

**Title of meeting:** Cabinet Member for Health, Wellbeing & Social Care

**Date of meeting:** 7 July 2020

**Subject:** Adoption of Residential Care and Ethical Care Charters by Portsmouth City Council.

**Report by:** Chief of Health & Care Portsmouth

**Written by:** Andy Biddle - Assistant Director, Adult Social Care.

**Wards affected:** All

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## 1. Purpose of report

A request was made for an update on progress with the implementation of the charters to come as an information paper to the Health, Wellbeing & Social Care decision meeting in March 2020. Given the COVID-19 pandemic, the business of the Council moved to business critical services from March to June 2020 and the Council continues to be in response to the pandemic whilst moving into recovery. During the period, the Council exercised its powers vested in the Chief Executive in the absence of the normal democratic public meetings of the Council. A March 2020 Decision making meeting therefore did not occur.

Links are provided to the Charters below:

<http://www.savecarenow.org.uk/ethical-care-charter>

<http://www.savecarenow.org.uk/residential-care-charter>

This report will set out the current practice in relation to the charters, updated for July 2020.

### 1.1. Context

The focus for work with the independent sector social care provider market since March 2020 has focussed on the COVID-19 response phase. Whilst a new model of pricing for residential care was due for introduction in the 2020/21 financial year, this has not been able to be introduced. Financial support from the Council has focussed financial support for providers on Personal Protective Equipment, (PPE) and increased staffing. In addition, the Council has offered a 'Minimum Income Guarantee' to maintain financial stability, based on the level of income a provider received pre-COVID-19. These measures were part of the Council ensuring its statutory responsibility to maintain safe provision, based on government funding allocate specifically for COVID-19.

Additionally, hospital discharge guidance issued in March 2020 by the government has underwritten payment for residential care placements from hospital via NHS COVID-19 funding.

- 1.2. ASC is an increasingly high profile area of local authority business. There is an acknowledgement at a national level that social care is under increasing pressure for a variety of reasons including an increasing demand to support people with more complex needs in their own homes. More broadly, the care market is also under pressure resulting from increasing costs of employment for providers of social care services that the council contracts with, due to rises in the National Living Wage and increases in 'auto-enrolment' pension contributions. For the NHS to be able to care for people's health, it is critical that social care is able to meet the needs of citizens.
- 1.3. It is currently unclear how the Council will manage financial stability given the significant loss of income and ability to make savings induced by the COVID-19 response. The focus may therefore continue to be supporting providers to maintain stability.

## **2. The Charters**

The following pages contain information relating to the Charters and the progress made by ASC in implementing the principles and the areas for improvement.

## **3. Recommendation**

The Cabinet Member for Health, Wellbeing & Social Care note the contents of this report.

**Comparison of UNISON Ethical Care Charter against Current Practice**

Criteria	Current Practice	Update July 2020
Stage One		
Commissioning of visits to be based on client need not minutes or tasks	Commissioning of care starts with an assessment of the customer's needs, goals and wishes. Support is then offered to the individual as to how needs can be met. If a care provider is selected, the provider meets with the person to make their own assessment and the care and support plan will be finalised.	Most ASC domiciliary care is delivered based on time purchased. In order to move from 'time & task' to more personalised support ASC colleagues are working with a domiciliary care provider and a technology provider to implement a system of: <ol style="list-style-type: none"> <li>1) Real-time digital care records.</li> <li>2) Scheduling care based on need and time required, rather than pre-planned multiples.</li> <li>3) Adjusting support based on need.</li> <li>4) Billing people with care and support needs on the basis of actual support required.</li> </ol>
Time allocated will match need of clients. In general 15 minute visits will not be made	Adult Social Care practice remains not commissioning care in multiples less than 30mins, unless customer and provider agree the task can be managed within this timeframe.	The new model will move away from commissioning in pre-planned time slots.
Homecare workers to be paid travel time, travel costs and other necessary expenses e.g. mobile phones	The ASC cost matrix sets a base hourly rate set for home care. This included all associated costs including cost of regulation requirements, costs of travel and 'non-contact' time.	ASC followed the UK Home Care association model for negotiating the increase in rates for local providers in the 2020/21 financial year. UKHCA represents providers of domiciliary care at a national level.

Criteria	Current Practice	Update July 2020
	ASC contracts continue to stipulate travel time between care calls in accordance with national best practice and the requirements of the CQC and Inland Revenue.	
Visits to be scheduled so that workers are not forced to rush their time with clients or leave to get to next client on time	The Council and its commissioned providers work to meet care and support needs in a dignified and caring way. Customer feedback is monitored to address areas of concerns with providers and contracts officers consider performance with providers on a regular basis.	The domiciliary care intervention will lead to more effective measurements of provision of support and individual feedback.
Workers who are eligible get paid SSP	<p>Providers comply with all statutory requirements in terms of employment.</p> <p>For PCC employees they continue to receive Occupational Sick pay, casuals and temps receive SSP in accordance with whether they qualify dependent on earnings, length of service and National Insurance contributions.</p>	
<b>Stage 2</b>		
Clients to be allocated same homecare worker wherever possible	Individual working practices and covering staff absence can make consistency challenging. However, continuity of carer is a priority and when there are changes required, care providers advise customers accordingly.	The new domiciliary care model will consider this aspect of care support as the new way of working is rolled in.
Zero hours contracts not to be used in place of permanent contracts	Based on discussions with staff, there can often be a preference to zero hour contracts due to flexibility they offer and there is a mix in the sector in Portsmouth.	If PCC were to insist on minimum hour contracts it is likely that the flexibility of the service would reduce, the workforce would reduce through a decline in staff acceptance of the terms, an increase in

Criteria	Current Practice	Update July 2020
	<p>PCC do not use zero hours contracts, we use temps or casual staff in addition to permanent staff.</p>	<p>'downtime' (not value for money) and increased costs through having to pay more to attract a different workforce into health and care.</p>
<p>Providers to have a clear and accountable procedure for following up staff concerns about their clients wellbeing</p>	<p>For PCC managed care homes supervision arrangements, (both formal and informal) enable an opportunity to raise any concerns up to and including 'whistleblowing'.</p> <p>CQC inspection takes account of how staff are led in registered services and therefore assure appropriate mechanisms through inspection. In addition, the quality team support providers to consider compliance with good practice and standards.</p> <p>Where concerns amount to safeguarding, PCC requires all providers to adhere to the pan regional safeguarding policy as well as incorporating it within their own policies.</p>	
<p>All homecare workers to be regularly trained to the necessary standard to provide good service at no cost to themselves and within work time.</p>	<p>Training is a requirement of our contracts with providers.</p> <p>Training is expected to be provided and paid for by providers within work time through the funding level set within our hourly rate.</p> <p>Some training is made available to the wider sector through PCC.</p>	<p>During the COVID-19 Pandemic, ASC have made a 'provider portal' available to all care providers in Portsmouth. This part of the website offers guidance and information and resources around freely available learning and development, including wellbeing resources. There is current work to identify any further wellbeing resources that can be provided</p>

Criteria	Current Practice	Update July 2020
		through PCC to independent sector providers.
Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation.	Supervision is a requirement of the regulator and many providers provide this both as 1:2:1 to discuss specific cases or as group supervision.	
Stage 3		
All homecare workers to be paid at least the Living Wage or where outsourced the provider is required to pay this and funded to pay it.	<p>The rate set by Social Care in conjunction with providers is based upon the NLW and there is a requirement to pay NLW to employees. Many providers may pay higher than this in order to attract and retain staff.</p> <p>All eligible PCC staff, irrespective of age are paid £9.00 an hour, this includes casual staff and agency staff contracted to PCC.</p>	
All homecare workers to be covered by an occupational sick pay scheme so they are not pressurised to work when ill in order to protect the welfare of vulnerable client	<p>Providers have policies and procedures in place regarding managing sickness which protects them and their customers.</p> <p>Permanent PCC staff receive occupational sick pay in accordance with the NJC terms and conditions of employment.</p>	The majority of the providers in the city pay Statutory Sick Pay. Two providers pay up to 7 days full pay within a one year period prior to SSP.

**Comparison of UNISON Residential Care Charter against current practice**

Criteria	Current Practice	Update July 2020
<p>Protecting and Supporting Residents</p> <p>Employers will maintain adequate staffing ratios that enable quality care to be delivered. This must be care that extends beyond basic tasks and includes a social dimension.</p>	<p>This is current custom and practice which falls within regulatory scrutiny, which is the responsibility of the Care Quality Commission. Adult Social Care is notified where care falls below standard by CQC and act upon this information.</p> <p>ASC and the Clinical Commissioning Group have commissioned a quality team working within Portsmouth. The team's general role is to work with care home providers and support them to provide appropriate care and support.</p> <p>Within PCC owned and managed care homes, the 'turn around team' was commissioned in 2018 to work with managers to implement better practice standards and staffing was reviewed to ensure adequate staffing ratios.</p>	<p>During the COVID-19 pandemic, ASC put in place a system whereby providers can claim one off payments for increasing agency staff to ensure care is maintained.</p> <p>As of May 2020, the government's Infection Prevention control grant allocates funding directly to care homes to pay for extra staff and prevent cross infection.</p> <p>Most care home providers in Portsmouth have 'activity coordinators' as part of their staffing complement.</p>
<p>Care workers, residents and families must be given information about how to raise concerns and protection if they decide it is necessary</p>	<p>Within PCC owned and managed care homes, staff are able to raise concerns through the supervision, (formal and informal) process with line managers. Residents can raise any concerns through the keyworker mechanism in place and families and visiting professionals are able to raise any concerns through staff on duty or discussions with the Unit Manager. A governance framework is followed regarding</p>	<p style="background-color: #cccccc;"></p>

Criteria	Current Practice	Update July 2020
<p>Employers will have clear and accountable procedures to follow up any concerns raised</p>	<p>concerns via safeguarding / CQC / PCC complaints team.</p> <p>This will be the same within non-PCC managed homes and will be scrutinised by CQC.</p> <p>The ASC/CCG quality team regularly review these arrangements with providers they work with.</p>	
<p>Care home providers will ensure all residents have ready access to any NHS services required</p>	<p>There are good relationships with NHS services and staff within the city, appropriate referrals are made as per PCC guidance for PCC managed homes</p> <p>The 'care home team' commissioned through Solent NHS Trust work with care home providers in Portsmouth and act as a gateway to ensure that residents have access to NHS services.</p>	<p>As part of the NHS direction to primary care and community services, there is a named clinician for care homes in Portsmouth to ensure the NHS provides clinical and medical services to care homes.</p> <p>In terms of day to day support, the 'offer' from the NHS to all care homes in Portsmouth is of an NHS Solent Nurse-led team, providing physical and mental health support to all residents on both a planned and reactive basis.</p> <p>In addition, the enhanced care home team offer GP and Pharmacist support as part of the multi-disciplinary team which involves Speech &amp; Language, Physiotherapy and nursing.</p> <p>Care homes in Portsmouth also have access to the 'Airedale' system which provides 24/7 access to a healthcare professional (B7/8a Nurse) for advice.</p>

Criteria	Current Practice	Update July 2020
		<p>The Nurses have access to specialist consultants and the ability to contact any service in Portsmouth to refer on routine or in urgent situations.</p> <p>In addition to this clinical support, all care homes have been offered Infection Prevention and Control, (IPC) training.</p>
Providers will carry out thorough risk assessments to ensure the safety of residents and care workers	All points in the protecting and supporting residents section are adhered to with clear guidance and procedures.	
Employers will provide care workers with safe equipment	All points in the protecting and supporting residents section are adhered to with clear guidance and procedures.	
Care workers will be given time to provide regular activities and effective forms of therapy for residents	Care workers are expected to be given time to meet the needs of the residents based upon their care plans.	
<b>Training and support for employees</b>		
All care workers - including bank and relief staff will be regularly trained to meet the needs of all residents as set out in their care plans.	This is a current expectation. The nominated individual in any organisation is responsible for ensuring that staff are trained to expectations and requirements as per the regulations.	
Training requirements will be met. Training must be met and carried out in work time, so cover staff must be arranged	Comprehensive induction and training is provided to in-house residential staff. Mixture of standard and/or bespoke off-site, in-house, e-learning and DVD training is used.	

Criteria	Current Practice	Update July 2020
	Training is made available through the Local Authority to non-PCC managed care homes and will be monitored via regulation inspection.	
DVD and e-learning will be used to complement high quality and face to face training.	As above	
<b>Decent Pay for Quality Work</b>		
All residential care workers will be paid at least the Foundation living wage	There is a requirement to pay the National Living Wage.  All eligible PCC staff, irrespective of age are paid £9.00 an hour, this includes casual staff and agency staff contracted to PCC.	
Councils which outsource employees on or above the Living wage should ensure that the new providers are required to maintain pay levels throughout the contract.	This would be covered under Regulation 13 of the TUPE Regulations as part of any TUPE transfer and is incorporated into PCC Procurement processes.	
Councils which outsource employees on or above the Living wage should ensure that the new providers are required to maintain pay levels throughout the contract.	This would be covered under Regulation 13 of the TUPE Regulations as part of any TUPE transfer and is incorporated into PCC Procurement processes.	
Extra payment will be made for working un-social hours, including weekends and Bank Holidays	As care is a 24/7, 365 days per year activity, there are less enhancements required for working outside of traditional office hours. Where such payments are necessary to attract staff to shifts are generally special holidays such as Easter and Christmas.	

Criteria	Current Practice	Update July 2020
	PCC staff receive a shift allowance of either 7% 17% or 33% dependent on hours or days/nights worked following LPR.	
Pay for Sleep ins must be at a level to ensure that the average hourly rate does not drop below the Living Wage	<p>PCC legal services have been advising contract and commissioning staff on this matter for some time. Whilst we are committed to ensure the NLW is paid to staff, what constitutes working hours and non-working hours in regards to sleep-in is still under review. Varied judgements have emerged following a Department for Work &amp; Pensions case in 2017, however, the current situation is that an hourly rate is not required.</p> <p>Any sleep in amounts paid to PCC permanent employees, are paid at the minimum rate of £9.00 per hour.</p>	The Supreme Court heard a case relating to payment for 'sleep in' in February 2020, the judgement has not yet been issued.
Holiday periods must be paid as if at work	<p>Pay arrangements and complying with statutory duties are the responsibility of the provider.</p> <p>Permanent PCC employees receive their normal pay during holiday periods.</p>	
All care workers must be paid occupational sick pay	Permanent employees are paid occupational sick pay. Casuals or temp staff would be paid in accordance with their eligibility for SSP.	
Employers will pay for DBS checks	PCC complete and pay for DBS checks for PCC staff.	Residential Care providers in the city pay for this.

Signed by:

**Appendices: None**

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by: