



Report of the Cabinet Member for Care, Health and Ageing Well.

Adult Services Scrutiny Panel – 29th October 2019

COMMISSIONING OF RESIDENTIAL CARE – QUALITY OF SERVICE / CONTRACTS, FINANCIAL STABILITY

Purpose	To provide a briefing requested by the Panel about commissioning of residential care – quality of service / contracts, financial stability.
Content	This report includes a summary of how services are procured, quality monitored and assessed for financial viability. The report concludes that these arrangements are fit for purpose but work is progressing to improve regional quality assurance tools and modernise care homes contracts.
Councillors are being asked to	Endorse the conclusion of the report
Lead Councillor(s)	Mark Child Cabinet Member for Care, Health and Ageing Well.
Lead Officer(s)	Deb Reed Interim Head of Adult Services
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1. INTRODUCTION

- 1.1 For older people (aged 65+) there are 6 care homes owned and operated by the local authority which are registered to provide personal care, and 38 private sector homes, 14 of which are registered to provide personal care and 20 of which are dual registered to provide both personal and nursing care. 4 of these dual registered homes are registered to provide dementia nursing care. This report will focus on arrangements for ensuring services are satisfactory at the 38 care homes for older people in the external sector.

2. RIGHT TO CHOICE OF ACCOMMODATION

- 2.1 The authority's legal duty is to make arrangements for placing a person assessed as "in need," in care home accommodation of their preferred choice. This duty originates from s21 of the National Assistance Act 1948 (and subsequent amendments arising from the Social Services and Wellbeing Act which came into force in April 2016).
- 2.2 The statutory right for citizens to choose their preferred care home has an impact on the way care home services are procured. Competitive tender arrangements are generally not the most effective way of securing these services. These type of processes potentially undermine choice and theoretically could lead to de-commissioning of services at the end of contract periods, or at the point of re-tender. This would be detrimental to residents.
- 2.3 To maximise choice for citizens and avoid problems with needing to terminate contracts, de-commission services and re-locate vulnerable adults, contracts are awarded directly to care homes selected by citizens. A contract application process is followed to ensure each home is operating lawfully and providing satisfactory services prior to contract award. Each Provider must agree to accept the rate paid by the council and contracts are time limited for 5 years. Contracts are extended at the end of this period if services are still required, and in the absence of performance problems that would prevent contract renewal. The Council's Contract Procedure Rules have been amended to exempt these services from competitive tender processes.

3. SERVICE PERFORMANCE

- 3.1 Social Services employs 1 full time Contracting Officer and 1 full time Contract Monitoring Officer to monitor and manage performance against contractual expectations for all older persons care homes in the independent sector.

3.2 This begins with creating a contract with each private sector provider (as described above). Monitoring against contractual standards is based on the following principles:

- Monitoring is proportionate and relevant.
- Providers of services accept responsibility for assuring quality.
- Duplication with other services and agencies is avoided where possible by using and sharing information with partners such as CIW and Swansea Bay HB.
- Monitoring and contract management is informed by information gathered from a wide range of sources including:
 - Safeguarding Information
 - Care Management Reviews
 - Swansea Bay Nurse Assessor Reviews
 - CIW inspections
 - Corporate Complaints
 - Feedback from Residents and their families
 - Feedback from other Local Authorities and commissioning bodies

3.3 In practical terms, this will involve gathering and reviewing monitoring information on each provider throughout the year. Where performance issues arise the provider will be required to address any quality or contract compliance issues within a specific timescale. In most cases performance issues are resolved by agreeing clear actions and timeframes without need to resort to more formal contract compliance measures.

3.4 Contract monitoring ensures issues which present risk to residents or to continuity of services can be assessed and prioritised, and allows development of strategic solutions in response to thematic concerns.

4. ESCALATING CONCERNS

4.1 Where contract management steps have not resolved performance problems at care homes, escalating concerns processes may be followed.

4.2 Escalating Concerns is guidance issued under Section 7 of the Local Authorities and Social Services Act 1970 and sections 12 and 19 of the National Health Services (Wales) Act 2006. Its purpose is to suggest ways in which Local Authorities and Local Health Boards can discharge their duties when managing concerns and closures of care homes that are registered to provide services to adults

4.3 Guidance provides that these procedures should only be used to address significant concerns at care homes which arise;

- (i) Due to a continued failure to meet required standards

- (ii) Due to serious concerns which may arise, for example, via an individual adult protection referral, or from a series of individual adult protection referrals in a home or group of homes managed by a particular provider. Serious concerns may include concerns about financial solvency as well as quality of care
 - (iii) Or due to an actual or possible home or unit closure.
- 4.4 Use of Escalating Concerns involves establishing multi agency arrangements for sharing in responsibility for developing, improving and monitoring services until improvements are achieved. This requires a joint evaluation of risk and a co-designed action plan which partners will use to jointly assess the Provider's progress. Care Inspectorate Wales (CIW) are participants in this process and will apply any regulatory measures required in parallel to these processes to ensure their own legal duties are met.
- 4.5 During this current financial year 2019/20, 1 Older Persons care home has been managed under Escalating Concerns arrangements (2 Younger Adults Homes have been managed under Escalating Concerns).

5. OTHER QUALITY ASSURANCE PROCESSES WHICH INFORM CONTRACT MONITORING AND CONTRACT MANAGEMENT

Care Management Reviews

- 5.1 Social Work staff from the care homes quality team undertake an annual review of care provided to funded residents to ensure their social care needs are met. Any concerns about care received or provider performance will be addressed directly with the Provider and referred to the contracting team for contract monitoring and contract management purposes.
- 5.2 Swansea Bay Health Board nurse assessors undertake an annual review at each dual registered home to ensure that nursing needs of all Funded Nursing Care residents are met. Concerns about nursing care will be shared with contract leads and addressed in the same way.

Safeguarding Referrals

- 5.3 All safeguarding referrals for private sector homes are shared with the Contracting Team to enable follow up contract monitoring and contract management action where necessary. Referral data is monitored for patterns and trends. Serious risks may instigate use of Escalating Concerns procedures. Thematic data is shared with the care homes sector for learning and improvement purposes.

Corporate Complaints

- 5.4 In the first instance, residents are invited to raise complaints directly with their care home provider. If however, the resident is not satisfied with the Providers response or wishes to complain directly to the council, they may invoke the corporate complaints procedure (and also the CIW complaints procedure).
- 5.5 The number of complaints referred to corporate complaints is low. In 2018-19, one complaint was received which was resolved via care management and contracting intervention.
- 5.6 The number of complaints received represent a small proportion of the total people funded. This may be because people are generally satisfied with services received or efforts by the provider to resolve levels of dissatisfaction, or because people are unwilling, unable or don't know how to raise a complaint. Training has been provided to care home operators to raise awareness of complaints processes and remind Providers of their contractual and regulatory duties to enable complaints about services to be made. Individual Providers' complaints handling arrangements are considered during LA and CIW quality assurance checks and inspections.

CIW Inspections

- 5.7 All care home settings are subject to inspection and regulation by the Care Inspectorate for Wales (CIW). An evaluation of published inspection reports for inspections at private sector homes occurring during 2018-19 highlights the following:
- 29 out of 38 older persons care homes had an inspection.
 - 4 care homes received a notice for being in breach of care homes regulations.
 - 3 care homes didn't receive either a non-compliance notices or a good practice recommendation.
 - Compliance and good practice issues were raised at 4 homes.
 - Good practice issues alone were raised at 23 homes
- 5.8 All good practice recommendations and all areas of non-compliance have been addressed with each provider to ensure that appropriate actions have been taken.
- 5.9 The 4 homes where compliance issues were raised were not or not fully compliant in the following areas:
- No registered manager
 - Unacceptable temperature in medication room
 - Non completion of regulation 60 notifications forms (requirement to notify regulator of a serious incident including death or serious illness of a resident)
 - Staff files did not contain required documents

5.10 All areas of non-compliance and any good practice recommendations made by CIW have been addressed with each provider to ensure that appropriate actions have been taken.

Creation of a Regional Quality Framework for OP Care Homes

5.11 A regional quality framework has been developed by the West Glamorgan collaborative. The framework creates a clear set of expectations which focus on quality of life for residents and encourages continuous improvement of services.

5.12 The overall objectives of the RQF are:

- To monitor and support providers so that they may achieve the best quality of life in care homes in a way that improves outcomes for individuals and follows the principles of person/ relationship centred care.
- Enable providers to utilise their own quality assurance tools e.g. annual reports, satisfaction surveys etc.
- Incentivise continuous improvement and the adoption of recognised best practice by care homes.
- Monitor quality of service in care homes in a robust and consistent manner.
- Make judgements about the quality of care and outcomes for people living in care homes
- Provide a basis for partnership between care home providers and local authority/ health board commissioners to work together to improve quality.
- Help individuals make informed choices between providers and provide information to professionals and agencies about the quality of care and support being provided.

5.13 The RQF requires Providers to undertake a detailed self assessment across 5 areas which examines performance against 200 quality indicators. This self-assessment is used by commissioners to undertake a detailed quality assurance audit to validate the Providers self assessment, and where necessary make recommendations to fully achieve RQF standards.

5.14 To enable the broad range of self assessed areas covered by the RQF to be adequately tested by commissioners, responsibility for auditing against specific aspects is shared amongst different internal and external teams (see below).

OUTCOME	MONITORING LEAD
Outcome A. The resident is known by the people involved in their care and lives a full life in an enriched	CHQT – Social Work staff and Care Management Officers

environment	
Outcome B. The physical and mental health and wellbeing of residents is maintained and promoted	Swansea Bay Long Term Care team (for nursing homes) Community District Nursing Leads (for residential homes)
Outcome C. There is a dynamic leadership style that inspires and motivates a competent staff team	Contracting Lead and SCWDP (training) coordinator
Outcome D. End of life care is dignified and supportive	Swansea Bay Health Board End of Life Pathways Coordinator
Outcome E. The benefits of effective partnership working are recognised and promoted	Contracting Lead

5.15 The RQF implementation process was designed to audit 1 care home per month. A number of pressures have prevented this target from being achieved. 7 audits have been completed in the last 12 months. Use of the RQF indicates that services are delivering a satisfactory level of quality. The RQF process is currently being reviewed to consider opportunities for improvement and to make implementation less onerous and more manageable.

6. FINANCIAL SUSTAINABILITY

6.1 The financial collapse of Southern Cross in 2012/13 highlighted the potential for larger corporate providers to operate higher risk business models that risk service failure and potentially undermine the stability of the market. However the position locally is that the largest proportion of care homes are owned by small businesses that operate exclusively in Swansea. This type of ownership is not characterised by the same private equity backed investment model and presents a lower risk. There are however financial risks associated with care home services.

6.2 In 2012, following the failure of Southern Cross and prompted by the introduction of new commissioning guidance, and the judgements in a number of legal challenges across the UK, the authority gave providers a commitment to establish fee rates which were based on a more informed understanding of provider costs.

6.3 A programme of work was undertaken in concert with care home operators to develop a costs analysis tool. This invites Providers to share detailed information about their operating costs and is used to set fee rates at a level which are sufficient to sustain the sector. This work has resulted in a basic fee rate and created additional enhanced rates for people with nursing needs and for people with dementia nursing needs. These enhanced rates reflected the additional social care costs for people with more complex needs.

- 6.4 Occupancy levels are significant factor in maintaining care home solvency. The care home market in Swansea consistently maintains high levels of occupancy. Yearly occupancy averages are in the region of 92-94%.
- 6.5 Providers accept that undertaking a detailed analysis of costs each year would not be practicable. The authority has given a commitment to repeating the detailed analyses of costs at three yearly intervals. During the interim periods between the detailed costs analysis work, an annual costs review is undertaken to consider the need for uplift. This will examine the impact of general cost pressures such as the impact of national minimum wage, inflation and other relevant factors.
- 6.6 Whilst it is impossible to set fee rates and influence business practices that guarantee the financial stability of the whole market place, the authorities approach to costs analysis and fee setting has been relatively successful. Since 2012 the number of closures caused by financial failure has been few.

7. Younger Adults Care Home Services

- 7.1 Demand for care home placements for younger adults is low and consequently there are only small number of commissioned care homes in Swansea that specialise in services for younger adults (less than 10). The vast majority of placements made at standard care home fee rates occur at care homes for older adults and arrangements for managing quality and financial stability are as described above. For people requiring more complex, higher cost care, the Council is able to source placements and broker prices via the HNS Wales National Collaborative Framework for Adults. This offers access to a national network of pre-quality checked providers who are authorised to provide care home services. Higher costs services tend to be more bespoke and the framework enables access to a wider range of accredited Providers who will compete on price to offer services to local authorities. Currently there are approximately 10 younger adults placed via the NHS framework.
- 7.2 Procuring services via the framework does not alleviate the local authority of its responsibilities for ensuring services are fit for purpose and meeting the assessed needs of individuals. Contracting, Social Work and Safeguarding Teams will continue to have an essential role to play in ensuring that services and residents are safe. However the NHS collaborative framework is administered by the NHS who have a dedicated quality assurance team. Their role is to undertake pre-qualification checks and additional ongoing monitoring to ensure that services are safe, delivering against contractual expectations and offering value for money. In this sense the framework provides the Council with an additional layer of cost and quality auditing.

8. CONCLUSIONS

- 8.1 The report describes how responsibility for ensuring care home services are satisfactory is shared, and concludes that these arrangements are fit for purpose. In reaching these conclusions the report describes the following key features.
- 8.2 Procurement and contractual arrangements derive from the citizens' right to choose their preferred care home accommodation. This principal is enshrined in legislation but subject to services operating with a lawful registration, meeting minimum quality assurance requirements and willing to accept the local authority's fee rate.
- 8.3 Responsibility for ensuring satisfactory quality is shared amongst a number of external agencies and internal teams. CIW have the ultimate responsibility for ensuring that services are operating within the statutory regulatory requirements. The Council and the health Board share contractual responsibilities. Social Work and Safeguarding teams have key roles around ensuring services are safe and meeting needs. The complaints department will participate in process which are designed to address customer dissatisfaction and improve services. Other external agencies such as the fire service and the Health and Safety executive will also play an important part in ensuring that services are fit for purpose.
- 8.4 Instances of underperformance requiring formal contract compliance is low. The number of homes entering Escalating Concerns arrangements is lower still.
- 8.5 In 2012 a process for understanding Providers costs and setting fee rates has been introduced. This provides greater insight into financial stability risks and has enabled fee rates which promote a more stable and resilient market.
- 8.6 Since the introduction of this process the number of closures or service disruptions linked to financial instability has been few.
- 8.7 The regional care homes quality framework which has recently been created is under review. The framework will continue to be refined and improved so that implementation is more effective and less onerous for Commissioners and providers.
- 8.8 A new regional contract is being drafted to align contractual standards for all partners across the West Glamorgan Region. The contract will reflect recent legislative changes arising under the Social Services and Wellbeing Act (Wales) 2014 and ensure compatibility with revised performance standards required of registered care services under the Regulation and Inspection of Social Care Act (Wales) 2014.