

**Please reply to:** Caroline Taylor  
Director of Adult Services and Resource  
Town Hall, Castle Circus  
Torquay  
TQ1 3DR  
**My ref:** CT/LR  
**Your ref:**  
**Telephone:** 01803 207116  
**E-mail:** caroline.taylor@torbay.gov.uk

**Website:** www.torbay.gov.uk  
**Date:** 11th October 2012

---

Dear Care Home Providers

The review into the care home fees for the period 1<sup>st</sup> April 2012 to 31<sup>st</sup> March 2014 is now complete. I would like to thank all of you who have been involved in the review to date and I now wish to consult with all home owners on the review process, the conclusions we have reached and the revised fees proposals.

The formal consultation period will close on the 9<sup>th</sup> November 2012. At the end of the consultation period the feedback which has been received will be reviewed before final recommendations are taken to the Council for a decision. It is expected that the Council will consider the final recommendations at the Council Meeting which is scheduled for the 6<sup>th</sup> December 2012.

In undertaking the review the team working on this project has taken note of:

- Feedback received at the open meetings held 31<sup>st</sup> May, 9<sup>th</sup> July and 6<sup>th</sup> of September 2012.
- Responses to the questionnaire which was discussed on at the 9<sup>th</sup> July 2012 meeting and circulated on the 24<sup>th</sup> July 2012.
- The aggregated and anonymised information returned to Francis Clark Accountants.
- Information received through telephone surveys of occupancy in a sample of homes.
- Any individual or group responses we have received.

A detailed report is attached which summarises the background to the review, the work completed in undertaking the review and the conclusions which have been

---

Schools and services for children and young people • social care and housing • recycling, waste disposal and clean streets • community safety • roads and transportation • town planning • tourism, harbours and economic regeneration • consumer protection and licensing • leisure, museums, libraries and arts

If you require this in a different format or language, please contact me.

reached. I am sure you will want to read this in full but thought it might be helpful to summarise the main outcomes:

- In line with the feedback we received the fees structure we are proposing is simpler and decoupled from CQUIN.
- The previous fees structure included differential rates according to the CQC quality ratings of Good and Excellent. Now that the CQC no longer maintain this rating system this element of the banding structure will no longer be used.
- Even after consolidating the CQUIN and CQC elements of the fees structure twelve categories of care would have remained. This was still felt to be too many. We are therefore proposing a fees structure with four bands of care, but with an acknowledgement that there will be residents who need to have their care needs individually negotiated because of their particular circumstances.

These main outcomes apply to the provision of care for older people aged over 65 in residential and nursing homes. The previous fees offer included no uplift for individually negotiated placements for people with mental health needs and learning disabilities, particularly those under the age of 65. Owners of homes providing care for this group of service users asked if this position could be reviewed.

The position regarding service users with mental health needs and learning disabilities is a complex one, where cost models are harder to find and apply, as needs can vary significantly from service user to service user. We have therefore decided that we will need to establish a project team specifically to consider the issues in this area of the market. As an interim measure, and without prejudice to the final outcome, the proposals set out here include a provision to make a non-recurrent payment of £500 per annum in 2012/13 and 2013/14 for each person whose care package has been individually negotiated and would fall outside the proposed banding structure.

With regard to older people (over 65) there are inevitably some circumstances where the revised and banded fee may be lower than that previously proposed in our 27 March 2012 letter. Where this is the case the proposal includes provision to protect the payments being made to homes at the current level until the 31st March 2014. This protection will be at the levels set out in our letter of 27th March 2012 and apply as long as individuals remain in placement or until their care needs alter. I believe this provides some protection and will allow home owners to make any necessary amendments.

This letter is the start of the formal consultation on the revised fees proposals which are summarised above and set out in detail in the attached report. We want all home owners to be involved in this process and we are seeking your involvement in the following ways:

1. Attached to the consultation pack is a set of consultation questions which I would be grateful if you could complete and return to us, preferably by e-mail to [Carehomesconsultation@torbay.gov.uk](mailto:Carehomesconsultation@torbay.gov.uk)
2. During the week beginning the 15<sup>th</sup> October 2012 members of the review team will be available for one to one meetings with home owners. The

objective of these sessions is for you to be able to give us individual feedback on the proposals. Additionally as part of these sessions we also intend to provide you with detailed information of how the fees proposal will affect the payments made in respect of individual service users in your home, who are currently funded by Torbay Council.

3. An open meeting will be held on 25<sup>th</sup> October 2012, 6pm to 8pm at the Riviera International Conference Centre which all home owners are invited.
4. You can also write to Lin Gibbs, St Edmunds, Victoria Park Rd, Torquay, TQ1 3QH, telephone us on 01803 208018 or send an email to [Carehomesconsultation@torbay.gov.uk](mailto:Carehomesconsultation@torbay.gov.uk) with your comments.

The full consultation pack has been sent to the email address you have provided us with, as well as via Royal Mail. All future correspondence will be sent by email, unless you specifically request that we send it by Royal Mail. If you have not received the consultation pack by email please contact [linda.gibbs2@nhs.net](mailto:linda.gibbs2@nhs.net) with your correct email address.

Any questions concerning the consultation and all response to the consultation should be sent to [Carehomesconsultation@torbay.gov.uk](mailto:Carehomesconsultation@torbay.gov.uk) by 9<sup>th</sup> November 2012.

If you would like to book a one to one meeting in the week commencing 15<sup>th</sup> October 2012 please contact Lin Gibbs by telephone or email as above. It would also be helpful if you could email Lin to let her know whether you will be attending the consultation event on 25<sup>th</sup> October 2012.

I look forward to receiving your feedback on the proposals and seeing you at the Consultation event.

Yours sincerely



**Caroline Taylor**  
Director of Adult Services and Resource

## **Review of Care Home Fees in Torbay 2012-2014 (amended 17<sup>th</sup> October 2012)**

### **Introduction**

Local authorities are required to provide residential care for people over the age of 18 who are in need of care and attention, which is not otherwise available to them. In providing this care the Local Authority has to comply with the National Assistance Act 1948 (Choice of Accommodation) Directions, which requires Local Authorities to provide such accommodation at the place of the clients' choosing provided that;

“the cost of making arrangements for him at his preferred accommodation would not require the authority to pay more than they would usually expect to pay having regard to his assessed needs.”

This is generally known as the 'usual cost' and is the basis on which Local Authorities set the fees they will normally pay to care homes.

Local Authority Circular (2004) 20 states at paragraph 2.5.4

“One of the conditions associated with the provision of preferred accommodation is that such accommodation should not require the council to pay more than they would usually expect to pay, having regard to assessed needs (the 'usual cost'). This cost should be set by councils at the start of a financial or other planning period, or in response to significant changes in the cost of providing care, to be sufficient to meet the assessed care needs of supported residents in residential accommodation. A council should set more than one usual cost where the cost of providing residential accommodation to specific groups is different. In setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999.”

In recent years there have been a number of judicial reviews into the way local authorities set usual costs for residential placements. This relates largely to care for the elderly because the fees paid for younger adults, such as those with poor mental health or learning disabilities, are more likely to be based on specific care packages. For these reasons Torbay's review of fees and this report relate only to residential and nursing care for the elderly.

There is now an increasing variety of research and the development of models aimed at assessing the actual cost of providing care including, Laing and Buisson's annual care for the elderly survey with care home owners, information on local authority fee rates compiled by ADASS (Association of Directors of Adult Social Services) and the emergence of local surveys such as the Bishop Flemming report in Torbay. In all cases these models make assumptions about the average costs across a whole market. These, in turn, are built on assumptions about how a care home is operated and managed.

The important elements of this definition and our interpretation of them include the following:

- The usual cost is the cost to the local authority – in other words the price that is paid to the provider;
- It represents what the authority “expects to pay” and therefore it should be a market based price;
- It should be “sufficient to meet the assessed care needs of supported residents in residential accommodation” and that implies:
  - The resources required to meet these needs are delivered by an efficient and well run home,
  - The price should reflect the direct care costs and associated accommodation costs,
  - The price does not, therefore, necessarily need to include the profit element or return on capital employed, however this may form part of a commercial pricing strategy.

This document summarises the approach Torbay has taken to reviewing the cost of care and establishing our fee rates for residential and nursing care for the elderly in the light of the above.

## **Background**

There are 108 care homes in Torbay with 2,525 bed spaces registered with CQC (Care Quality Commission). Within this total 16 are nursing homes for people over 65 with 605 bed spaces, and 59 residential homes with 1,529 beds, resulting in 75 care homes for people over 65 with 2,134 bed spaces. Homes in Torbay are run by the private sector and the average size of a home in Torbay is 28 beds against a national average of 60. There is a notable difference between the numbers of residential and nursing homes, the national average split between residential and nursing care provision is 52:48 whilst in Torbay the split is Torbay 85:15. Placement trends and demand projections indicate this represents an over-supply of residential care rather than an undersupply of nursing care. In line with national trends towards personalisation and supporting people in the community, placements into residential care have been declining at a rate of about 4% annually since 2010 and this rate of reduction in demand is expected to continue over at least the next two or three years.

In March 2012 a letter setting out fee levels for 2012 to 2013 in Torbay was sent to all care home providers. These fees are currently in payment and represent on average a 3% uplift on the previous year's fees. Following this the TQCF (Torbay Quality Care Forum, an organisation representing the owners of about 25 homes in Torbay) wrote on 14<sup>th</sup> May 2012 to the Director of Adult Social Services asking her to review the

decision on fees which she agreed to do, as it was accepted that there were deficits in the processes undertaken previously.

The review of Torbay's decision on care home fees in March 2012 is now complete. To arrive at the usual cost of care it was necessary to establish the cost of delivering care in Torbay, as well as accommodation related costs and an appropriate contribution to the cost of capital. In doing this a number of factors were taken into account and these are set out in the section entitled Defining the Usual Cost of Care. The proportion of beds in the market currently purchased by local authorities, the level of vacancies, capital abatement, land values and profit multiples were taken into account. Economic and equality impact assessments have been undertaken as part of this process.

Since the decision to review the fees providers have been involved in the review in number of ways: through three provider events, in a working group to review the revised banding structure, by answering specific questions posed to them and by providing information on their services via a local accountancy firm. Now that the review has been completed there will be a period of formal consultation, during which care home owners can respond to the methodology used, the approach that has been taken to defining the usual cost of care and the proposals themselves. The outcome of the consultation, alongside any other comments and ideas, will be considered and if appropriate the proposals set out in this paper will be revised before final recommendations are put to the full Council. It is the Council which will then take the final decision on the level of fees, which is due to take place at a meeting of the Full Council on 6 December 2012 at Oldway Mansion.

### **The Scope of the Review**

The revised fee proposal only relates to those residential and nursing care homes providing care to the elderly (people aged over 65 years).

We had intended to fully review fee levels for people with mental health needs and learning disabilities who are under the age of 65. However this is a more difficult area than we had anticipated. This is partly because cost models are harder to find, and harder to apply in this area of care where needs can vary significantly from service user to service user. We have therefore decided that we will need to establish a project team specifically to consider the issues in this sector of the market.

Consequently as an interim measure, and without prejudice to the final outcome, we propose to make a non-recurrent payment of £500 per annum in 2012/13 and 2013/14 for each person whose care package has been individually negotiated and would fall outside the proposed banding structure.

### **The Approach**

#### **Meetings with providers**

At an initial meeting to which all care homes were invited on the 31<sup>st</sup> May 2012, it was agreed with those present that bi-monthly evening meetings (6pm – 8pm) would be an effective way to ensure regular, consistent communication between Torbay Council, TSDHCT and all care home providers. Meetings were subsequently held on 6<sup>th</sup>

July and 9<sup>th</sup> September. A further meeting to consult on the proposal is due to be held on 25<sup>th</sup> October 2012.

**Revising the banding structure**

At the meeting in May the existing banding structure was discussed. Providers perceived the existing banding structure as overly complex and not suitable for the shape of future care delivery.

In order to consider how the banding structure could be revised and simplified a working group comprising care home providers and TSDHCT clinical and professional staff was convened to develop a new banding structure. The group were able to create a simplified structure and this was circulated to all providers for consultation following the open meeting held on the 6<sup>th</sup> September 2012.

The simplified structure, comprising of 4 bands, recognises that a number of placements currently sit outside the present fees structure because their packages are negotiated on an individual basis. (See revised banding structure below)

**Revised Banding Structure**

Residential Care	Standard	Standard Plus	Needs
	Standard	Standard Plus	
Nursing Care	Standard	Standard Plus	
Exceptional			

To facilitate the change from one banding structure to another we have mapped the old bandings to the new bandings so it is clear which fee band any person has moved from and to. This has been a paper exercise taking into account recorded assessment information.

**Calculating the cost of care in Torbay**

While existing cost tools were taken into account including Laing and Buisson 2012 and Bishop Flemming’s Torbay survey in 2011, the Council has a duty to take account of local circumstances in Torbay, as well as ensuring that the information used is up to date and accurate. Therefore as well as considering these tools/reports as sources of information, we have also undertaken our own work in this regard.

Care costs were divided between care, accommodation and return on capital. Costs were assessed on a set of reasonable assumptions including the staff hours per bed. Professional and clinical staff were involved in making these assumptions and the consequent decisions. Providers were also asked to provide a snapshot of information

relating to their number of staff by qualification, number of local authority placements and number of vacancies.

The approach taken in separating costs was mindful of the proposals of the Dilnot Commission recommendations that costs of care and accommodation be treated differently and if these proposals are adopted the costs of care and accommodation will need to be clearly separated. Proposals in the Care and Support White Paper to offer direct payments for residential care are also likely to require a clearer breakdown of costs.

### **Defining the usual cost of care**

Our approach to defining the usual costs, for each of the 4 care bands defined earlier, was to consider an appropriate fee so that:

- It reflected the proportion of the market that we purchase or is purchased at rates linked to Torbay's (about 45%);
- It covers the cost of care and accommodation (including a provision for capital maintenance which reflects an allowance on capital costs over a long period)
- Is no lower than the average fee rate set currently;
- It provides for a reasonable and sustainable return for a home given average fee rates secured in the market.

The key assumptions upon which these assessments are based are set out in the consultation questions so that home owners can comment specifically any or all of them.

### **Economic impact assessment**

This assessment was undertaken in order to gauge the impact of the fees proposal on the economy and also to assess any potential risk to supply in Torbay.

A number of factors were taken into account including, placement trends and projections, demographic projections and changing economic circumstances, supply of care homes across the three towns in Torbay and the demographics in these areas. Personal choice and new ways of working have both had an impact on demand. Projections also indicate the number of beds purchased by Torbay Council over the next three years is likely to continue to fall by 4% per annum on average. This is in line with national trends and new ways of working enabling people to remain independent in their homes for longer. A greater emphasis on rehabilitation will also mean people often return to independent living after a period in hospital followed by reablement when previously they may have been admitted to care.



The proposed fees reflect an appropriate price in a balanced and efficient market, which does not compensate for the current oversupply in the market for residential care. Consequently there is the risk that the market may need to re-balance, as efficient markets should do, and as a result some home owners may need to exit from the market.

The proposal includes some transitional protection for existing clients, which will be detailed later in this document.

The closure of a home may result in reduced employment and some local purchasing which will impact upon the local economy. However, should a business close the Council will ensure that residents receive support to find suitable alternative accommodation. These alternative arrangements are likely to impact positively on employment and purchasing opportunities in Torbay. While this will not mitigate the entire loss (because some increased purchasing will be absorbed within improved efficiencies and economies of scale) it will strengthen the financial position of the homes that remain in operation.

### Equality impact assessment

The proposal for fees does not affect any one group differentially. The proposal by its very nature affects only older people and the thresholds for access to services have not been changed.

As part of our commitment to providing services in a more personalised way to all client groups over the next 15 months we will be working with service users, carers , providers and front line staff to develop more individual purchasing arrangements for residential care.

### The Proposal

After a review using a structured methodology, the weekly care home fees proposed for (2012-2014) are as follows;

<b>Residential Care</b>	Standard <b>£341</b>	Standard Plus <b>£392</b>
	Standard <b>£529</b>	Standard Plus <b>£555</b>
<b>Exceptional</b>		<b>Needs</b>

These figures are weekly rates and include Registered Nurse Care Contribution (RNCC) payment (currently £108.70 per week, rounded to £109). They exclude Continuing Healthcare (CHC) and any third party top-up.

To avoid any disadvantage to current residents and to enable providers to adapt to the changed bandings, the following process is proposed:

- Where a new banding represents an increase in the current banding, and therefore a higher fee, the revised fee will be paid with effect from the 1<sup>st</sup> April 2012 until the 31<sup>st</sup> March 2014.
- Where the new banding represents a decrease in the current banding, and therefore a lower fee, the current fee will be paid until 31 March 2014, for as long as the client remains a resident of the home and their care needs are unchanged.
- Anyone assessed following a final decision on the fees for the period 2012 - 2014 will be assessed under the new bandings.

### **Consultation**

All care home providers now have an opportunity to respond to this proposal by providing their views on how the proposal was developed by responding to the attached set of consultation questions.

The consultation period will run from 11<sup>th</sup> October 2012 to 5pm on 9<sup>th</sup> November 2012. During this time there will be a meeting on 25<sup>th</sup> October 2012 for all care home owners to come and share their views with Torbay Council and TSDHCT. In addition there is an opportunity for all home providers to meet on a one to one basis with commissioning and contract management staff to share their views on the proposal. Comments and views can also be supplied by telephone, email or letter.

At the end of the consultation period all consultation responses will be considered. A report will be written summarising responses, how the responses were considered and whether this changed the proposal, including the reasons behind this.

At this point a final report will be submitted to the Council meeting scheduled to be held on 6<sup>th</sup> December 2012 for a final decision.