



NATIONAL CARE HOME CONTRACT REFORM: RESULTS OF INDEPENDENT SECTOR PROVIDER SURVEY JULY 2016



Foreword

The input of providers to the Reform of the National Care Home Contract is of crucial importance, as whatever new arrangements are arrived at will underpin the commissioning, procurement, funding and delivery of publicly purchased care for the foreseeable future.

We felt it was important to gather people's views at the outset of the strengths and weaknesses of the current NCHC, and what they would most want any new framework to deliver. We will of course consult fully on the detail of what is proposed as this emerges.

The response to the survey in the time available was very gratifying, and has already allowed us to highlight to the other parties – Government, Councils, Health Boards, Care Inspectorate etc, the range of provider opinion. Please read the report, let us know if you think there are any key areas which have been missed, and keep involved with the process as it gathers momentum.

Donald Macaskill
Chief Executive Officer
August 2016

About Scottish Care

Scottish Care is a membership organisation and the representative body for independent social care services in Scotland. Scottish Care represents the largest group of health and social care sector independent providers across Scotland delivering residential care, day care, care at home and housing support.

'Independent sector' in this context means both private and voluntary provider organisations. Our membership includes organisations of varying types and sizes, amongst them single providers, small and medium sized groups, national providers and not-for-profit voluntary organisations and associations.

Our core strategy is to create the strongest possible alliance and collective voice to protect and promote the interests of all independent care sector providers in Scotland. Scottish Care speaks with a single unified voice for both members and the whole independent care sector. This includes those who use independent sector care services.

Scottish Care is committed to supporting a quality orientated, independent sector that offers real choice and value for money. Our aim is to work with key partners and stakeholders to create an environment in which care providers can continue to deliver and develop the high quality care that communities require and deserve.

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Introduction

The existing National Care Home Contract (NCHC) has been in place for the past 10 years and has been negotiated on an annual basis by COSLA and Scottish Care on behalf of Local Authorities and care providers respectively. Despite its positive attributes, there has been a growing sense of the need for reform of the contract to ensure there is a fit for purpose framework in place going forward that supports and is supported by the direction of health & social care in Scotland. This landscape now includes health and social care integration, self-directed support, registration of the social care workforce and a focus on new models of care.

Reform of the NCHC also fits within the wider reform of social care. The implications of the reform programme are significant for all providers:

- IJBs and the implementation of local Strategic Commissioning plans
- Local purchasing intentions
- Procurement options
- Local Employment markets
- Re-benchmarking the Cost of Care
- National vs. local negotiation
- Development and innovation –new models of care
- Promotion of Self-Directed Support
- Quality requirements
- Links with inspection and regulation and the review of the National Care Standards
- Contract monitoring
- Workforce challenges, particularly in relation to nursing
- Funding and sustainability

In light of this a national, multi-agency approach has been established to progress reform in both the care home and care at home sectors. Responsibility for decisions in relation to the extent and nature of future national social care commissioning and procurement lies with the Delivering Change in Adult Social Care Partners Group, supported by the Reform of the National Care Home Contract Technical Expert Group. Scottish Care is represented on both of these groups. Beneath this, Scottish Care has established its own internal National Care Home Contract Reform Reference Group, comprised of a representative range of providers from across Scottish Care's membership as well as staff members and front line workers. A similar structure is also being established for

care at home, both by Scottish Care and at national level, and will also feed into the Delivering Change group. See annexe for more details.

More specifically, the NCHC Reform Programme is co-ordinated by a Technical Expert Group, which includes representation from COSLA, Scottish Government, Scottish Care, Councils, IJBs, and Scotland Excel.

In order to inform the Scottish Government's next Spending Review and avoid a repeat of the rushed and pressured process of 2015/16 negotiations, the initial phase of the NCHC Reform work needs to be completed and agreed by October/November 2016. This means work being carried out swiftly, but it also needs to be done thoroughly, or we could end up with problems down the line. To help achieve this, the Government have seconded a full-time member of staff, Robert Skey, to project manage the reform work.

Context and survey information

In June-July 2016, Scottish Care undertook a survey of its care home membership to ascertain their experiences of the current National Care Home Contract and their views on what should inform the development of a new contract and negotiation process.

The survey was issued by email to 641 recipients, all of whom are part of Scottish Care's membership database. It was marked for the attention of care home service representatives (including managers, area managers, head office staff, directors and owners).

The survey ran from 17 June 2016 to 4 July 2016. Whilst it was recognised that this was a short period of time for response collection and fell within the summer holiday period, therefore potentially limiting the response rate, Scottish Care felt it was important to capture the views of members and analyse resulting data in a timely manner in order that it could most helpfully inform the review process.

Scottish Care believes that it is essential that the voices and experiences of social care providers are a central component of the care home reform process. By listening to and involving these partners, progress can be made in making positive changes that are shaped and supported by all.

It is hoped that the results of this survey can help to inform the work of the National Care Home Contract Technical Group and wider discussions on how all health and social care partners can ensure that Scotland has a high quality, sustainable, fit for purpose care home sector that can best support the complex and changing needs of Scotland's elderly population.

In addition to the Technical Group and its sub-groups, this report is intended for use by Scottish Care members, the wider independent social care sector, national and local Government, Integrated Joint Boards and any other interested parties.

Survey respondents

135 responses were collected to the survey from Scottish Care members across private and voluntary sector care homes for older people.

10% of these responses were attributed to corporate organisations, representing a number of services across Scotland. It can therefore reasonably be estimated that the number of services accounted for in the survey is significantly higher than 135. Scottish Care conservatively estimates that the actual number of services represented across the survey responses is approximately 200; nearly a third of independent sector care homes services for older people.

The rest of the responses were split evenly across a range of services sizes, from very small services (less than 25 beds) to small services and medium services (defined as those with 51-100 beds). A further 7% came from those with more than 100 beds.

In terms of geographical location of services, respondents were not asked where their service was located in terms of Local Authority area but were asked to provide a sense of their rural/urban classification. From this, it could be ascertained that responding services were predominantly situated in areas with larger populations, with 41% in urban locations and a further 25% within cities. Of the remaining respondents, 22% were in semi-rural locations and the remaining 11% in rural areas. This is relatively representative of Scottish Care's membership spread and of the care home sector in general, with more services located in areas with dense populations and less of a range of services available in more remote regions.

60% of responses came from nursing home services, with a further 25% from residential homes. The remaining 15% were predominantly attached to care homes delivering both residential and nursing care, but also included some other client groups and client groups including Enhanced Residential Care, Young Physically Disabled services, mental health and dementia support.

Assessment of the current NCHC

Very dissatisfied	Dissatisfied	Neutral	Satisfied	Very satisfied
13.33%	23.33%	26.67%	34.44%	2.22%

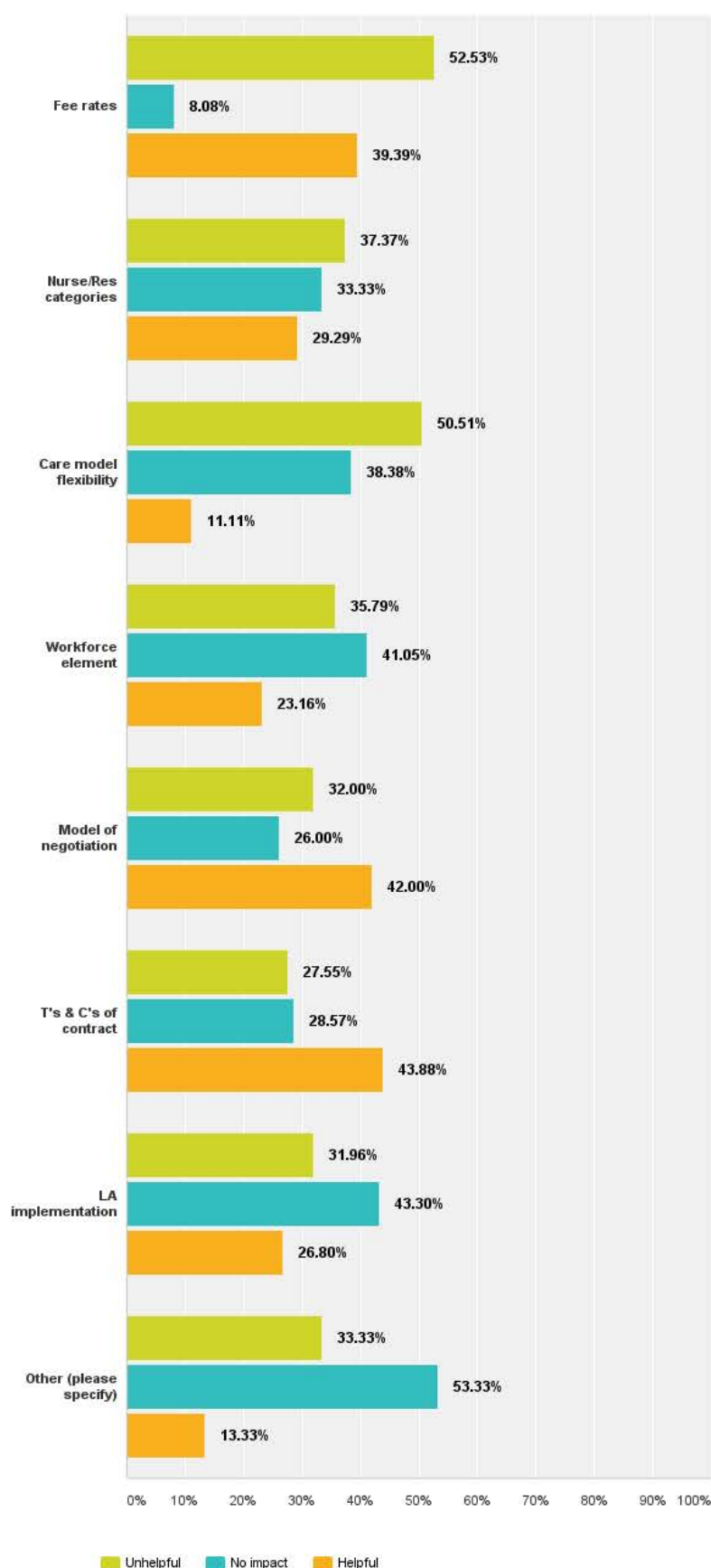
In general terms, an identical number of respondents are unhappy with the current National Care Home Contract as are happy with it. Scottish Care believes this is reflective of the range of experiences of the contract both in how it relates to providers' local circumstances and elements perceived to be both helpful and unhelpful in its national negotiation.

Of the responses, the largest group are those who are satisfied with the contract. On the other hand, more are very dissatisfied than are very satisfied. This polarisation of opinion requires further examination in order that the reform process can focus on the problematic elements whilst not 'reinventing the wheel' in relation to areas that providers value and believe work effectively. The data shows there are certainly plenty of both positives and negatives about the National Care Home Contract in its current manifestation.

Providers were asked to rate the impact of different elements of the National Care Home Contract as either helpful, no impact or unhelpful, and were given the opportunity to detail any additional elements. They were also asked to identify what they perceive to have worked best about the current contract and process and what has been the most challenging element.

Q5 How would you assess the impact of the following elements of the NCHC?

Answered: 100 Skipped: 35



Helpful elements

“Clarity e.g. when relatives question anything we can refer them to the National Contract”

When considering various facets of the current contract, the element deemed most helpful by providers is the terms & conditions attached to it, with 44% identifying it as such. Respondents attribute this helpfulness to the fact that a clear, universally applicable contract supports their dealings with different Local Authorities through standardised expectations. They also find it to be useful in helping to communicate with residents and their families about elements of their care and support arrangements.

“The fact that all providers are united together rather than negotiating separately and at risk of negotiating rates down the way.”

42% of respondents support the model of annual negotiation currently in place. More specifically, providers value the consistency and stability offered by the current model in that all providers are working from the same baseline agreed at a national level. They are supportive of the contract being

negotiated by one body (namely Scottish Care) on their behalf, in a way that unifies providers and protects against a model of local negotiations whereby providers feel they risk being “picked off” by Local Authorities. This model protects, in part, from a fragmented sector reliant on a drive to the bottom because of competition between providers. It is deemed beneficial in that there is a defined procedure and timetable for negotiations, which is communicated to providers by Scottish Care and has a dedicated team negotiating the details of the contract on the whole sector’s behalf.

Providers also reflected that the process of negotiating the contract has improved recognition amongst Local Authorities of the independent sector and has enabled relationships to be built. They feel they have more of a “voice at the table”, though recognise that this isn’t always heard as clearly as they feel it should be.

Unhelpful elements

“While fees have increased more than I think they would have otherwise, it often doesn’t feel like a true negotiation and there has been ground lost rather than gained in getting a payment that truly reflects the cost of the service we provide”.

Nearly 53% of respondents evaluate the fee rates as the most unhelpful element of the current contract. More specifically, the failure of the current set rates to meet the ‘true cost of care’.

Similarly when asked about the most problematic or challenging element of the contract, nearly 60% of collected responses mentioned funding. This issue was expressed in a number of ways:

- **The difference between residential and nursing rates**

Respondents expressed concern about how residential and nursing definitions were interpreted and implemented in practice. Their perception is that people are being placed inappropriately premised on a need to save money, for instance by placing them in residential services when they require nursing input. However, it was also recognised that part of this placement issue may be a result of restrictive definitions that are no longer fit for purpose or reflective of the realities of complex needs. As these definitions are not conducive to appropriate decision-making about an individual’s care needs in a care home setting, providers are faced with complications whereby someone may not require nursing input but does require intensive support from multiple care staff. Either way, this issue is manifesting itself for providers as a failure to recognise dependency levels in an effective way. The financial implications of supporting people appropriately who have complex requirements, such as staffing levels, skill mix and equipment, are not being met by the current rates and are putting

some services on the margins of viability.

- **The relationship between public rates and self-funder rates,**

Throughout the survey, providers referenced the increasing divergence between rates for publicly funded care set through the National Care Home Contract, and those set for self-funding individuals. Many deem these differences to be unfair to those paying for their own care and believe these are becoming or will become increasingly unequal due to the inability of public rates to cover costs to services of delivering high quality care. The self-funding issue is explored further later in the report.

- **Setting of staff wages**

Respondents find the dictation of staff wages by the National Care Home Contract to be well intentioned but extremely problematic in practice, given that it doesn't account for age, experience or staff differentials based on responsibilities and positions. Respondents pointed out that this is creating tension and animosity within staff teams. At a time when recruitment and retention issues in some areas are mounting, it is challenging for providers to be unable to value different skills through remuneration, even if the baseline rate is improved. By setting mandatory rates but not fully funding these through the contract rates, respondents expressed concerns around maintaining viability, particularly where Local Authorities have been slow to process uplifted rates whilst providers are required to implement changes to staff wages in a timely way.

- **Differences between in-house provision rates and those set for externally purchased services**

Respondents stressed the unhelpfulness of the disparity in funding between commissioned care home services and those provided directly by statutory bodies. In their opinion, this doesn't support positive partnership working and creates a very unequal playing field which is not related to what type of service is delivered or the quality of the service. It is also a barrier to having a valued, skilled workforce across the care home sector given the link between funding rates and terms and conditions offered to staff. In the world of integrated health and social care, providers want to see a more equitable care home sector where services are differentiated by quality and type of provision rather than by provider and price.

It's interesting to note that, whilst this was the most negatively rated aspect of the current contract, a further 39% of respondents actually see the fee rates as having a positive impact. Analysis of the data shows that this helpfulness more specifically relates to:

- Predictability regarding income levels
- Preventing competition between providers in relation to price
- Enabling providers to forward plan and budget based on the outcome of contract negotiations, even if the outcome is unsatisfactory
- Positive steps in relation to better recognition of care staff, even though the process to date has been problematic
- Increases linked to quality

The issue of funding was closely related to lack of flexibility:

“Current NCHC does not encourage person centred care. It also does not recognise fully the fact that all residents’ needs change (increase) throughout their time in a care home but we get paid the same for the day they arrive as for their last day with us (which could be for many years)”.

50% saw the lack of flexibility the contract offers in relation to different models of care provision to be detrimental at present. This was arguably the most negatively assessed element given that only 11% deemed it to be helpful.

Inflexibility was predominantly reflected upon in terms of how the blanket national approach negatively impacts on providers’ ability to address:

- **Personalisation**

“The lack of flexibility of the framework flies in the face of person centred care that we are trying to offer.”

With the policy ambition of providing more individual care packages which meet both the needs and outcomes of those who require care, increasingly through Self-Directed Support, providers feel that the current contract does not facilitate this.

- **Changing dependency**

“Does not take into account the increasing complexities of care and support required. We often care for people who would have up until recently been in NHS continuing care.”

Dependency was the most frequently raised issue raised by respondents other than fee levels. They feel that the current contract does not recognise the fact that those coming into care homes tend to have more significant and complex needs, usually as a result of the success of home care services in supporting people at home for longer. It also fails to adjust for the fact that residents' dependency levels are most likely to increase over their time in a care home and therefore they will require more intensive, different types of support.

- **Circumstantial factors**

“One size fits all and does not reflect the higher operating costs in areas such as Edinburgh.”

Respondents indicated that factors such as geography, whether urban vs. rural or areas with specific social care difficulties such as recruitment, are not accounted for in the contract and therefore providers can't be supported effectively to contribute to the local area as well as they could. What's more, it doesn't recognise that smaller, stand-alone services may have different challenges to those that are part of larger organisations. Both of these types of service may have equally relevant issues, but neither is supported in a tailored way by the contract and therefore risks being jeopardised in a way that could be avoided by some flexibility in the contract.

- **Different models of care**

“Difficult to cater for anything outside the norm. Does not allow for different models of care.”

Despite the increasing focus on the need for services to diversify and offer a spectrum of care and support, providers feel constrained by the current contract in terms of what they can offer and at what rate. The contract isn't set up in a way that supports innovative care provision or new models of care at present. This is true of both the client groups it caters for (given it is solely applicable to services for over 65s) and the nursing and residential service definitions currently in place.

Respondents were also critical of the current timescales attached to the National Care Home Contract. This criticism has three components; the yearly negotiation model presently in place, the limited opportunities afforded to providers to consider the annual offer and the tardiness of Local Authorities to implement agreements at a local level. Respondents were keen for longer term deals to be agreed in the future, to allow for more accurate forward-planning, budgeting and development of services. Whilst the security of the negotiation model is valued, the annual renegotiation and accompanying uncertainty is considered to be detrimental to long term stability. Providers also find the

current engagement and decision-making mechanisms to be unhelpful due to the short time in which they have to consider the new terms of the contract and agree or reject it. This was expressed to the point of providers feeling that negotiations are ‘one-sided’, since they feel their ‘hands are tied’ in making decisions about the annual offer as a result of short timescales and a lack of alternatives. Finally, a number of respondents found delays in implementing the annual contract changes, particularly increases related to staff pay, to be problematic and unfair, given there is an obligation upon providers to make the changes (such as increasing staff pay) in a timeous manner.

The information collected in relation to the current contract quite clearly indicates what providers perceive to be the positive and negative attributes of it, and these should be carefully considered in the reform process.

The general model for negotiating the contract (that being Scottish Care and COSLA leading the process on behalf of their members) and the universal terms of the contract remain satisfactory for providers and therefore don’t require significant reform. Instead, providers feel that the focus of the reform process should be the ‘in-between’ section – the factors on which a new care home contract is premised and the process, calculations and information by which any contract is arrived at by Scottish Care and COSLA.

Looking ahead: a reformed approach

“It should reflect the unique nature of each care provider and the fact that clients’ needs change over time. There needs to be greater flexibility as well as opportunities for private providers to meet their costs.”

There were a number of elements that respondents felt a reformed approach should be premised on:

- ▶ **Reflection of true costs (including staffing costs)**
- ▶ **Recognition of dependency levels**
- ▶ **Flexibility, particularly in relation to different types of care provision**
- ▶ **Rethinking of nursing and residential care definitions**
- ▶ **Timely negotiation & implementation of any agreed contract**
- ▶ **More regular and meaningful engagement with providers**

Overwhelmingly, respondents considered that dependency levels, different types of care provision and nursing and residential definitions need to be accounted for in a new contract, with 90%, 86% and 82% of responses indicating these factors respectively.

“We need a higher fee rate with a more realistic approach to the levels of staffing required to meet the needs of the client group and reward care staff appropriately for the level of responsibilities that they undertake.”

Inevitably, cost was the most significant issue of the survey overall. Whilst providers recognise the economic constraints faced by national and local Government, there is a clear sense that the care home sector can no longer continue to manage underfunding. A need to reform the funding of public care wasn't expressed in terms of profit or return, but the basic sustainability of services and the ability to support the workforce to support residents. A huge proportion of respondents mentioned the 'true cost' or 'real cost' of care provision and the need to re-benchmark this. It is therefore positive to note that work is already underway on the cost of care as part of the reform process.

“Dependency levels are increasing dramatically, where it is now not uncommon for a client to require the input of two or three staff at a time.”

Dependency levels was certainly the second most frequently mentioned area. There is wide-ranging agreement that the dependency levels of residents have increased and that this has significant implications for service resources. Providers therefore feel strongly that a new contract must feature an agreed mechanism for evaluating and reviewing dependency levels. Whilst this can't necessarily result in adaptations to contracts based on individual dependency, it certainly has the potential to more accurately commission and fund services based on their overall dependency levels.

“In my view the NCHC should have the ability to provide variation at local levels in order to take account of local need.”

Respondents reflected that, whilst the contract has referenced levels of care provision, it has never sufficiently accounted for the impact of different types of care on a service model nor has it been particularly supportive of new models of care. A new contract should therefore be far more flexible in relation to local circumstances and requirements, enabling care home services to be suitably responsive to their surrounding populations and support infrastructure. This would be far more compatible with strategic commissioning arrangements of the newly formed health and social care partnerships. What's more, providers believe that the new contract should be applicable to client groups beyond over 65s and that with sufficient scope for flexibility based on particular services, the contract could work effectively for a much wider range of care home services including those for young physically disabled, learning disabilities and extremely complex care.

“The definitions of nursing/residential care need to be radically rethought – too often nursing simply refers to higher dependency rather than the care of a trained nurse.”

In relation to contract definitions, providers stress the need for a 'rethinking' of the nursing and residential distinction with many believing that the terms are no longer meaningful or relevant in the current care climate. On this point, a number of respondents advocated the need for a level above 'nursing' to be added to account for the extremely complex care often delivered by care home services now, including dementia, palliative and end of life care. On the other hand and linked to dependency levels, they emphasised the need for more nuanced definitions linked to staffing levels with examples such as individuals who don't have clinical needs but require input from two, three or four staff. Therefore at both ends of the spectrum, more detailed consideration needs to be given to how funding is linked to individuals' assessed needs and outcomes and how clearly articulated, mutually agreed, fit for purpose definitions can be applied.

"Negotiations regarding staff living wage ran up to two weeks before the law was to change leaving a lot of uncertainty for providers."

Any new contract and process should be premised on a commitment to negotiate, agree and implement it in a timely way. Clear timescales should be set which allow for sufficient consultation and recognise nationally set conditions and schedules such as the Scottish Living Wage. What's more, there needs to be a mutual commitment to applying modifications to the contract, particularly those relating to funding, within an agreed period of time and penalties applied to Local Authorities as well as providers if a party does not uphold this commitment without good reason. If the new contract took account of these recommendations, providers believe the sector would be less susceptible to destabilisation and the contract would be better engaged with and fairer for all.

"We are partners, not junior partners to be dictated to."

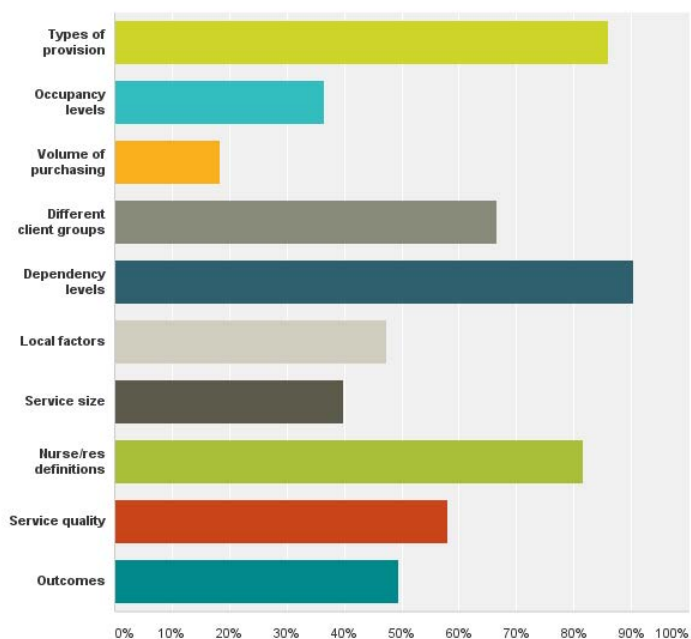
Linked to the previous point, respondents were clear that a more equal playing field needs to be established between those commissioning care home services and those providing care. This starts with building meaningful relationships where all voices, skills and experiences are recognised and listened to. At both national and local levels, providers feel that the reform of the National Care Home Contract presents an opportunity to more meaningfully work in partnership and value the care home sector, whereby providers are informed, included and involved in all decision-making and direction setting in relation to the future of the care home sector, ranging from locality levels to Scotland-wide. If a new contract is to be established that moves further away from an oppositional 'us and them' stance towards shared responsibility for getting it right, this must start with prolonged and meaningful engagement with providers themselves.

Interestingly, providers were less inclined to focus on commissioning options such as volume of purchasing and occupancy levels as important as part of a reformed contract. This highlights that providers concerns in relation to the contract are not about capacity in relation to filling beds and maximising return, but are more about capacity in relation to being able to deliver high quality care.

With less importance placed on local variables such as service size, it would appear that providers would prefer a reformed contract to be flexible towards regional variables such as workforce issues rather an individual service differences. This may also be indicative of providers' uncertainties about moving towards negotiating locally and perhaps individually on certain elements and how willing or able they feel to do this. As highlighted throughout the survey, whilst respondents want to see more flexibility within the contract for local elements they also value the single negotiation approach currently operated and fear a negative outcome of individual commissioner-provider negotiations, particularly in areas where these relationships and processes don't feel transparent or partnership-based at present. This stresses the importance of getting any future national-local balance right and ensuring sufficient support is available if an element of local negotiation was to be introduced. However, further engagement with providers would be needed around this area before any firm conclusions could be drawn.

Q9 What should any new contract and process take account of?

Answered: 93 Skipped: 42



What needs to be different: the bigger picture

In order for a re-envisioned care home contract to be successful, there were a number of other factors that providers perceive important to get right. Many of these are wider than the detail of the contract itself, but equally require a partnership approach to their reform.

1. Procurement and commissioning practice

“An honest dialogue. Increased understanding of actual costs along with the challenges of recruiting and retaining a skilled workforce. An appreciation of what we ask of our teams alongside the expectations of people and their families who use the service”.

Respondents were keen to see a reformed approach to commissioning and procurement practice which isn't only about recognising costs in a fair way, but is about relationships. Undoubtedly, the need for commissioning to reflect the true cost of care in order that providers can develop and succeed was the most common factor. In keeping with the rest of the survey, dependency was also frequently mentioned in that commissioning practice needs to recognise it as a changing and significant aspect of care provision and procurement. However, what also came through strongly were values such as openness, transparency, respectfulness, partnership working and honest dialogue. These are acknowledged as crucial to future commissioner- provider relationships. Linked to this, respondents emphasise the need for commissioners to understand services, their pressures and future direction (such as recruitment, staffing levels and local community needs). Commissioners also need to fully understand the changing nature and requirements of the care home population, which can only be properly ascertained by working with providers. Providers recognised the challenges faced by commissioners, but stressed the ongoing need to communicate these clearly and fairly to providers in order that local partners can work together towards the best outcomes. This includes the need for fair placement practice, timely payment of rates and clarity in relation to future service requirements in a partnership area. Finally, respondents drew attention to the tensions that currently exist in the multiple roles Local Authorities have in relation to social care procurement, delivery and monitoring – as one respondent put it, *“Local Authorities act as commissioners, competitors and also ‘police’ the contract”*. This is creating barriers to partnership and would benefit from review.

2. Regulation

“The Care Inspectorate, by definition, has to be risk-averse, but they can still be open-minded, facilitative and flexible in areas of innovation.”

Throughout the survey, respondents stressed the need for the Care Inspectorate to be much more engaged in the reform process as a key partner. Providers feel that the regulatory body must be more aware of agreements made through the national contract, and must adopt a complimentary approach to inspection and improvement that recognises what can and cannot be achieved under the agreement in place and its associated funding levels. At present, providers feel

the Care Inspectorate are too far removed from the contract and the challenging realities of service commissioning and delivery, and therefore risk making unrealistic demands of services in relation to costs, improvement and staffing. In particular, providers feel the Care Inspectorate is inappropriately distanced from the funding of care and the workforce challenges facing the sector and the implications of these for care home services. There needs to be much more tangible, consistent linking of care home commissioning, delivery and regulation and what can be expected through each, without in any way compromising quality or the importance of continuous improvement. A true partnership approach to all three elements between Local Authorities, providers and the Care Inspectorate would go a long way towards being able to reach positive outcomes for all, in the view of respondents.

It was felt that the regulatory body must also be much more adaptable, supportive and light-touch in how they implement registration and regulation of services, in order that they enable rather than impede innovative approaches to service delivery. Many respondents emphasised the fact that rigid care definitions and protracted registration procedures are really inhibiting providers from responding to identified gaps and needs within the sector, and is discouraging services from being creative and forward-thinking in their approach to provision. A number of respondents detailed their desire for the Care Inspectorate to support them with improvement more proactively whilst others expressed their view that there is conflict between the regulator as an inspection and compliance body, as well as an improvement one. They feel these roles need to be undertaken by separate organisations. Either way, it would appear that more dialogue is necessary between the Care Inspectorate and partner organisations to clearly establish what role the regulator will play in the future of care home provision, with the hope that this will be a much more joined-up and supportive one.

3. Workforce

“Something has to be done to improve the working conditions and the perception of working in a care home. Long hours with low pay and little or no appreciation of the hard work and the level of responsibility placed upon care staff.”

As highlighted previously in Scottish Care’s ‘In the Front Line’ reports on recruitment, retention, agency staffing and front line carers, the independent care sector is experiencing significant difficulties in employing and retaining staff in the volumes required and with the necessary skills and values. The intention of this survey was not to replicate the messages from this work, but it cannot be

overlooked that workforce was a central theme of this survey too. Undoubtedly there is a link between the National Care Home Contract and its future, and the future of the sector's workforce. After all, contract reform is futile if the sector is crippled by a workforce crisis; a very real possibility by all accounts.

Many respondents reflected on the recent Scottish Living Wage deal, and see the intention of it as positive but the sustainability implications as increasingly troubling. There was also frequent commentary on the role of the care worker or nurse, and how this is valued both by society and within the care sector in comparison to similar roles in statutory sectors. Workforce was a cross-cutting theme picked up on in all areas of the survey, and more detailed responses are explored in other sections. However, it is important to note the fact that workforce is a prominent and crucial factor that needs to be explored in partnership and in conjunction with the contract reform process, and as a wider issue for the care sector.

4. Supporting innovation and new models of care

“We have looked at setting up several specialist units where the local authority has no provision and every time we are told there is no money or worse, that they want everything done at residential rates. The units would have increased costs with higher staffing levels, more training and skills and more equipment. So we shelve the ideas.”

Respondents detailed a number of factors which are currently creating barriers to innovating current service provision and developing new models of care. These were:

- a. **Finance** – over a third of respondents list a lack of funding as the main barrier. Whilst not all of these specify the exact finance issues, responses seem to point to this relating to the availability of finance given that a number of providers feel on the margins of viability at present, as well as increased financial pressure on services, particularly with higher staffing costs. Responses also detail a lack of confidence in ongoing financial commitment from commissioners to fund new (and existing) services at the levels required to sustain them.
- b. **Workforce** – as well as workforce costs increasing, the current recruitment issues facing many providers, particularly in relation to nursing staff, is a common barrier. With providers having to focus on innovative ways of maintaining staff levels and attracting new staff, they are limited in their

ability to consider innovation in relation to service design and delivery. Particular shortages in relation to nurses and high quality managers mean respondents feel they don't always have the numbers or skill mixes required to provide new models of care.

- c. **Environment** – some providers feel unable to innovate within their current environment, with issues such as old premises being a barrier. This is restricting the development of new models of care, particularly with the fact that registration variations with the Care Inspectorate require a service to meet new criteria, which can be impossible (in terms of room size etc) for older buildings to attain. Where it may be possible in terms of space, the capital investment required to make these alterations can be a supplementary barrier. Environment can also refer to the local care environment, where factors such as service location and relationships with other organisations and sectors (and what they are delivering) can be prohibitive.
- d. **Care Inspectorate** – this is perceived to be a very significant barrier to innovative service development, particularly in relation to the rigid application of the regulatory framework and current definitions of care services. The inability of providers to get registration applications approved without these proving to be complex, expensive and lengthy processes is hindering those with enthusiasm and imaginative solutions from trying them out. Providers also feel that the current registration system is not conducive to smaller scale change, for example where services may develop new models for a proportion of their residents who have particular needs, so care homes are unable to deliver flexible, bespoke care or try out creative provision without considerable difficulty. Finally and as previously articulated, providers feel that because the Care Inspectorate are removed from some of the realities of care provision (such as funding), their ideas for innovation are curtailed because of the unrealistic expectations placed on them by the regulator in terms of staffing levels and additional support requirements.
- e. **Lack of support from partners** – respondents felt that reluctance from partners to treat the sector as equal partners and part of the solution, coupled with a failure to communicate what is required locally, was preventing providers from implementing new ideas and approaches. This perception of a lack of partnership is expressed in relation to Local Authorities, commissioners, GPs and hospitals, and extended from a lack of recognition of the sector to difficulty engaging with them. What's

more, providers are experiencing a lack of commitment from commissioners in terms of purchasing new services or models as well as no articulation around what direction local care provision will take over the coming years. Whilst block purchasing isn't favoured by respondents, obviously a certain level of partnership support is required for providers to feel confident in establishing them and respondents would value guidance in relation to future commissioning direction. This is something that Integrated Joint Boards will need to look at improving over the next period of time. As one respondent said, *"We can provide any service, provided we know what is required"*.

It is important to note that many respondents detailed specific plans they had for innovation and new models of care, alongside the barriers they have faced in implementing them. Many of the articulated barriers were interlinked with each other and therefore require a whole systems approach to their reform if more meaningful enablement is to happen. If some of these inhibiting factors aren't addressed in a partnership-based, solution-focused way, there is a risk that the health and social care sector will lose the entrepreneurial spirit and flexible approach that the independent sector can offer. If services stagnate as a result of insurmountable barriers in the sector, even high quality services will soon become unfit for purpose as Scotland's population and its requirements change in relation to social care.

The uncertain future and the need to get it right

Financial investment

"There is an ongoing need to develop facilities and staff to meet higher dependencies and improve outcomes."

85% of respondents anticipate that they will require significant financial investment (capital, revenue or both) in their services in the near future if they are to remain fit for purpose.

Most respondents attribute this to increased staffing costs (including wage rises) and the need to upgrade facilities. In fact, many respondents detailed the ways in which they hoped to improve their services through investment, with most recognising the need to make changes in the next few years.

Some respondents gave examples of how they have invested in services recently, including changing beds, converting to single room availability, general facility upgrades and building developments.

Others focused on the need to invest in staff, relating to both wage increases, CPD and recruitment strategies.

Whilst these investments are positive, a number of respondents identified that the need to prioritise these areas up front will limit their ability to invest further in their services in the near future.

Others expressed concern in relation to whether being able to invest at all would be possible. Even those with funding arrangements in place were cautious about whether they could invest at this time due to the lack of stability and partnership in the sector, as well as the anticipated impact of significantly higher workforce costs.

Many respondents emphasised the precarious viability of services at the present time, which makes obtaining financial investment difficult if not impossible. Others still admitted they were looking at closing services, particularly smaller homes.

The most significant barrier to investment for providers, other than the inadequacy of funding and staffing costs, was the uncertainty surrounding the care home sector and elderly care more generally in Scotland. This uncertainty was expressed in relation to:

- Health and social care integration, in terms of the role of the care home sector and the purchasing intentions of partnerships
- Elderly care provision not being prioritised despite the demographics
- The instability of relying on self-funding residents to maintain viability
- The future of the care home sector with self directed support and the focus on care at home
- Inconsistency of regulation
- Lack of clarity in terms of what is wanted and required at local level
- Lack of banking support because of the volatility of the sector
- Brexit in relation to workforce and EU funding implications

This is making business planning and fundraising extremely difficult. Continued uncertainty risks destabilising the care home sector further and has implications for what provision there will be and how fit for purpose it is in the coming years.

Service development

“I am very uncertain. I want to provide the best service possible, to provide a community asset that is flexible and fit for purpose. I am not sure at this time that will be possible. I just hope that I am still able to operate.”

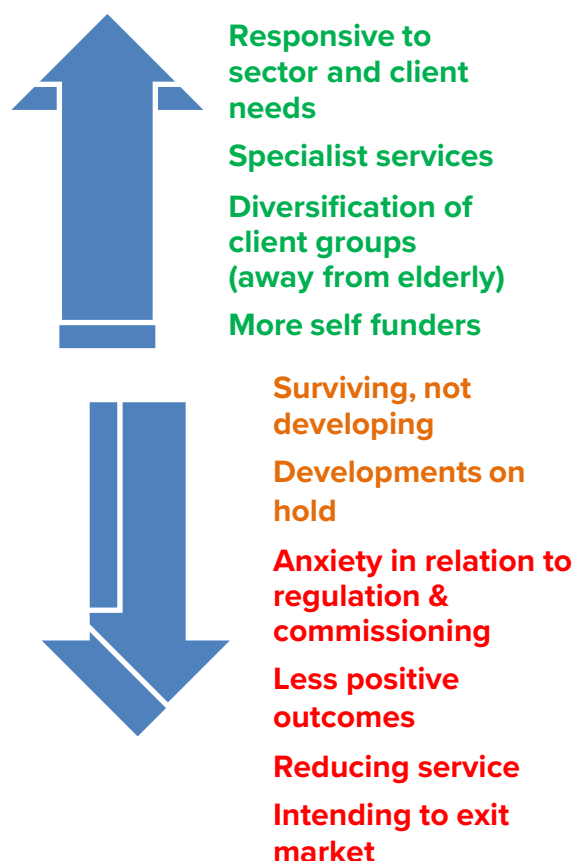
An interesting picture was painted when respondents were asked about how they saw their services developing in the next five years:

Some detailed their aspirations to be sector-leading in relation to innovative care and to be a local solution to local need, but recognised that that requires the support of partners such as the Care Inspectorate and Local Authorities.

Those considering service development tended to express a desire to diversify their services into more specialist provision and other client groups or to predominantly focus on self-funding residents. Diversifications mentioned include short term and intermediate care, dementia services, later living services, care at home and mental health provision. These tended to be linked to client groups other than frail elderly. Many indicated a need to increasingly focus on privately funded residents, with some seeing this market as a means of developing whilst others see it as essential to service survival.

Others stressed the need to ‘batten down the hatches’ and focus on maintaining high quality care for their residents. Some respondents clarified their intention to continue delivering their current service, and felt unable to consider development in the near future. Others detailed service developments they had been planning, but which they intend to put on hold given the current uncertain climate. Those who were looking at maintenance rather than development tended to attribute this to increased staffing costs and a lack of capacity to cope with further funding constrictions.

A further group expressed some real anxieties in relation to the future of their care provision and whether they would still be operational within five years. Some clearly stated their intention to exit the market, whilst others felt they would be driven towards those decisions involuntarily if significant changes weren’t made to commissioning and regulation, which they see as employing *“no fiscal sensibility*



when setting their expectations.” Those who didn’t anticipate a complete exit of the market were considering reducing their service or closing certain elements of it, and predicted less positive outcomes for service users because of the direction the sector was being forced into.

Serious consideration must be given as to whether this is the future vision for care home provision that we want. It is certainly positive that some services are considering diversification, since it has long been recognised that a greater spectrum of care choices needs to be available to those who require support. Given the changing needs of the

population, specialist services may well provide real benefits and fill current gaps in local provision.

It may be acceptable that some services continue to maintain current provision, but steps should be taken to ensure this is a positive and required option rather than an involuntary stagnation of the sector.

What is most concerning is the group that see the closing of services as a real possibility. It may be that these are providers that the sector would benefit from losing, but from the responses gleaned through this survey there was certainly a sense that those providers are committed to high quality care but feel increasingly unable to deliver what is needed for residents, staff and communities, and feel frustrated by this. It should be noted that a considerable group of respondents. Questions should therefore be asked about what this means for the growing number of elderly people with complex needs who may require support in a care home setting. Even those with a more positive outlook seem to be considering moving away from elderly care specifically, at a time when we are likely to need more positive options for elderly care and not less. We need a sector that is positively shaped by partnership working and shared decision making (including around disinvestment) rather than one that feels forced to shape itself within increasingly unworkable parameters, as we may therefore see the sector moving in directions that don't satisfy either national or local need or outcomes.

Self-funders

“We could not survive if we did not have self-funders and now have to prioritise self-funding clients moving in before other clients.”

A significant outcome of the survey was the information it provides about the self-funding market:

- ▶ 1-25% of an average service's residents are self-funding
- ▶ 61% of services see the self-funding market as increasingly important
- ▶ Respondents indicated a heavy focus and reliance on self-funders, as they are seen as crucial to the viability of their services
- ▶ A significant number of respondents support a move towards increased harmonisation of public and self-funding rates, which is seen as unfair at present, but only if this was realised in the form of a significant upward revision of public rates

The self-funding component of care home provision is an interesting one, with a variable picture across the country and across services. Obviously, there are areas where the self-funding market is more buoyant as a result of affluence and service

availability than in others. What's more, a certain number of self-funding clients will become at least partly publicly funded during their time in a care home when their capital reaches a certain level. However, what this survey shows is that more services are having to market themselves at those paying for their own care in order to maintain viability and even those who have avoided a focus on this area of care (often because of a moral objection to making decisions on someone's needs on the basis of their resource levels) are feeling forced to give it further consideration. A number of respondents explicitly said they would have to close without their self-funding residents, as they would not be viable with solely publicly funded residents.

Respondents were generally supportive of establishing a funding system whereby public and private fee rates are more equitable. This was seen to be fairer for all, in terms of the quality of service available to publicly funded individuals and the fees paid by those who self-fund. As one respondent said, *"funding and payment should be based on needs, outcomes and dependency not on your ability to pay."* However, they were very clear that any harmonisation would need to be based on the 'true' cost of care and mutually agreed calculations. Respondents expressed concern that this would never become a reality because this would increase care home funding significantly for commissioners, and therefore fear a continuation of what is seen as an unfair model.

The reform of the National Care Home Contract, whilst separate from self-funding rates, must ensure the links between public and self-funding rates and the impact of one upon the other are fully understood. If significant progress isn't made on the reform agenda, we are at real risk of unintentionally promoting a two-tier care home system, whereby innovative services that are regularly invested in and improved are only available to those who can pay for their own care. This is absolutely not the direction Scottish Care or its members want to see the sector developing in.

Summary

"Remember we are ultimately dealing with people's lives, choice and dignity. Negotiations should not purely be based on cost, cost cutting or service reduction."

Scottish Care undertook this survey of its care home membership in order to inform our understanding of providers' experiences of the current National Care Home Contract and their views on what should inform the development of a reformed contract. We certainly feel it has achieved that aim, and provided some valuable data on both positive and negative aspects of the national contract model:

- Providers value the single negotiation model currently utilised and believe there is benefit in uniting providers to improve the sector overall. A consistently understood and applied contract is helpful.
- Funding levels are the biggest issue of the current contract and largest ongoing concern for providers. The risks of continuing to fund care home services below the required levels to sustain services range from inability to establish partnership working to workforce crises and the closing of services.
- A new contract and negotiation model can only be successful if it accounts for changing dependency levels within the care home population, which have increased significantly over recent years and have a tangible impact on staffing levels, resources and placements.
- A new contract needs to build in a level of flexibility, in recognition of locality-specific circumstances and care requirements as well as to promote the development of new and innovative models of care for a range of client groups.
- Consideration needs to be given to how wider challenges in the sector will relate to and be accounted for in a reformed contract.
- There needs to be a much closer link between commissioning, delivery and regulation of care services.
- Steps need to be taken to support the sector effectively, both in terms of investment and the development of services. Otherwise there is a risk that the care home sector will develop in an unhelpful way given population requirements, fail to be fit for purpose or even collapse.

The intention of the survey and resulting report is not to ‘scaremonger’ or to talk up issues in the care home sector. However, it is important that it reflects the anxieties of providers, which primarily relate to stability and sustainability and which have increased significantly over recent years, to the point where we do risk an imminent crisis if they are not addressed. The success of a reformed contract will be measured on how it recognises and responds to these issues by working in partnership with the sector to achieve an aspirational yet challenging vision and infrastructure for the future commissioning of care homes.

However, as recognised in the quote at the beginning of this section, what the challenges and tensions of care home commissioning and provision ultimately amount to are the differences they make to people’s lives. If we are to get a reformed National Care Home Contract right, what we must always bear in mind is what we want the experience to be like for someone who requires support in a residential setting and how we prioritise values such as choice and dignity in that journey. If we don’t adopt a model that is premised on meaningful engagement, honest dialogue, enabling positive development and supporting the surmounting of challenges, we ultimately won’t be able to apply that model to people who require care home support.

Conclusion

Scottish Care and its members hope the information obtained through this survey will be helpful in informing the reform of the National Care Home Contract. It is crucial that we get this work right, and this can only be achieved through partnership with those affected by the contract and by taking their views and experiences on board.

This survey exercise was a first step in capturing information from providers, and Scottish Care is happy to undertake any further engagement exercises that may be required over the coming months.

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