. On Framework provider also have the opportunity to apply for the enhance payment which, if achieved, attracts an additional £36-39 per person per week.</p> <p>Please note that the Enhanced Rate is not available for those providers who are Off Framework.</p> <p>The fees paid to Tameside care homes, for single rooms, are currently in the upper quartile when compared to other North West authorities (for all categories of care).</p> <p>The Council allows top-ups to be charged by Off Framework care homes (without any restrictions) and only for environmental factors chosen by the resident in On Framework care homes.</p> <p>Where it is determined that a service user has the appropriate resources (and support) to contract for their own placement the Council will not necessarily be involved with the contract. This could be prior to the commencement of any service or following a financial assessment where the</p>

resident has resources available above the upper financial threshold (currently £23,250). The state of the care home market has significantly changed since the start of the current contractual arrangements, i.e. there are fewer care homes operating in the borough offering fewer beds, i.e.:

August 2012			January 2018		
Type of Home	Number	No. of Beds	Type of Home	Number	No. of Beds
Residential	29	1106	Residential	27	1091
Nursing	14	683	Nursing	11	548
Total	43	1789	Total	38	1639

The Commissioners are also purchasing fewer beds than prior to the establishment of the existing contractual arrangements, i.e. in August 2012 the Commissioners were purchasing approx. 940 beds but in August 2017 this had reduced to 747 beds. However, the overall vacancy levels in the market have reduced, i.e. in August 2012 there were significant vacancy levels in Tameside, i.e. 158 (14.3%) residential and 118 (17.3%) nursing vacancies. As of August 2017 these figures are 90 (8.2%) residential and 29 (5.3%) nursing vacancies. The fact that vacancy levels are decreasing yet the Commissioners are purchasing fewer beds is down to a number of factors, i.e. reduced capacity in the market (specifically nursing beds), increased level of privately paying clients and increased purchasing in the borough by other authorities (due to paucity of placements in those localities).

The current residents' average age is just over 84 years of age and they have been resident in the care homes for an average of 1 year and 9 months.

Following the implementation of the Off & On Framework arrangement and the changes to the methodology of the way the Care Quality Commission (CQC) inspects care providers, the overall quality of providers has reduced during the last 5 years (as determined by the outcomes of the CQC inspections). At the start of the process the majority of the providers were CQC compliant, however the ratings profile is now (February 2018):

Rating	No. of Homes	% of Homes	No. of Beds	% of Beds
Outstanding	0	0%	0	0%
Good	19	50%	748	46%
Requires improvement	18	47%	873	53%
Inadequate	1	3%	18	1%

The above can also be broken down into Off, On Framework & Enhanced Payment providers:

Rating	Off Framework		On Framework		Enhanced Framework	
Outstanding	0	0%	0	0%	0	0%
Good	5	42%	3	75%	11	50%
Requires Improvement	6	50%	1	25%	11	50%
Inadequate	1	8%				0%
Total:	12		4		22	

It can be seen from the above table that those providers Off Framework are not faring as well as the other providers.

It is proposed that from the 1 April 2018 onwards the Commissioners remove the Off Framework category and pays those twelve providers the same (standard) rate as the other providers in order for them to invest the resources to improve services and allow them to apply for the Quality premium payment.

The scope of this EIA will only focus on the fees paid to the current Off Framework care homes and any financial impact for those service users who are assessed as paying the full contribution for services contracted for by the Commissioners. Providers will have, and have always had, the option to charge privately funded clients a separate rate than the Commissioners rate and, as these are outside the scope of the Commissioners contractual arrangements, these fees are also outside the scope of this EIA. The Commissioners will continue to work with the providers to ensure that any future pricing model meets the needs of both parties (and remains Care Act 2014 compliant).

2b. Issues to Consider

The following are areas for consideration when assessing the potential impact of the proposed policy change:

- The number of care homes affected by the policy change
- The number of Commissioner contracted placements in those care home
- The number of people assessed as paying the full contribution towards the cost of their care (and contracted by the Commissioners)
- The views of the service users/relatives of those who are assessed as paying the full contribution toward the cost of their care
- The Commissioners are the only authority in the North West that tendered for care home services to create the On/Off Framework split. The proposed removal of this arrangement and to contract with all providers with the same contract is in line with other authorities practices

2c. Impact

The proposed removal of the Off Framework category will only impact on the twelve care homes currently assessed as Off Framework. At the beginning of October 2017 the Council funded 117 placements in the twelve Off Framework care homes. Where placements are funded under Continuing Healthcare (CHC) in Off Framework homes any increase in fees will not impact on service user's financial contributions, i.e. it is free for the service user irrespective of the actual cost of care.

Of the 117 service users funded in Off Framework care homes there are seventeen Service Users who are assessed as paying the full cost of the placement (up to the Commissioners usual cost of care (see the above fees)) in standard care home placements, and these service users reside in eight different care homes. The majority of Off Framework care homes do not charge a top-up where the Council commissions the service, however, two of these care homes do. There are three service users residing in these two care homes and any increase in the Commissioners usual cost of care will mean a reduction in the third party contribution (on the understanding that the care home doesn't increase its gross fee).

The service users in these twelve homes (as with all other care homes) are the frail elderly who will have a number of co-morbidities (average age is 84). The average age of the people who may be affected by the proposed policy change is also 84. At this juncture it is not possible to determine whether these people have any other protected characteristics but it is likely, given that the majority of residents in care homes have a number of co-morbidities, that they may have some physical disability. Similarly, without undertaking further individual assessments it is not known whether any people possibly affected are military veterans. However, the key issue is the levels of savings that these service users have means they are financially adversely affected by the proposed policy change rather than them being adversely affected as a result of a protected characteristic.

There is therefore a potential that seventeen service users may be financially adversely affected by the Commissioners decision to remove the Off Framework arrangement and to pay these care homes the current On Framework rate. Please note that the family for one service user is seeking Power of Attorney to take responsibility for the finances and, given the level of savings for this service user, and following the process agreed in August 2012, the Council will likely terminate its contract and the family will contract privately for their relative, reducing the number of people affected to eleven.

Despite numerous attempts by the neighbourhood teams only 4 relatives of service users could be contacted (the service users themselves did not have capacity). The relatives contacted expressed views that they did not wish to see the fees increase as they felt they paid enough already. This will not be an issue if the Council meets the difference.

The impact of proposed new contract/fees for at least another 4 service users would be reduced as their assets would have reduced below the upper financial limit by the time the consultation period ended.

2d. Mitigations (<i>Where you have identified an impact, what can be done to reduce or mitigate the impact?</i>)	
<i>The financial impact on the seventeen service users</i>	<i>Negated if the Council meets the difference.</i>
<i>Consultation with the service users' affected by the policy change</i>	<i>The Commissioners have undertaken targeted consultation with the service users (and/or representatives) to determine their views about the proposed policy change for the period after the 31 March 2018. The views of the respondents have been considered.</i>

2e. Evidence Sources
<p>CQC rating for the care providers in Tameside</p> <p>Responses to Freedom of Information Requests re: the number of placements that the Council purchases</p> <p>Responses to the consultation from The Big Conversation, questionnaires received via the post or from providers</p> <p>Notes made by Tim Wilde during residents/relatives meetings at care homes</p>

2f. Monitoring progress		
Issue / Action	Lead officer	Timescale

Signature of Contract / Commissioning Manager	Date
Signature of Assistant Director / Director	Date