

# Independent Care Matters

the newsletter for independent care providers in York  
and North Yorkshire

## Fee negotiations CYC—new offer NYCC—no movement

**At the mass meeting of care providers held at New Earswick in March the call was made that the local authorities must come back to the negotiating table. That same day City of York Council sent three senior managers to meet with ICG to discuss the fee rates for**



**care.** Further negotiations followed with CYC putting an extra £100,000 on the table bringing its offer from 2.3% to 2.95%. ICG commends CYC for its willingness to negotiate and

work with ICG to look for solutions. We recognise that the Council is struggling with a budget deficit and the Council has acknowledged the pressing needs of providers. Unfortunately, because the amount still falls well below the 6.8% needed to allow providers to cover increased costs this year, including the Minimum Wage rise, ICG, having consulted members, is unable to accept this figure.

ICG Chair Mike Padgham says 'All credit is due to CYC for looking again at this problem and working with us to resolve it. It would be difficult for us to accept this figure, however, as members feel it would set a precedent for accepting figures in the 2% range. We will continue to work with CYC because we share a desire to achieve a fair outcome.'

CYC also has the problem of some remaining 'aged contracts' to be addressed—that is, where a client has been in a home for a considerable time and through only receiving % increases over the years the fees for that client have fallen well below what is being paid today. ICG believes that these contracts need to be brought up to the current rates because the care given is the same but the fee paid is uneconomic.

**North Yorkshire County Council was asked to meet with ICG following the New Earswick meeting to discuss providers' views.** To date it has not responded to requests to meet.

ICG speaks on behalf of more than 6,500 care providers & staff.

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### Fee rates 2006

#### CYC

Residential care  
£339.91. EMI—£349.91

Nursing Care  
£456.75. EMI—£466.75

#### NYCC

Residential care  
£317. EMI—£346

Nursing care  
Low £339; Med £442;  
High £492

## MPs question issues for care providers

MPs across our region have been asking questions in support of care providers.

ICG has met with **Timothy Kirkhope** MEP for Yorkshire and the Humber and leader of the Conservatives in Europe. On our behalf Timothy has written to **Ivan Lewis**, Under Secretary of State for Care Services.

### The Minister replies:

**'It is not acceptable for councils to decide how much they want to pay and to tell home owners to take it or leave it, knowing that most home owners will be unwilling to evict council-supported residents.'**

ICG asks: who is policing this?

Among the many letters written by MPs is

one from **John Grogan**, Labour MP for Selby to **Derek Law**, Corporate Director for Adult and Community Services at NYCC regarding a fair price for care.

In his reply Mr Law acknowledges that more money is required for providers.

He says he has accepted that the work done on a fair price for care with the ICG 'is a useful indicator of some of the issues raised by providers' and on that basis there was an expectation that 'further increases above inflation would be required' He goes on to say that the budget determined that this year only an inflationary increase could be awarded.

**NB.** ICG has informed NYCC that the mechanism for working out inflation is not acceptable as it has failed to take into account the 5.94% increase in costs to the whole care sector of the raising of the Minimum Wage.

## NYCC and the fee rate for care

We have heard from a number of members that NYCC Care Managers have claimed that the **2.8%** fee increase this year has been agreed with the ICG. This is **not true**—ICG has rejected the uplift as completely insufficient. It goes nowhere to cover the increases in costs that providers have had to bear—most notably the raising of the Minimum Wage which has added **5.94%** to running costs.

### NYCC in-house rates

This year, more than ever, NYCC is prioritising its own in-house care—County Care.

The cost of placing someone in a County Care residential home is **£368**. The fee rate offered to the independent sector this year is **£317**.

The cost of home care per hour provided by County Care is **£17.43** per hour—which is significantly more than the independent sector, many of whom receive in the region of **£10** an hour, and some even less.

NYCC has raised its charge to clients for home care by **23.7%** from **£9.44** to **£11.68** per hour for 2006-2007. In many cases vulnerable people would be better off buying their care directly from the independent providers.

**Most care providers think there is a serious issue here—on the one hand the Council pleads poverty and on the other spends money in this way.**

### CSCI Chief Inspector David Behan has been speaking on commissioning.

He refers to the White Paper and a vision of integrated services which offer personalised care where people are able to exercise choice and control over their services. Among his many messages are these:

Most councils recognise that it is better to support the fabric of people's everyday lives with 'simple' services than to wait until people's lives 'collapse' leaving the council to organise expensive services for them. (*This relates to eligibility criteria*).

Councils often compete – rather than cooperate – for residential provision, which can lead to higher charges and potentially allows poor providers to continue in the market.

David Behan has now been appointed Director General of Social Care. He has been invited to the ICG Conference.

# MULTICARE

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 David Caley on 01642 457 777  
 or mobile 07801 128 800

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 ★ **ICG 2006 Conference—our best yet!** ★  
 ★ **Wednesday 22 November—a date in your diary** ★  
 ★\*\*\*\*\*

**Plans for our 2006 Conference are well in hand. We will again be holding the event at York Racecourse—which was so popular last year– but this year we shall have a bigger auditorium in the Voltiguer Suite. No one fails to be impressed by the wonderful views across the course and the quality of the food helped to make the event last year a memorable and enjoyable day out.**

**ICG is well aware that morale is low across the independent care sector which is why this year our Conference will feature a nationally-known motivational speaker Chris Moon MBE—who can engage hearts and minds and re-fire your enthusiasm!**

**We will also have national speakers to give us the wider picture on the care sector. We have invited David Behan the new Director General of Social Care. Also there will be a number of Workshops guaranteed to help you run your business more smoothly.**

**This year the Conference is sponsored by Barclays Bank, D C Care and Caring UK.**

**Your invitation is enclosed—please book early. Full details will soon be on our website: [www.independentcaregroup.co.uk](http://www.independentcaregroup.co.uk)**

## How should fees for care be negotiated?

**T**he essential qualities of **negotiation** are: the existence of two parties who share an important objective but have some significant difference(s). The purpose of the negotiation is to seek to compromise the difference(s). The outcome of the negotiation may be **a compromise** satisfactory to both sides, **a standoff** (failure to reach a satisfactory compromise) or a standoff with an agreement to **try again** at a later time.



### Sharing an objective on care

Surely, care providers and local authorities share the important objective of trying to achieve the best possible care for people who need it?

### Lowest price does not lead to best care

In recent years care providers have come to believe that there are many cases where the local authority is only interested in getting the lowest possible price from independent providers regardless of quality and the choice of the individual.

Providers are interested in maintaining and raising quality and in being able to pay their workforce more.

### Budget problems

These days, most local authorities have budget problems—and some are making enormous efforts to cope with these.

Care providers too have budget problems—which they feel are ignored.

### How is this to be resolved?

For successful negotiation to take place there must be goodwill on both sides and a willingness to understand each other's point

of view and to seek solutions. Often it helps if a disinterested third party is involved as a mediator—this is particularly helpful wherever there is a power difference between the parties.

### Seeking solutions

Over the years ICG has come up with a number of ways in which the local authorities could help providers:

To aid financial throughput care homes could be paid two weeks in advance instead of in arrears.

ICG has offered to actively support representations to Government for more funding for the local authorities.

ICG has often taken the initiative and put forward suggestions on more effective commissioning such as block contracting, fairer contracts and even incentives for services which are in short supply. Help with economic development has also been raised at frequent intervals but so far these ideas, whilst in some cases have been taken up nationally, have found little favour locally.

### Goodwill

Goodwill is engendered by working through issues together. Lack of communication does not aid goodwill—in fact it provokes alienation.

### How should care fees be negotiated?

Negotiation does not work unless both sides seek to compromise the differences between them. This means that for the local authority to come to the table with a fixed position which is immovable regardless of whatever points are made—is not negotiation. In fact from the position of the party with less power it feels like bullying and this can only breed resentment. If there is no openness to listening then a standoff (failure to reach a satisfactory compromise) is inevitable.

**We must learn from this and try to resolve our differences next time round.**

## Petition over fees to Govt and to Councils



Phil Willis MP supports the care providers' petitions

The petitions being co-ordinated by ICG on behalf of care providers are continuing to come in. A big thank you to all those who have worked on this.

**IF YOU HAVEN'T ALREADY DONE SO— PLEASE SEND COMPLETED FORMS TO:**

Keren Wilson at ICG

At address shown on the back cover.

## NYCC—renewal of providers list

Care providers in North Yorkshire will have noticed that reminders have been posted out in the last few days to those that have not yet signed up to the new contract terms on the new providers list.

The County Council says that so far around 50 providers have signed, but this means that the vast majority have not. As we go to press we understand that some care managers are ringing providers up who have not signed indicating that no further contracts will be placed with them unless they do sign.

Numerous people have told us that they are not going to sign and some ICG members have told us that they did not sign the contract the last time round and this has not made any difference to NYCC placing clients with them.

The contract has not been agreed with ICG therefore ICG cannot recommend providers sign it. If in doubt please call Keren Wilson on 01423 816 582.

## Skills for Care funding for training

Skills for Care can confirm from that their Training Strategy Implementation funding will continue until March 2007.

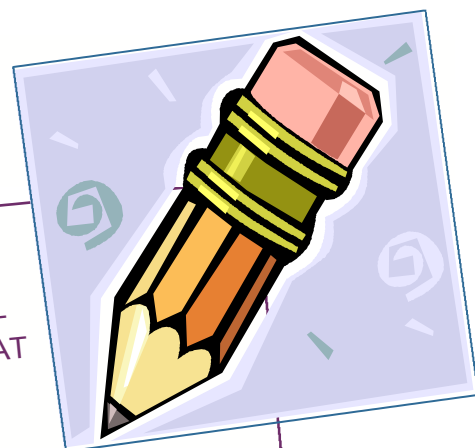
Employers are offered this financial support for training and qualifications relating to the National Minimum Standards in Care. Employers in York & North Yorkshire must join one of the two lead partnerships and complete a workforce development plan in order to access funding.

It is completely free to join a partnership and the choice is usually based on your own geographical location. Employers then submit claims for completed NVQ units, upon achievement, to their respective partner and receive £75 for each unit that has been successfully assessed between 1<sup>st</sup> January 2006 and 31<sup>st</sup> March 2007. The respective lead partner will process the claims for funding as and when they receive the evidence from employers throughout the year.

Claims for funding will operate on a first come first serve basis. In order to request the funding information pack containing the details of both partnerships please contact **Jeyda Williams on 01904 520170** or e-mail [jeyda.williams@skillsforcare.org.uk](mailto:jeyda.williams@skillsforcare.org.uk)



## Your letters ...



Dear ICG

Home owners should be aware that a recent European Court decision on VAT payments by Care Homes could mean substantial VAT repayments to operators.

This came about because a home owner took the Government to the Court about VAT and won! As I understand it, it only applies to Residential and not Nursing Homes (except dual registered homes who could reclaim for the residential part of the home) and will apply from day one up to 2001 when, presumably, the government changed the rules to stop such claims. It's important to understand that this is not, I believe, claiming for Capital Allowances which all homes can, but about OPERATING COSTS of running your business—a huge amount of VAT you will no doubt know.

For reference, it was Kings Crest v HMG.

Harry Larcombe  
Westcliffe Nursing Home & Glencoe Care Home  
Whitby

See our new ICG website at  
[www.independentcaregroup.co.uk](http://www.independentcaregroup.co.uk)

Dear ICG

We hear a lot about **choice** these days and we hear a lot about listening to the 'service user' and taking account of their views. I find that the reality with regard to the statutory sector is very different.

A lady in her late eighties came to our care home by choice from a spell in hospital. She is very frail and has to be on oxygen for many hours each day/night which is quite frightening for her. She has no immediate relatives. Having been very comfortable, well looked after and reassured during her stay with us she decided she did not want to return home but would like to stay on with us.

We asked NYCC for funding for this lady for three months pending the sale of her house (the twelve week disregard) - from which period she would fund herself. This has been refused and the Council has stated that this lady is 'borderline' residential.

They made alternative suggestions for this lady: for her to have home care or for her to go into a Council care home for further assessment. She has, however, made her choice and we shall be supporting her in it but we are concerned that had she not got a house to sell her wishes would be disregarded and she would be forced to agree to the Council's choices.

Name and address supplied.

## Legal advice from RadcliffesLeBrasseur solicitors Protection of vulnerable adults – but at what cost?

The protection of vulnerable adults (POVA) system has an important part to play both in protecting residents and identifying staff who should not be working in the care sector. It appears on its face to be straightforward for care providers who are simply required to notify the POVA Team or POVA Register of incidents giving rise to concerns or of staff who have been dismissed for reasons of abuse.

However, in an increasingly litigious society the true cost is not appreciated by many operators until they are confronted with a disputed case.

Many will be unaware of the potential ramifications of a POVA Report where this is contested. It can involve considerable time and cost. Disputed POVA references can lead to:

1. A request for further information from the POVA Team. The provider may be asked to review and comment on representations made by the former staff member, often requiring extensive time being spent. Providers need to co-operate with this to ensure that there is no suggestion that the POVA reference was made in bad faith (which might then found a claim in compensation against the provider).
2. The former staff member might (as happened recently with one of our clients) seek to take judicial review proceedings against the Secretary of State for placing their name on the POVA Register. The provider will almost certainly be named as an interested party in the Court papers and will need to consider whether to take part in the judicial review proceedings, with the consequent potential cost.
3. An application may be made by the former staff member to the Care Standards Tribunal to challenge the POVA reference. Other members of staff may be subpoenaed to attend the Care Standards Tribunal Hearing. The provider may also be required to produce extensive documentation such as clients' care records and personnel files. The Tribunal has wide ranging powers to order disclosure of such documentation. Such requests require careful consideration to ensure that documents are not disclosed which should not be. Care providers have a particular duty to ensure that inappropriate disclosure of health care records is not given in such a way as to constitute a breach of client's confidentiality.

The potential cost of dealing with disputes over POVA cases should not be underestimated - but it would be unfortunate if this discouraged referrals to POVA. **If you have a POVA incident seek legal advice at the earliest opportunity. RadcliffesLeBrasseur solicitors, specialise in advising care providers and operate a free advice line for ICG Members for legal queries related to healthcare on 0207 227 7308.**

**Andrew Parsons, RadcliffesLeBrasseur (RLB)**

**FREE LEGAL SEMINAR FOR ALL ICG MEMBERS—BOOK NOW**

**A legal seminar will be held by Andrew Parsons of RLB on Thursday 28 September. The seminar will be held in the York area—venue and time to be confirmed. Andrew will present the top ten legal issues for the care sector and will take questions.**

**To ensure your place please call Keren at ICG on 01423 816 582.**



*The voice of independent care providers in York and N Yorkshire*

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ICG represents independent care providers in York & North Yorkshire including care home providers for all client groups, domiciliary care agencies, supported living and extra care housing providers, and day centres in the private and voluntary parts of the independent sector.

*Independent Care Matters* is sent currently to all care providers in York and North Yorkshire, all City Councillors, all County Councillors, senior managers and Chairs of the PCTs, Borough and District Councils, NHS Trusts, Strategic Health Authority, to all local MPs and MEPs and senior managers at NYCC & CYC.

**QUALITY MANAGEMENT**  
See enclosed with this issue information on a Quality Management System—for care homes and home care agencies—that can help you meet the Care Standards with all policies and procedures. **Special offer for ICG members.** Speak to Peter Hawkins about **Required Systems** on 01236 782 477.

## Investing in Change – Seminars for small to medium sized care businesses – book now

### ICG Chair Mike Padgham writes:

As you may know I have been working with the Department of Health's Change Agent Team for a number of years doing my utmost to promote the work of the independent sector in health and social care.

I am a strong supporter of the role that independent providers play in the market place be they small medium or large. You all do a great job. However, I have felt that because the smaller providers are not able to benefit from the economies of scale that most larger providers enjoy,

some additional attention should be focused in this area and **I have been advocating for sometime the need to support small to medium sized care businesses in their efforts to prepare for future changes.**

To this end, I have managed to arrange for seminars across the UK especially aimed at this part of the sector. **The seminars are designed to be conferences with a difference in that whilst they will allow providers to be updated on the latest trends in health and social care it is also planned that a business entrepreneur will provide a key-note address to give that all important business perspective.**

The North of England venues are:

**Manchester, 27 September 2006 at MANDEC (Medical and Dental School)**  
**Newcastle, 4 October 2006 at the Assembly Rooms**

**To book your place (cost £40) call: 020 7837 7982 or e-mail [info@eventdotorg.co.uk](mailto:info@eventdotorg.co.uk)**

