



## INTEGRATION JOINT BOARD

<b>Date of Meeting</b>	12.02.2019
<b>Report Title</b>	Ethical Care Charter
<b>Report Number</b>	HSCP.18.134
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<b>Consultation Checklist Completed</b>	Yes
<b>Directions Required</b>	No
<b>Appendices</b>	a) UNISONS Ethical Care Charter

### 1. Purpose of the Report

- 1.1. The purpose of this report is to update on the implementation of Unison's Ethical Care Charter.
- 1.2. The Charter was presented to the Integrated Joint Board and endorsed in July 2016. The recommendation to sign up to the principles of Charter was agreed at full council on 6 October 2016.

### 2. Recommendations

- 2.1. It is recommended that the Audit & Performance Systems Committee
  - a) Note the implementation of the Scottish Living Wage.
  - b) Note the progress across the stages of the Charter
  - c) Note that the Charter will be included in the workstream for Care at Home commissioning.



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### 3. Summary of Key Information

- 3.1. Unison conducted a survey of homecare workers in 2012 with around 400 responses. The findings led them to describe homecare staff as a committed but poorly paid and treated workforce. The findings highlighted that poor terms and conditions could contribute towards lower standards of care for people in receipt of homecare services.
- 3.2. In light of the findings, Unison produced their Ethical Care Charter and called for councils to commit to becoming Ethical Care Charter Councils by commissioning homecare services which adhere to the Charter. The Charter has 3 stages (see appendix for details) and although both the IJB and the Council agreed to the principles of the Charter, the impact of implementing all of the stages was to be considered.
- 3.3. A short life working group was established to consider all three stages of the Charter and to scope which principles were already adhered to and which would require to be considered further. It was also recognised that some would have cost implications for the Partnership.
- 3.4. The Partnership commissions 80% of its care at home services externally, with the remaining 20% delivered through Bon Accord Care. A revision of the service specification for care at home was undertaken and new contracts were put in place from January 2018. There was a Care at Home commissioning workstream that was working to influence future commissioning arrangements beyond 2020. This work will now be overseen by the lead for commissioning. The principles of the Charter are firmly embedded in our commissioning intentions.
- 3.5. Part of the work undertaken to date has been to consult with providers to establish which principles are currently not being met. The first stage was to send questionnaires to all providers asking for information on key aspects of their terms and conditions. Only five were returned out of a possible 17 care at home providers and these were largely from providers that already adhered to the key principles. The next stage was to attend the Provider Forum to present and discuss the Charter. As predicted there were some difficult discussions around key aspects and the financial implications this would have for providers. The message clearly from providers was that to implement the charter fully would have significant cost implications for the Partnership.



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### 3.6. Key elements of the Charter which remain to be inconsistently applied across our provider framework are:

- Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones (*Initial scoping has determined that a large majority are already paid travel time, and mileage between visits but most wouldn't pay bus travel and parking fees. Ensuring that all are also paid travel time will potentially have financial implications for future*)
- Zero-hour contracts will not be used in place of permanent contracts (*Scoping has determined that some providers continue to use zero hours contracts. The position of providers is that they are not in a position to offer staff permanent contracts as cannot guarantee the hours and that some staff prefer it this way. We would be unable to make this a condition of the contract that Providers should not use zero hours contracts as this would be illegal. Even if it were a condition some providers may not agree or comply.*)
- All homecare workers will be regularly trained to the necessary standard to provide a good service at no cost to themselves and in work time (*This is varied across providers. Some start the training as part of a paid induction, some are not paid but receive the payment after 3 months employment and some not at all. Imposing this may have potential financial implications to the Partnership*)
- All home care workers will be covered by an occupational sick pay scheme to ensure staff do not feel pressurised to work when they are ill in order to protect the welfare of vulnerable clients (*It would appear that the majority of Providers do not provide occupational sick pay to staff. Few Providers have this in place after a standard term of employment. Providers at the forum were adamant that this was something they would not want to introduce as felt this would encourage sick leave. It is viewed that making this a condition of contract would have significant financial implications for the Partnership*)

### 3.7. Scottish Living Wage (SLW)

The Scottish Government made a commitment in February 2016 that front line workers employed in adult social care services should be paid the Scottish Living Wage. The SLW was originally set at £8.25 per hour, rising to £8.45 and subsequently £8.75. It rises again to £9.00 per hour



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in 2019/20. The Scottish Government's commitment was supported by additional funding and has led to sums of public money being transferred to external providers through re-negotiation of contract prices, fees (including fees agreed under the National Care Home Contract) and hourly rates paid for service delivery.

Aberdeen City allocated a 6.4% increase in rates in October 2016 followed by a further 2.8% in April 2017 to allow commissioned providers to pay their staff the Scottish Living Wage. For the 2018/19 allocation, the Partnership agreed a process of negotiation with Providers on what they required rather than a straight uplift as it was viewed that they are now in a stronger position to implement the uplifts with minimal additional funding. It is proposed to repeat this approach for the 2019/20 uplift.

We cannot mandate the rate that employers pay their employees within contracts however there is reference to Fairer Working Practices (which includes payment of the SLW) under community benefits and it is part of the assessment for contract award. Following the allocation of additional funding to providers to pay the SLW, they are asked to confirm on a Contract Rates Response Form that the SLW is being paid and for 2018 97.5% of providers confirmed they were.

### 4. Implications for IJB

- 4.1. **Equalities:** Implementation of the recommendations will improve working conditions and have a positive impact on the external workforce who provide our services. The recommendations are also expected to have positive implications in relation to our service users across the Partnership as required services will be more readily available, more consistent, more sustainable and of a higher quality. The majority of the workforce is also female so this will have greater impact on them rather than males.
- 4.2. **Fairer Scotland Duty:** The Scottish Government believes that employers whose staff are treated fairly, who are well-rewarded, well-motivated, well-led, have access to appropriate opportunities for training and skills development, and who are a diverse workforce are likely to deliver a higher quality of service. Good relationships between employers and their workforce contribute to productivity and ultimately sustainable economic growth. It is therefore vital that we promote fair working practices through procurement activity to help drive an equal society. Part of the fair working practices includes the Scottish Living Wage which is a positive step towards



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achieving a fair and sustainable market in Aberdeen. The allocation of recent funding for providers to pay the Scottish Living Wage is a positive step towards achieving a sustainable care market in Aberdeen and assist with socio economic growth.

- 4.3. Financial:** Some elements of the Charter will undoubtedly require consideration of the existing funding conditions and will require a review of existing contracts. The significant risk is that the Health and Social Care Partnership will be asked to financially support the full extent of changes required for the Charter which would have a considerable impact on existing funding levels. In addition, new increased hourly rates will mean that delivering the same volume of activity will cost more but it is also envisaged that a more coherent framework will address the significant amount of unmet care need.
- 4.4. Workforce:** The care at home sector has significant recruitment and retention challenges. Payment of the Scottish Living Wage to staff will help address some of this as will the retendering exercise that aims to make the market more sustainable. There will be no workforce implications for the Partnership.
- 4.5. Legal:** The National Living Wage is set by statute, but employers can choose to pay the SLW. As an authority we cannot mandate the living wage however it is an expectation that we encourage providers to pay the SLW through our procurement processes.

### 5. Links to ACHSCP Strategic Plan

The current ACHSCP Strategic Plan outlines the responsibility of the IJB in relation to strategic commissioning of how care is delivered. If the IJB is to be successful in increasing market facilitation for care at home services, then a co-ordinated approach with providers to meet demand will be required.

### 6. Management of Risk

#### 6.1. Identified risks(s)

Although there is an expectation we will encourage providers to pay the Scottish Living Wage from the funding settlement with the Scottish Government, as



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advised we have no obligation to do this. The risk of not encouraging payment of the SLW is financial as it could jeopardise future funding settlements. There is a risk that commissioned services do not pass on the SLW to their workforce. The remaining principles of the Ethical Care Charter may also not be implemented by providers due to the perceived cost implications to them. If the Partnership cannot negotiate all the terms of the Charter within future commissioning arrangements it is doubtful all providers will adhere without an increased funding arrangement.

### **6.2. Link to risks on strategic or operational risk register:**

Strategic Risk 1 – risk of market failure.

### **6.3. How might the content of this report impact or mitigate these risks:**

Aberdeen Health and Social Care Partnership is heavily reliant on externally commissioned services. By supporting the improvement of working conditions of care staff there is a greater chance that the market will be more sustainable and that the quality of care will be improved. By taking action to pass on the required resource and ensuring providers sign up in principle to pass the SLW to their workforce this risk is mitigated.