

Agenda item:

Title of meeting: Cabinet

Subject: Ethical Care Charter

Date of meeting: 24 September 2015

Report by: Robert Watt, Director of Adults Services and Simon Nightingale, Contracts Team Manager, ICS

Wards affected:

1. Requested by

Referred to Cabinet for decision and report back to full Council.

2. Recommendation

That the Cabinet notes the report.

3. Purpose

The purpose of this report is to inform Cabinet of the Ethical Care Charter, produced by UNISON, which calls for councils to commit to becoming Ethical Care Councils by commissioning homecare services which adhere to their Charter.

4. Information Requested

Home Care (Domiciliary Care) in the city is commissioned from the independent sector. Adult Social Care (ASC) commissions approx. 7,000 hours of personal care from private care agencies to meet the needs of 815 older people (excluding those with a learning disability) as at July 2015 at a weekly cost of £96k.

The Charter itself is set out in 3 stages:

4.1 Stage 1

4.1.1 *"The starting point for commissioning of visits will be client need and not minutes or tasks. Workers will have the freedom to provide appropriate care and will be given time to talk to their clients."*

Care packages are based on meeting the assessed needs of the individual with tasks agreed between the client and provider. Times are given by ASC to providers

when it is appropriate to visit (i.e. to meet medication requirements) and flexibility given to providers to agree with the client for other tasks.

4.1.2 *"The time allocated to visits will match the needs of the clients. In general, 15-minute visits will not be used as they undermine the dignity of the clients."*

ASC have previously reviewed all 15 minute packages of care to make sure the time given is appropriate for the providers to meet the client's needs with dignity and respect. It was found generally that the 15 minute packages were appropriate in some circumstances; for example:

- Medication - prompting and assisting the service user to take their medication
- Safety / Welfare / Security Check – a visit to ensure the individual is at that time safe and well; for example, ensuring the individual has eaten their meal and is well hydrated, etc. or to ensure the individual's property is secure (where the individual doesn't require assistance to prepare for bed - for example making sure windows are closed and locked where appropriate, etc.)
- Assisting with, or fitting certain aids – such as hearing aids
- Emptying / changing a catheter bag.

There are currently 61 Portsmouth City Council Funded individuals across all care groups (Older Persons, Physical Disability, Learning Disability, etc.) that have a package of care which consist only of 15 minute increments (i.e. no 30, 45 or 60 minute visits). This represents 7.4% of the 821 clients (as of Sept 15) currently funded by Portsmouth City Council.

For Portsmouth City Council to increase all 15min packages of care to 30mins would cost an additional £233k pa (before any increase in the national minimum wage).

4.1.3 *"Homecare workers will be paid for their travel time, their travel costs and other necessary expenses such as mobile phones."*

ASC pay a standard hourly rate of £13.52 for personal care. This is agreed annually with providers and includes travel time and other essential costs which are openly and transparently set out in an open book format.

4.1.4 *"Visits will be scheduled so that homecare workers are not forced to rush their time with clients or leave their clients early to get to the next one on time."*

The providers are responsible for scheduling visits to meet the needs and times agreed as well as ensuring the private agency runs efficiently. This includes allowing carers enough time to travel between visits (which is incorporated within the fee ASC pays). PCC commissioning does not place undue pressure on providers to rush their clients care. If care packages are not of sufficient length to

allow care to be delivered unrushed, or they require the carer to cut them short to attend their next visit then providers raise this with ASC and a review of the care package for appropriateness takes place.

4.1.5 *"Those homecare workers who are eligible must be paid statutory sick pay."*

All ASC contracts require providers to adhere to the law and to meet their statutory duties. Statutory sick pay is a legal requirement for providers and should a provider fail to comply, HMRC could fine the provider if it found out through the employee raising the issue to them or through an audit.

4.2 Stage 2

4.2.1 *"Clients will be allocated the same homecare worker(s) wherever possible."*

Clients are often linked to the same carer but this is dependent on holiday cover, sickness and similar business issues which all providers need to manage. There is also consideration to be given as to whether consistency of carer is in the best interests of the client given that personal care packages should have the focus on reabling clients to regain independence.

4.2.2 *"Zero hour contracts will not be used in place of permanent contracts."*

Zero hours' contracts can be used to provide a flexible workforce to meet a temporary or changeable need for staff. Examples may include a need for workers to cover:

- unexpected or last-minute events (e.g. a large number of patients are discharged from the hospital at once needing care packages restarted at short notice)
- temporary staff shortages (e.g. holiday and sickness periods)
- On-call / bank work (e.g. one of the clients of a care-worker company requires extra care for a short period of time).

Zero hour contracts have been a subject of discussion nationally for some time. Although often attracting negative publicity, used appropriately they can increase flexibility and allow more control for the employee so that they are able to balance work with their home life. As part of a range of improvements to commissioning personal care we are discussing with providers the use of zero hour contracts but we would not automatically ban them without understanding the impact to the market, the client and ASC.

Considerations for the employer	Considerations for the worker
<ul style="list-style-type: none"> • Easily accessed pool of staff to assist when demand arises • No ongoing requirement to provide guaranteed levels of work for staff • Can be cheaper alternative to agency fees 	<ul style="list-style-type: none"> • Provides flexible employment on same basic terms as most workers • No ongoing requirement to accept offers of work and no consequences • Gives employment experience and skills

27% of providers responded to a short survey regarding zero hour contracts (3 providers out of 11) as follows -

- % of workforce on zero hour contracts:
Vary from 25% - 100% (2 out of 3 providers reported >95%)
- Staff satisfaction with zero hour contracts:
Staff are generally happy with zero hour contracts as there is always more work available than people to carry it out.
- Is there a perceived positive or negative if zero hour contracts were not used?
Negative effect as carers prefer the flexibility of their contracts, some carers change their availability every week.

4.2.3 "Providers will have a clear and accountable procedure for following up staff concerns about their clients' wellbeing."

Safeguarding is everybody's business. Providers are required to have in place clear, robust reporting mechanisms in place for staff to raise concerns about their client's wellbeing. This is supported by the Care Quality Commissions website for the raising of concerns if a carer wishes to remain anonymous.

4.2.4 "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)."

Personal care is well regulated by the Care Quality Commission and by the Local Authority. All staff are required to be trained and have completed the new care certificate before they are able to work unsupervised.

ASC is working with its providers to review the support ASC provide (training, payment terms, etc.) and are considering how to increase the level of competency and therefore the tasks that can be undertaken by the care agencies. This is alongside engaging with the voluntary sector to explore their role in rehabilitating clients and reducing the demand for personal care services.

- 4.2.5 *"Homecare workers will be given the opportunity to regularly meet co-workers to share best practice and limit their isolation."*

Caring is by its nature mainly a lone working career. Each carer is required to have at least 3 monthly supervision with their employer. There are opportunities for meeting other colleagues through training days and other activities which require them to attend their employer's office. However, it is not currently a requirement of ASCs contract to insist upon this as carers are unlikely to be paid for specific 'best practice sharing' or networking with colleagues unless ASC pay for this time. It would also present operational difficulties in rostering such a regular event as providers are unlikely to have the additional staff to cover shifts to allow for this.

4.3. Stage 3

- 4.3.1 *"All homecare workers will be paid at least the Living Wage (as of November 2013 it is currently £7.85 an hour for the whole of the UK apart from London. For London it is £9.15 an hour. The Living Wage will be calculated again in November 2015 and in each subsequent November). If Council employed homecare workers paid above this rate are outsourced it should be on the basis that the provider is required, and is funded, to maintain these pay levels throughout the contract."*

The current hourly rate for personal care sets out the staff pay rate at £7.60 which is already greater than the proposed new national minimum wage. However, the contract does not stipulate that providers have to pay this to staff. If the future plans to increase this rate to £9 by 2020 goes ahead then ASC will need to increase its hourly rate accordingly which could mean an increase of £509k per annum by 2020 (assuming the number of clients remains the same).

- 4.3.1 *"All homecare workers 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."*

As mentioned earlier in the report, carers are able to claim statutory sick pay where they are eligible. Some providers may have occupational sick pay schemes in place but this is not a requirement of ASCs contract. Some of the providers in Portsmouth are national while most are small local providers and therefore such schemes would provide too costly for them to operate. Therefore the cost of this would have to be recovered from PCC through an increase in its standard rate. It is not possible to estimate the increase in cost at this stage - ASC would need to ask providers to obtain their own costs first and then we would be able to model the impact on our standard rate.

4.4 Response from other Local Authorities

Directors in other Local Authorities across the south have been contacted with regard to the position they have taken in respect of the Ethical Care Charter. A range of responses have been received, some have not signed up to it, stating that their Members have a commitment to the provision of "ethical care" and although agreeing with most of the points contained within the Charter, believe it is a policy that should be led by Members.

Of those not signing the Charter, East Sussex have a joint working group with Unison looking at what they can sign up to and will review this periodically. Surrey has not signed but is working to address these issues through a Surrey County Council informal initiative. Hampshire have not signed stating that 'we do not feel the need to sign up the Unison charter, as we prefer to get on with changing the way care is delivered in a way that is right for the people of Hampshire'. Their approach is similar to much of what has been outlined in this report and it would be our recommendation to continue to adopt this approach

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Signed by Robert Watt
Director of Adult Services

Appendices:

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
Unison's Ethical Care Charter	https://www.unison.org.uk/content/uploads/2013/11/On-line-Catalogue220142.pdf