



ADULTS AND COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE
7 JUNE 2021

UNISON'S ETHICAL CARE (HOME CARE) AND
RESIDENTIAL CARE CHARTERS

REPORT OF THE DIRECTOR OF ADULTS AND COMMUNITIES

Purpose of report

1. The purpose of the report is to provide information to the Committee on the implications of signing up to Unison's Ethical Care (Home Care) Charter and Residential Care Charter for the commissioning of care services.

Policy Framework and Previous Decisions

2. The Care Act 2014 requires the Council to promote and monitor quality in adult social care services being provided by individual organisations and also the marketplace as a whole, including action to encourage local providers to develop a skilled and valued workforce.
3. The Council's Strategic Plan, and the Adults and Communities Department Strategy 2020-24 which sets out the aim to ensure that the services delivered meet the eligible needs of the citizens of Leicestershire to maximise their opportunities and wellbeing and promote wellbeing, underpin the Council's responsibilities relating to improving the capacity and capability of the workforce.
4. At its meeting on 2 December 2020, in response to a Motion relating to the terms and conditions of care workers, the County Council noted that officers were looking at the implications of signing up to the Unison's Ethical Care (Home Care) and Residential Care Charters and that this work would include:
 - engagement with providers and other stakeholders;
 - identifying if and how elements of the Charters can be included in any future publicly available service delivery processes and contract conditions; and
 - a report to Members setting out the viability of signing up to the Charters.
5. The full County Council noted that should the cost involved in signing up to the Charters exceed the Council's ability to fund the commitment, the Council pledges to campaign actively for the Government to provide the increased funding needed, to create a level playing field and the highest standards possible for adult social care.
6. On 8 March 2021 a report was presented to the Committee on Care Home Sustainability which included details of the initial work undertaken by officers to consider the implications of the Council signing up to the Ethical Care (Home Care) and Residential Care Charters.

Background

7. The objective behind the Unison Care Charters is to establish a minimum baseline for the safety, quality and dignity of care provided to service users by developing more equitable terms and conditions offered to care workers in both home care and residential settings. There are two corresponding Charters:
 - The Ethical Care Charter for home care, referred to throughout this report as the Ethical Care (Home Care) Charter;
 - The Residential Care Charter.
8. The adoption of the principles set out in the Charters would demonstrate a commitment to sustaining fair pay and conditions for the care workforce which research has evidenced can have a positive correlation with the quality of care provided.
9. The Charters contain guidance for councils and other providers on adoption and these give a useful starting point to both recognise what is already in place, and to create the conditions to identify areas for development.
10. The Charters could provide the Council with an opportunity to promote better recruitment and retention within the Leicestershire adult social care workforce. Data from Skills for Care shows that for home care providers within Leicestershire's Care Quality Commission (CQC) registered non-residential care services, there is a 53.4% turnover rate, compared to 31% nationally, and 40% of leavers exit the sector altogether. Non-residential care services also have a very high proportion of zero hour contracts at 60%. This provides evidence that capacity challenges which can occur within the home care sector might be affected by terms and conditions of the workforce.
11. The same source shows that for CQC registered care homes, the turnover is lower at 27.8%, with 28% of leavers exiting the sector and only 8% on zero hours contracts, compared to the national average of 9%.
12. There are significant challenges in CQC registered nursing homes with a high turnover of staff (45.3%), 66% of which leave the sector altogether; 2% are on zero hours contracts. This suggests that capacity issues here relate more to conditions, leadership and development of the workforce.
13. It should be noted that the data above pre-dates Covid-19. Longer-term impacts of the pandemic on the workforce are yet to be determined.
14. Affluence and rurality affect recruitment and turnover, as well as development opportunities and the terms and conditions of employment of the workforce compared to other sectors.
15. Consideration of the impact that the Charters (if adopted) would have on the Council's own workforce beyond the care arena would need to be undertaken to appraise the full implications to the Council. This is not necessarily a straightforward exercise, as the structure of benefits packages vary significantly between those already provided by the Council and those proposed in the Charters, for example, the Local Government Pension Scheme, favourable leave, and sickness arrangements.

16. It is also worth noting that the Care Charters and Real Living Wage are set by organisations that the County Council has no influence over, and they do not have to take into account the wider implications on the County Council such as affordability. This would be a key consideration in any future adoption.

The Ethical Care (Home Care) Charter

17. The Ethical Care (Home Care) Charter is phased, to allow for staged implementation. The Council currently meets the stage one requirements covering areas such as commissioning visits based on client need and allocating appropriate times per visits. The later phases require engagement with providers and an understanding of impact on the Council and its finances.
18. As the Committee will be aware, the Council (with East Leicestershire and Rutland Clinical Commissioning Group and West Leicestershire Clinical Commissioning Group) is currently out to tender for a Home Care for Leicestershire (HCL) service, to begin on 1 November 2021.
19. The tender specification which forms part of the current procurement of the HCL service embeds many of the features of the Ethical Care (Home Care) Charter. Several elements of the Charter represent good employment practice and their adoption would contribute towards the development of the home care market in Leicestershire. However, it should be acknowledged that some requirements would be a significant operational challenge to some providers, and a mandated Charter may cause them difficulties. These unknown impacts on providers emphasise the importance of good engagement in assessing whether or not to adopt the Charter.
20. The Council is committed to the delivery of high-quality adult social care services and health care services within home care for eligible residents of Leicestershire. Bidders for HCL are required to demonstrate how they would deliver services which focus on people's health, safety, enablement, progression, and wellbeing; the services people receive should maximise their independence and provide value for money.
21. Leicestershire's approach to commissioning home care services is shifting focus from time and task activities, to person-centred care planning and flexible service delivery. Building and maintaining positive relationships with home care providers, who are such a key part of the integrated health and care system, is an essential part of this approach.
22. The HCL specification identifies that the market for home care services remains challenging in terms of recruiting and retaining the workforce, ongoing quality assurance and maintaining financial sustainability for the medium term. The County Council remains committed to working collaboratively with providers to develop strategies to address these and future challenges, such as the adoption of the principles of the Ethical Care (Home Care) Charter, with the aim of creating and sustaining fair pay and conditions for the care workforce. Research has evidenced that this can have a positive correlation with the quality of care provided.
23. In accordance with the Council's social value policy, home care providers must work with the Authority to enhance the social value associated with the service in terms of sustainable employment and investment in the workforce. Providers must consider the employment needs within their local community when recruiting and selecting

staff and as such must consider how their recruitment processes support the local economy.

24. To make progress toward improving the market, providers are required to commit to working with the Council to improve employment practices over the course of the HCL framework period as part of a staged implementation. This will allow the implications of changes on providers to be understood, particularly for those businesses that deliver a significant amount of care outside of the framework.
25. The indicative approach to exploring the employment practices recommended through the Ethical Care (Home Care) Charter principles are given below and will be confirmed during engagement with HCL providers:

Stage 1 (Framework Agreement and/or statutory requirements)

26. The Stage 1 requirements include:
 - a) People in receipt of care will be allocated the same homecare worker(s) wherever possible.
 - b) Providers to ensure that appropriate worker time is allocated to meet the needs of people using the service and have sufficient time to talk to clients and provide appropriate care.
 - c) Providers have a clear and accountable procedure for following up staff concerns about people in receipt of care services.
 - d) All home care professionals will be regularly trained to the necessary standard to provide a good service.
 - e) Home care professionals are paid for travel time and travel costs.
 - f) Eligible workers are paid statutory sick pay.

Stage 2 (years 2 and 3 of the Framework Agreement)

27. The Stage 2 requirements include:
 - a) Home care professionals will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation.
 - b) The Charter states that: Zero hours contracts will not be used in place of permanent contracts.
 - c) Working with providers to understand the situations in which zero-hour contracts are being used, their impact on recruitment and retention. Considering jointly where they can be replaced by alternative employment terms, such as permanent or minimum hours' contracts, before setting a target of percentage of workers on zero hours' contracts, that is sustainable for the local market.
 - d) The Charter recommends that: All home care professionals will be covered by an occupational sick pay scheme to ensure that staff do not feel pressurised to work when they are ill in order to protect the welfare of their vulnerable clients.
 - e) Working with providers to understand the financial, contractual, and operational implications, for providers and the Council, of implementing this standard by year three of the Framework Agreement.
28. Key Performance Indicators for Stage 1 of the Charter have been included in the Framework Agreement as follows:

- People in receipt of care will be allocated the same homecare worker(s) wherever possible.
 - Providers will ensure that appropriate worker time is allocated to meet the needs of people using the service and have sufficient time to talk to clients and provide appropriate care.
 - Providers have a clear and accountable procedure for following up staff concerns about people in receipt of care services.
 - All home care workers will be regularly trained to the necessary standard to provide a good service.
 - Workers are paid for travel time and travel costs.
 - Eligible workers are paid statutory sick pay.
29. The monitoring method will be determined on discussion with providers and specialist internal teams such as the Council's quality, contracts and audit functions.
30. It should be noted that this Charter may have wider applicability to supported living and extra care, and this will be considered as part of the Council's research into the appropriateness of adoption.

Residential Care Charter

31. Like the Ethical Care (Home Care) Charter, the focus of the Residential Care Charter is to create the environment for higher standards of care across all residential settings, by supporting fair and safe working pay and conditions for workers in the sector.
32. The Residential Care Charter is set out over the following themes: Protecting and Supporting Residents, Training and Support for Employees, Decent Pay for Quality Work, and Time to Work.
33. As such, the Charter contains many of the same commitments around the Real Living Wage, zero hours contracts, appropriate training in works time and occupational sick pay as that of the Ethical Care (Home Care) Charter.
34. Residential care for adults is the Council's biggest budget and as such a thorough assessment will need to be made before adoption could be considered.
35. The requirements of the Residential Care Charter are outlined concisely on the Unison website at <http://www.savecarenow.org.uk/read-the-residential-care-charter>.

Proposals

36. As noted above, the current procurement of home care seeks a commitment from providers to work with the Council to improve employment practices in a staged approach. This includes several of the requirements in the Ethical Care (Home Care) Charter.
37. Further work and engagement with the residential care market will need to take place in order to understand the changes required to improve employment practices, and the associated benefits, in that market.

38. Work will also be undertaken to determine the approach to be taken for other care provision, and other services delivered by the Council.
39. There is the potential to create a differential approach to different sectors of the care market. However, this can be viewed as being in line with the Council's strategy and vision for adult social care which is to promote people's independence by supporting people in their own homes wherever possible. The single biggest limiting factor in providing people with support at home is the capacity and capability of the workforce. If the improvement of employment standards results in a shift of workforce toward home care, then the Council will be shaping the market to achieve its strategic ambition.

Consultation

40. Further discussions will take place with a number of councils who have adopted the Charters to understand the implications and the most effective ways of engaging with markets on its adoption.

Resource Implications

Procurement implications

41. The current HCL procurement seeks a commitment from providers to work with the Council to improve employment practices in a staged approach, including requirements in the Ethical Care (Home Care) Charter.

Finance

42. A move towards achieving the ambitions of the Ethical Care (Home Care) Charter is expected to have a lower cost than the Residential Care Charter. The new pricing for HCL has been set at a sufficient level to allow for a number of the elements of the Charter to be incorporated. However, until it is understood how providers would adapt their business to implement the change in employment practices the overall impact cannot be quantified.
43. However, the adoption of the Real Living Wage alone might have an indicative impact on the residential care budget of an increase of c.5% excluding any inflationary increases. This would mean a £5 million increase to the residential care budget of £100 million from the first year of adoption.
44. The Medium Term Financial Strategy (MTFS) for 2021-24 does not include funding for adoption of the Residential Care Charter. With a significant shortfall in revenue budget predicted, additional costs will result in the need for additional savings in other services unless government reform is forthcoming. Further work would be required to fully understand the full financial impact from the provider point of view, and again the Council would seek a commitment from the residential provider market to work with the Authority to explore how a staged approach might be implemented.
45. It is proposed to consider these issues as part of the planning for the Residential Fee Review which will begin in summer 2021.

46. Implication for the wider market (self-funders, Direct Payment recipients, NHS etc) requires further research.
47. The Director of Corporate Resources and the Director of Law and Governance have been consulted on the contents of this report.

Timetable for Decisions

48. The HCL procurement requires bidders to work with the Council in the development of employment practices.
49. Members will be kept informed of developments as appropriate.

Conclusions

50. The Unison Care Charters present the Council with helpful considerations to work with adult social care providers to develop terms and conditions for the workforce, and in turn, the quality of care and the sustainability of the market.

Background papers

- Unison's Ethical Care (Home Care) Charter - <http://www.savecarenow.org.uk/ethical-care-charter#>
- [Unison's Residential Care Charter - http://www.savecarenow.org.uk/read-the-residential-care-charter](http://www.savecarenow.org.uk/read-the-residential-care-charter)
- [Leicestershire County Council Strategic Plan 2018-22](#)
- [Delivering Wellbeing and opportunity in Leicestershire – Adults and Communities Department Ambitions and Strategy for 2020-24](#)
- Care Homes Motion to County Council on 2 December 2020 – <http://politics.leics.gov.uk/ieListDocuments.aspx?CId=134&MIId=6042&Ver=4>
- Report to Adults and Communities Overview and Scrutiny Committee: 8 March 2021 – Care Home Sustainability – <http://politics.leics.gov.uk/ieListDocuments.aspx?CId=1040&MIId=6461&Ver=4>

Circulation under the Local Issues Alert Procedure

51. A copy of this report has been circulated to all members.

Equality and Human Rights Implications

52. The adoption of the Care Charters will potentially have positive impacts on those with protected characteristics within the workforce, and for people supported. An Equality and Human Rights Impact Assessment will be carried out to inform any future report on proposed adoption of the Charters.
53. No negative impacts have been identified.

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