

## NORTH LANARKSHIRE COUNCIL

## REPORT

TO: Social Work Committee	Subject:  <b>APPROVED RATES FOR NURSING AND RESIDENTIAL HOME</b>
FROM: Jim Dickie Director of Social Work	
DATE OF COMMITTEE: 22 March 2001	
REPORT AUTHOR: K Somers	
REF: RESNHRATES 2001/2001	

**1 PURPOSE OF REPORT**

- 1.1 To advise the Committee of the outcome of officer negotiations with representatives of nursing and residential home providers and to propose an interim approved rate for private and voluntary nursing and residential care homes.

**2 BACKGROUND**

- 2.1 The Social Work (Planning and Administration) Sub Committee was advised on 9 January 2001 of the content of discussions with local representatives of Scottish Care.
- 2.2 Scottish Care is a recently formed national organisation representing the interests of nursing home and residential home owners. The organisation has local representatives who negotiate on behalf of providers operating in the North Lanarkshire area.
- 2.3 In November 2000, Scottish Care approached the Department seeking an increase in the weekly approved rate to £369. This was based on work carried out nationally by the organisation which Scottish Care considers justified this level of increase.
- 2.4 Toward the end of February 2000, a significant number of local providers wrote to the Director of Social Work giving notice of fee increases for the year 2001/2002. The notified increases were of the order of £55 per week for nursing home places and £43 per week for residential home places.
- 2.5 Several meetings involving the Head of Social Work Resources and the Head of Social Work Development have now taken place with Scottish Care local representatives.
- 2.6 This report provides the Committee with further background on the issues and advises the Committee of the outcome of negotiations to date.

### 3 CONTEXT

#### **DSS Transfer**

- 3.1 Until April 1993, people who qualified for income support were entitled to claim additional income support from the Department of Social Security (DSS) to pay for care in nursing homes and private residential homes. In 1993, the responsibility for public funding transferred to local authorities (known as "DSS transfer" or "care element funding").
- 3.2 People who were living in residential care or nursing homes prior to April 1993 were transitionally protected and have continued to qualify for DSS benefits to meet the costs of care. The DSS uplift has been the same as for other social security benefits.
- 3.3 In transferring public funding responsibility to local authorities, the explicit intentions of the Government were:
- to cash limit the amount of public funding for nursing and residential care
  - to ensure that all new publicly funded placements were on the basis of a needs assessment
  - to slow down or reverse the high rate of increase in residential and nursing placements (which was considered to be in part the result of the availability of public funding without need assessment) and to promote home based community care alternatives.

#### **Care Gap**

- 3.4 One of the more contentious issues surrounding the transfer of public funding to local authorities in 1993 was the "care gap". This was the widely acknowledged gap between the actual costs of residential and nursing care and the rates set by the DSS. Prior to the transfer in 1993, unsuccessful representations to uprate DSS rates in line with actual costs were made to national government by providers and local authorities alike.

#### **Annual Uplifts**

- 3.5 Since 1993, authorities have been responsible for setting an approved rate for nursing and residential homes. Homes receive the amount of the approved rate for publicly funded residents. Where a homes charges fees higher than the approved rate, the difference can only be met by a third party contribution.
- 3.6 Between 1993 and 1996, the former Regional Councils had different policies with regard to the setting of approved rates. Strathclyde held its approved rate to the DSS level. Some other Regional Councils took the decision to narrow the care gap and to set their approved rates above DSS levels. At the present time, the majority of Councils in the West of Scotland continue to set approved rates at or around DSS levels.
- 3.7 The DSS rate for a nursing home placement for 2000/2001 is £330 per week. The Government has uprated DSS residential care allowances with effect from April 2001 and the standard DSS rate for a nursing home place will increase from April from £330.00 to £336.00 per week.

#### **North Lanarkshire Approved Rates**

- 3.8 Up until April 2000 the Council Approved Rate for nursing homes had been set at the same level as DSS rates. Council Approved Rates for 2000\2001 were set at a rate higher than the DSS rates and reflected the marginally higher percentage increase in the Retail Price Index. This resulted in payment of £331.50 per week for a standard nursing home place, £1.50 per week higher than DSS.

- 3.3 Appendix 1 provides details of rates approved by Councils for the 2000/2001 financial year. Three Councils set a minimum rate above North Lanarkshire's, although a number paid a range of prices where their maximum rate exceeded the North Lanarkshire rate.

#### **4 INCREASE REQUESTED BY SCOTTISH CARE**

- 4.1 32 providers have now written to the Director of Social Work intimating fee increases of £55 (nursing homes) and £43 (residential homes). This would require a funding increase from the Council of 24%.
- 4.2 It is understood than similar correspondence may have been received by other authorities.
- 4.3 The providers' case is that in real terms, fee levels have dropped below the level where they can provide appropriate care for publicly funded residents. In particular, they have emphasised that the increases of the last few years in no way reflect the increase in costs brought about by the statutory changes imposed on owners. Particular concerns are:
- [a] the imposition of the minimum wage
  - [b] working time regulations
  - [c] phasing in water charges which were previously exempt
  - [d] VAT on fuel and insurance
  - [e] increases in registration charges above inflation levels
  - [f] the requirement to improve and upgrade facilities in line with recommendations of the inspection officers and the protective services department.
- 4.4 The providers have also indicated that the level of fee increases which they intend to implement are in line with figures agreed by a fee-setting group of South Lanarkshire Council. These figures are in line with national studies which Scottish Care has carried out and are consistent with analysis carried out nationally by the firm Laing and Buisson which publishes research and information on the nursing home and residential care markets.
- 4.5 Scottish Care has made strenuous representations to the Department that the market locally is in a state of crisis. Many of its members were already facing bankruptcy or considering closure. This is considered to be the result of a long standing failure by Councils to uprate fees in line with increases in costs, despite representations made on this issue over a number of years.
- 4.6 Scottish Care has also made representations on the rate set for the Council's own residential homes, which at £330 for 2000/2001 was marginally below the approved nursing home rates. Their argument is that if the Council recognises this as the true cost level of providing residential care, then justice requires that the Council recognise the validity of their claim for an increase in nursing home fees of the order of £55 per week.
- 4.7 Scottish Care representatives have indicated their concern to ensure that the Committee is fully appraised of the detail of their case and their willingness to address the Committee on this issue.

#### **5 NEGOTIATIONS TO DATE**

- 5.1 Scottish Care and individual home owners have provided the Department with a breakdown of the figures which emerged from work done by a fee setting group in South Lanarkshire. It is understood by the Department that this work was carried out by a group chaired by a Social Work Head of Service and involved South Lanarkshire's Economic Development Unit. A copy of the information made available to the Department is attached at Appendix 2. It is understood that the outcome of this work has not to date been considered formally by South Lanarkshire Council.
- 5.2 Officers of North Lanarkshire had no involvement or knowledge of the work of this group prior to receiving information from home owners about it.

- 5.3 The Social Work Department has indicated in recent discussions with the providers that:
- [a] the historic position is the result of the care gap inherited by local authorities in 1993 and the continuation of government policy to set low rates of increase in DSS residential and nursing home rates (and consequently the amount available to local authorities to fund residents in nursing and residential care homes)
  - [b] since the inception of North Lanarkshire, annual grant settlements prior to the coming financial year made no allowance for wage inflation with resulting pressure on the Council's social work budget
  - [c] in addition, the additional funding which has been made available to the Council for community care has been explicitly targeted by the Scottish Executive at home based services, with a requirement on the Council to report on achievement of Executive objectives
- 5.4 After careful consideration of the representations made by Scottish Care, the Heads of Social Work Resources and Development considered that an increase in real terms was required if providers were to be assisted to meet new cost pressures, particularly in relation to the imposition of the minimum wage and working time regulations.
- 5.5 Whilst accepting the case for an increase in real terms, officers consider that the average figures produced by the providers in support of their claim do not provide the basis for a final settlement. In particular, no account has been taken of the differential position of providers in relation to variations in costs, accommodation and other facilities provided, staffing levels (which in some cases are above the minimum set by registration, in other cases are not), activities and other inputs for residents, and the quality of outcomes for residents.
- 5.6 In recognition of increasing cost pressures and strong representations from owners, Officers proposed to Scottish Care that the Committee should be requested to consider :
- [a] an interim increase in the Approved Rate of **5.6%**, an increase of **£18.50** for a nursing home place and **£14.00** per week for a residential care home place;
  - [b] that immediate work should be undertaken jointly by the Social Work Department and Scottish Care with a view to proposing a final rate for the coming year. The Social Work would be concerned to ensure that any additional funding which might be proposed would promote consistent delivery of appropriate standards of accommodation and care
- 5.7 Scottish Care representatives indicated that whilst the action outlined in the preceding paragraph moved in the right direction, it fell far short of the level requested and they were unable to accept it.
- 5.8 After further discussions, and in consultation with the Convener of Social Work, officers indicated a willingness to recommend **backdating of the proposed Interim rate to November**, when the claim was submitted. This would have had the effect of bringing cash relief to providers who might be in immediate financial difficulty, allowing time for a final rate to be negotiated and approved in full consideration of all the relevant facts.
- 5.9 After consultation with members, Scottish Care again indicated that it was unable to accept the offer of an interim rate at the level suggested.

## 6 CURRENT POSITION

- 6.1 It is with regret that officers have to report to the Committee the failure to make progress in negotiations with Scottish Care and an inability to find an acceptable interim position.

- 6.2 This creates a position in North Lanarkshire where 32 providers intend to raise their rates from the beginning of April to a level where all new residents would require to find a third party contribution in order to enter those homes.
- 6.3 The majority of owners have said that the intention is to apply the new rate to existing as well as new residents. The Committee should be aware that the contracts with the Council limits fee increases for existing clients to the DSS increase or Retail Price Index, or Councils Approved Rate, whichever is higher. This issue will therefore require to be monitored by the Department in consultation with the Head of Legal Services.

## **7 PROPOSED ACTION**

- 7.1 In the face of the current failure to agree an interim position, the Council's immediate concern must be for the welfare of people currently placed in nursing and residential care homes, and the needs of those who may be assessed as requiring care.
- 7.2 Officers consider that the following action should now be taken:
- [a] the Social Work Department should pursue ongoing negotiations with Scottish Care with a view to bringing forward a proposals for a final approved rate for the coming financial year;
  - [b] the Social Work Department should enter into urgent discussions with Lanarkshire Health Board and the local NHS Trusts to ensure that all necessary steps are taken to safeguard the welfare of existing residents as well as those currently being assessed;
  - [c] contingency arrangements should be drawn up to ensure that appropriate care is provided in the event of owners requiring third party contributions and refusing admission to persons who are unable to secure this.
- 7.3 In relation to the approved rate, it is proposed that pending the outcome of further negotiations with Scottish Care, the Council should set its approved rates from 9 April 2001 by uprating the current year's approved rate by RPI of 2.5%.
- 7.4 It is further proposed that in the event of a home owner being in immediate financial difficulty because of inability to meet cost pressures, the Council authorises the Head of Social Work Resources to make exceptional interim payments up to the maximum in line with the interim offer set out in section 5 above, subject to agreement by the owner to maintain fee increases at no more than 5.6% (pending the setting of a final rate).
- 7.5 It is proposed that the Council write to all nursing home and residential care providers outlining
- [a] the interim offer proposed by the Council's officers and rejected by Scottish Care
  - [b] the Council's concern to bring the matter to a fair and acceptable conclusion at the earliest possible opportunity, including if possible a phased award for a three year budget period
  - [c] the availability of exceptional interim payments at a level of 5.6 % in cases of financial difficulty (as outlined in 7.4 above).

## **8 FINANCIAL IMPLICATIONS**

- 8.1 The Council requires to take a considered view of the balance to be struck between funding rates increases above inflation on the one hand and the requirement to make new placements during the coming financial year. Any significant increase above the interim levels already proposed would require to be phased in line with budget availability and other commitments arising from assessed client need.
- 8.2 Current purchase of nursing home and residential placements is at a level where a further £10 increase in fees costs the Council £565,000. This is the equivalent of the full year cost of an additional 50 places.
- 8.3 Additionally, the Committee will be aware that over time, the net average budgeted cost of a placement has been rising. As a result of which **£395,000 additional funding** will be required in the coming financial year simply to meet the additional costs of persons placed in homes in previous years.
- 8.4 The cost of meeting the Scottish Care demand in full would be of the order of **£2,548,000**. This represents a 24% increase over the current level of funding (excluding the additional funding requirement detailed in paragraph 8.2) This equates to a loss of purchasing power for 250 additional nursing home placements.
- 8.5 The cost to Council of implementing this interim rate rejected by Scottish Care would be **£581,828** in a full year (£11 per week for 925 nursing home residents and £6.50 per week for 156 residential home residents). This would be equivalent to a 5.6% increase for next year and could be met from community care budgets available to the Department. (Appendix 4).
- 8.6 The cost of backdating the increase to 1 November 2000 would be in the order of **£340,000**.
- 8.7 The cost of increasing the approved rate in line with the RPI inflationary increase for 2001/2002 would be **£39,000**. The detailed rates are shown in Appendix 4. Again, the costs could be met from within community care budgets.
- 8.8 The costs of any exceptional payments to alleviate financial difficulty as detailed in paragraph 7.4 could be met within community care budgets.

## **9 STANDARD RESPITE CHARGES**

- 9.1 For 2001/2002, it is proposed that the standard weekly charge to Council funded clients (i.e. standard weekly client contribution) for respite care in private and voluntary nursing homes and residential care homes should be £119.00.

## **RECOMMENDATIONS /...**

## 10 RECOMMENDATIONS

### 6.1 Committee is asked to:

- i) note the terms of the report;
- ii) authorise officers to continue negotiations with Scottish Care with the intention of reaching a settlement as speedily as possible
- iii) approve the action outlined in paragraph 7.2 of the report to safeguard the welfare of existing residents and people currently being assessed
- (iv) approve interim approved rates for residential care homes and nursing homes as detailed in Appendix 3, with effect from 9 April
- iii) approve the standard respite charge as detailed in paragraph 9.1
- (vi) authorise the Head of Social Work Resources and the Director of Finance to make exceptional payments of a 5.6% increase in cases of financial hardship, subject to the provision in paragraph 7.4.
- iii) note that a further report will be brought forward following further discussions with providers.



**Jim Dickie**  
**Director of Social Work**  
**20 March 2001**

*For further information on this report please contact R Paul, Head of Social Work Resources (TEL: 01698 332023)*

## SCOTTISH APPROVED RATES 2000/2001

APP

Scotland		2000/2001			
Authority		Eld £ p/w		Dep Eld £ p/w	
		Min	Max	Min	Max
Aberdeen Above DSS	Nursing	335			
	Residential	226			
Aberdeenshire DSS	Nursing		330		
	Residential		221		
Angus Above DSS	Nursing	330	360		
	Residential	257	287	257	287
Argyll & Bute DSS	Nursing	N/A			
	Residential				
Clackmannanshire Above DSS	Nursing	321	337		
	Residential	257	275		
Dumfries and Galloway Above DSS	Nursing		337		337
	Residential	260		260	
Dundee Above DSS	Nursing	336	346		
	Residential	225	235		
East Ayrshire DSS	Nursing	330			
	Residential	256			
East Dunbartonshire	Nursing	331			
	Residential	256		256	
East Lothian DSS	Nursing	330			
	Residential	256			
East Renfrewshire DSS	Nursing		330		
	Residential		256		
Edinburgh Above DSS	Nursing	247	327		
	Residential	221	277		
Falkirk Below DSS	Nursing	329		329	
	Residential	255		255	
Fife Above DSS	Nursing			323	323
	Residential			250	250

## SCOTTISH APPROVED RATES 2000/2001

APP

Scotland Authority		2000/2001			
		Eld £ p/w		Dep Eld £ p/w	
		Min	Max	Min	Max
Highland Above DSS	Nursing	330	342	350	360
	Residential	221	233	256	267
Inverclyde DSS	Nursing	330			
	Residential	221		256	
Midlothian DSS	Nursing		330		330
	Residential		256		256
Moray DSS	Nursing		330		330
	Residential		256		256
North Ayrshire DSS	Nursing	330		330	
	Residential	256		256	
North Lanarkshire Above DSS	Nursing	331.5			
	Residential			256	
Orkney Above DSS	Nursing				
	Residential		260		
Perth and Kinross Above DSS	Nursing	330	360		
	Residential	221	251	256	267
Renfrewshire DSS	Nursing	N/A			
	Residential				
Scottish Borders Above DSS	Nursing	330	355	330	330
	Residential	221	262	221	221
Shetland Above DSS	Nursing	330	371.5	330	330
	Residential	221	262.5	256	256
South Ayrshire DSS	Nursing	330		330	
	Residential	256		256	
South Lanarkshire DSS	Nursing	330		330	
	Residential	256		256	
Stirling Above DSS	Nursing	316	333		
	Residential		269		
West Dunbartonshire DSS	Nursing	330		330	
	Residential	256		256	

SCOTTISH APPROVED RATES 2000/2001

APPENDIX 1

Scotland		2000/2001			
Authority		Eld £ p/w		Dep Eld £ p/w	
		Min	Max	Min	Max
Western Isles DSS	Nursing	351	376		
	Residential	300	326		
West Lothian Below DSS	Nursing	312			
	Residential	256			

**Note DSS basic rates: Nursing Home £330 per week, Residential Home £221 per week.**  
 Figures extracted from Laing and Buisson publication.

structure of a 50 bed nursing home in South Lanarkshire and fees  
 necessary to offer investors and operators a reasonable return

Assumptions	year 2000/2001	
Unqualified staff wage rates	£3.70 per	£4.00 per hour
Number of registered beds	50	50
Occupancy rate (%)	95%	95%
Care hours per resident per day	3.70	3.70
Care staff skill mix (%)	34.5	34.5
Capital cost per registered bed	£24,585	£24,585
Lease rental cost, % per annum	10%	10%
<b>Costs per available bed per day</b>		
Care staff	£ 22.22	£ 23.00
Non-care staff	7.65	8.02
Food	1.93	1.93
Energy	0.96	0.96
Property	1.28	1.28
Insurance	0.21	0.21
Telephone	0.16	0.16
Incontinence supplies	0.48	0.48
Non-food consumables	0.58	0.58
Printing and stationery	0.11	0.11
Advertising and promotion	0.43	0.43
Other miscellaneous costs	1.39	1.39
Lease rental	£6.74	£6.74
Refurbishment of fixtures, fittings	0.88	0.88
Head office costs	2.51	2.51
Operator's return	2.94	2.94
total costs per available bed per d	£ 50.46	£ 51.61
<b>Implied fee per resident per week</b>		
	£ 371.83	£ 380.30

	year 2000/2001
Unqualified staff wage rates	£3.70/hour
Number of registered beds	50
Occupancy rate (%)	95%
Care hours per resident per day	3.70
Care staff skill mix (%)	34.5
Capital cost per registered bed	£24,585
Lease rental cost, % per annum	10%
<b>Costs per available bed per day</b>	
Care staff	£ 22.61
Non-care staff	7.65
Food	1.93
Energy	0.96
Property	1.28
Insurance	0.21
Telephone	0.16
Incontinence supplies	0.48
Non-food consumables	0.58
Printing and stationery	0.11
Advertising and promotion	0.43
Other miscellaneous costs	1.40
Lease rental	6.74
Refurbishment of fixtures, fittings	0.88
Head office costs	2.51
Operator's return	3.00
total costs per available bed per d	£ 51.21
<b>Implied fee per resident per week</b>	
	£ 377.31

### APPENDIX 3

2.5%)

	<u>Old Rate</u>	<u>New Rate</u> (increased by RPI)
	<u>2000/2001</u>	<u>2001/2002</u>

#### Residential Care Homes

Very Dependent Elderly	256	262.40
Mental Disorder (not handicap)	234	239.85
Drug/alcohol dependence	234	239.85
Learning Disability	266	272.65
Physical Disability Under Pension Age	303	310.58
Physical Disability Over Pension Age	221	226.53
Others	221	226.53
Maximum Greater London Increase	N/A	

#### Nursing Homes

Mental Disorder (not handicap)	332.50	341.00
Drug/alcohol dependence	332.50	341.00
Learning Disability	337	345.50
Terminal Illness	331.50	340.00
Physical Disability Under Pension Age	373	382.00
Physical Disability Over Pension Age	331.50	340.00
Others (including elderly)	331.50	340.00
Maximum Greater London Increase	N/A	

APPROVED RATES - COMPARATIVE COSTS TO COUNCIL

<u>Nursing Home</u>	2000/2001	2001/2002			
	NLC Current Rate	New DSS Rate	RP1 Increase (2.5%)	Scottish Care Fee Requested	NLC Int Offer
Gross Rate	331.50	336	340	386	350
Client Contribution	131.90	139.40	139.40	139.40	139.40
Net Cost to Council per person per week	199.60	196.60	200.60	246.60	210.60
Difference	Benchmark	decrease £3	increase £1	increase £47	increase £
Annual cost (x 925)	9,600,760	9,456,460	9,648,860	11,861,460	10,129,860
Difference	Benchmark	decrease £144,300	increase £48,100	increase £2,260,700	increase £
<u>Residential Home</u>					
Gross Rate	256	261	262.40	299	270
Client Contribution	131.90	139.40	139.40	139.40	139.40
Net cost to Council per person per week	124.10	121.60	123.00	159.60	130.60
Difference	Benchmark	decrease £2.50	decrease £1.10	increase £35.50	increase £
Annual cost (x 156)	1,006,699	986,419	997,776	1,294,675	1,059,427
Difference	Benchmark	decrease £20,280	decrease £8923	increase £287,976	increase £
Total cost NH/RCH	10,607,459	10,442,879	10,646,636	13,156,135	11,189,287
Difference	Benchmark	decrease 164,580	increase £39,177	increase £2,548,676	increase £