

# Social Services Budgetary and Cost Pressures – **Conwy County Borough Council**

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This document is also available in Welsh.

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# Summary report

## Summary

- 1 Councils and Health Boards across Wales spend considerable sums on residential and nursing home care for adults, and demand for these services from a growing, ageing population continues, increasing budgetary pressures on public bodies.
- 2 The latest published data from Stats Wales<sup>1</sup> shows that North Wales councils spent approximately £66 million in 2018-19 on Nursing Placements and Residential Care Placements, and NHS benchmarking indicates that Betsi Cadwaladr University Health Board (the Health Board) spent £83 million in 2018-19 on external placements.
- 3 Conwy County Borough Council (the Council) allocated an additional £400,000 in the 2018-19 revenue budget for adult social care in recognition of these financial pressures. In 2019-20, the Council allocated a further £500,000 in its revenue budget to recognise demand pressure in Adult Services, and £850,000 in the revenue budget for 2020-21 to recognise both the in-year anticipated £2.5 million underfunding in Adult Social Services and an estimate of the continued growth for 2020-21. In 2020-21, the Council plans to spend over £67 million on Social Care Services.<sup>2</sup>
- 4 For service users and their relatives, funding for residential and nursing home care can be complex and confusing. While responsibilities for the funding of care costs by health boards, councils and service users is set out in statute and supported by Welsh Government guidance, in practice, disputes between public bodies over the interpretation of the guidance can cause additional stress to service users and their relatives.
- 5 The Social Services and Well-being (Wales) Act 2014 (SSWBA) came into force on 6 April 2016. Under the SSWBA, councils and health boards have a statutory obligation to establish and maintain pooled fund arrangements in relation to the exercise of their care home accommodation functions by 6 April 2018. During our fieldwork, we were made aware that the Welsh Government was undertaking a review assessing Regional Partnership Boards' progress in implementing pooled funds. We understand that the Welsh Government will be making recommendations to strengthen and improve the existing arrangements.
- 6 Denbighshire County Council currently hosts the North Wales pooled budget arrangement for care home accommodation for older people on behalf of the Health Board, Anglesey, Gwynedd, Denbighshire, Conwy, Flintshire, and Wrexham councils.

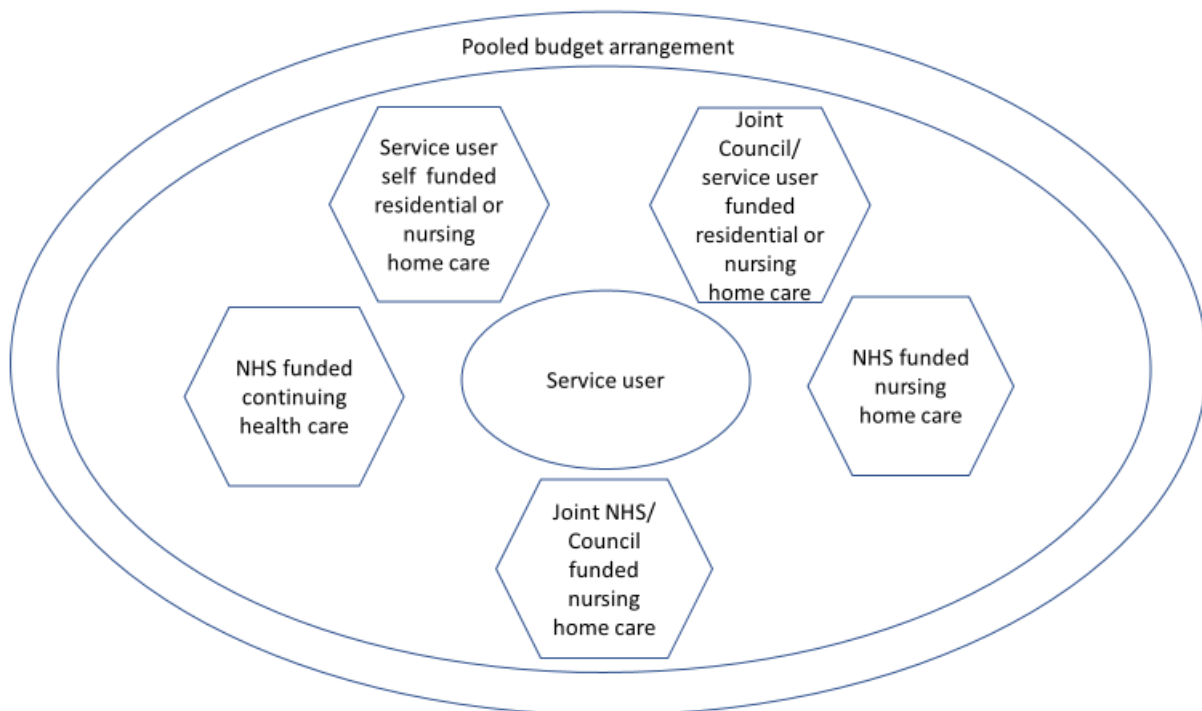
<sup>1</sup> <https://statswales.gov.wales/Catalogue>

<sup>2</sup> Source: Conwy publication **Investing in your community**. Council tax information leaflet.

- 7 There are five ways to fund residential and nursing home care as follows:
- Service user funded care
  - Joint Council and service user funded care
  - Joint Council, service user and NHS funded nursing care (where funded nursing care is payable)
  - Joint NHS, service user, and Council funded care
  - NHS funded Continuing Health Care

### Exhibit 1: Residential care funding arrangements

Exhibit 1 shows the service user as the recipient of residential and nursing home care services and the five ways in which residential and nursing home care is funded, encompassed by a pooled budget arrangement.



- 8 Our review pre-dated the outbreak of COVID-19. Councils and the Health Board will have inevitably streamlined decision-making and supporting processes to address ongoing urgent issues. We anticipate that this will provide valuable learning for councils and the Health Board around more integrated commissioning of residential and nursing home care.
- 9 Our review concluded that the Council has been unable to maximise the potential benefits of partnership working when commissioning and administering residential and nursing home care placements.

- 10 We came to this conclusion because:
- the pooled budget arrangement for care home accommodation does not provide value for money;
  - the Council has well-established arrangements for contracting for residential and nursing home care but recent national changes to the financial assessment process have resulted in an additional financial cost; and
  - the Council acts to ensure that service users are in appropriate placements, but access to continuing health care funding can result in delays and disputes.
- 11 The issues raised in this report are unlikely to be unique to the Council and pose a risk across many councils and health boards in Wales. We have carried out a similar review at Denbighshire County Council where the Council is a contributor and host to the pooled budget, and we have carried out a review at the Health Board focused on the management arrangements for continuing healthcare. These reports may provide further context on the issues raised in this report.
- 12 In 2020-21, we plan to complete a regional review of residential and nursing care commissioning, with a focus on forecast demand and capacity planning, across North Wales.

## Proposals for improvement

### Exhibit 2: proposals for improvement

**Exhibit 2** summary: The table below contains our proposals for ways in which the Council could improve the economy, efficiency, effectiveness and the sustainability of its funding for residential and nursing home care.

#### Proposals for improvement

- P1 The Council, in partnership with the Health Board should establish a strategic approach to the funding and commissioning of residential and nursing home care that:
- bridges organisational differences;
  - demonstrates value for money; and
  - places service user needs at the forefront.

## Proposals for improvement

- P2 The Council should engage with partners to review the current pooled budget arrangement for residential care for older people, to ensure that transfers of funds between public bodies have a tangible benefit such as better, more integrated commissioning of residential and nursing home care.
- P3 The Council should work with the Health Board to improve communication arrangements that ensure that any changes in health needs (and subsequent eligibility for continuing healthcare funding) are quickly communicated and funding arrangements revised.
- P4 Consider updating elected members on a regular basis with key performance information about its financial assessment service such as speed of assessing claims and any additional costs to the Council of Welsh Government policy changes.
- P5 The Council must ensure that it is applying appropriate criteria within its financial assessment for residential and nursing care.
- P6 Consider changes put in place during the COVID-19 pandemic to identify opportunities for better, more integrated commissioning of residential and nursing home care

**The Council has been unable to maximise the potential benefits of partnership working when commissioning and administering residential and nursing home care placements**

### **The pooled budget arrangement for care home accommodation does not provide value for money**

- 13 Establishing a pooled budget for care home accommodation has provided the Health Board and councils with an opportunity to improve outcomes for service users, maximise value for money through the commissioning process and better integrate services for older people. Working in partnership should facilitate more

clarity around responsibilities for residential and nursing home care commissioning and funding, resulting in minimal disputes between partners.

- 14 In August 2019, the Council's Cabinet approved the establishment of a non-risk sharing pooled fund for care home accommodation for older people, with Denbighshire County Council acting as host authority, and for the arrangements to be effective for the financial years 2019-2022. Partners in the pooled budget arrangement are Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham councils and Betsi Cadwaladr University Health Board.
- 15 For administering the fund on behalf of the other partners, Denbighshire County Council received £20,000 for 2018-19 and is due the same sum for 2019-20 from regionally administered transformation funding to recognise the cost of hosting the pool on behalf of all partners.
- 16 The Council's August 2019 Cabinet report states that the purpose of the pooled funds arrangements is to encourage local authorities and local health boards to work together to maximise their influence to shape the future development of services and to ensure that services are sustainable in the long term and capable of responding flexibly to local demand. The Cabinet report stated that overall regional spend in 2018-19 was £111 million (£90 million net of charges and contributions).
- 17 The Chartered Institute of Public Financial Accountants in its publication **Pooled budgets and the integration agenda in Wales** states that 'There is no single definition of a pooled budget, either in accounting terms or in the legislation. Regulation 7 of SI 2000/2993 says that a pooled fund is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any National Health Service functions or health-related functions.'
- 18 At the time of our fieldwork, the pooled budget had processed three quarterly payments totalling £70.8 million, as follows – the quarter one payment on 18 February 2020 totalling £20.7 million, quarter two payment on 25 February 2020 totalling £24.3 million and quarter three payment on 14 January 2020 totalling £25.8 million. In a full year, based on the payments to date, the pooled budget can expect to process around £94 million.
- 19 The Health Board and five other partner councils pay into the 'pool' a financial contribution equal to their total net spending on residential and nursing home care for older people each quarter to Denbighshire County Council. To date these payments have totalled £60.5 million.
- 20 The Council transfers its financial contribution from within its own general fund. The following table shows the Council's contribution to the pooled budget for each quarter.



### Exhibit 3

	Quarter 1	Quarter 2	Quarter 3
Expenditure net of client contributions	£3.3 million	£4.1 million	£4.0 million
Less Health Board funded nursing home care	£0	£588,000	£294,000
Less Health Board joint funded contributions	£0	£11,273	£205,944
Net contribution to the pooled budget by Conwy	£3.3 million	£3.5 million	£3.5 million

- 21 On the same day that Denbighshire County Council receives the financial contributions from the Health Board and five partner councils, Denbighshire County Council then repays the same sums back to the Health Board and five partner councils. The Welsh Government is aware of this arrangement and is satisfied that it meets the minimal technical compliance under the Social Services and Well-being (Wales) Act.
- 22 In practice, the Council is unable to demonstrate how this quarterly transfer of funds:
- provides value for money;
  - will influence and shape the future development of services;
  - will influence sustainability in the long term; or
  - help partners respond flexibly to local demand.
- 23 We consider this to be a poor use of public money and poor value for money.

### **The Council has well-established arrangements for contracting for residential and nursing home care but recent national changes to the financial assessment process have resulted in an additional financial cost**

- 24 For service users without specific primary health needs, councils have responsibility for assessing and meeting their social care needs. The Council has established arrangements for contracting with nursing and residential care providers within Conwy and further afield. It sometimes also shares care costs with the Health Board.
- 25 Where the Council is responsible for contracting for residential or nursing care, it financially assesses service users to determine how much they should pay towards the cost of their care. The Council collects service users' contributions via the care home provider.

## **Service user self-funded residential or nursing home care**

- 26 Service users who have capital of £50,000<sup>3</sup> or more or who choose not to disclose details of their income and capital will pay the full cost of their care. Where the Council contracts with the care home provider, which provides some assurance around the quality of care provided, service users pay the contracted price of care to the care home provider. In the knowledge that service users have enough means to pay the full care costs, the care home may ask them to pay third-party top-ups, for example, for a larger room or room with a better view. As a result, service user capital could reduce more quickly, and they may request financial support from the Council sooner. At the time of our fieldwork in February 2020, the Council was financially supporting eight service users with this additional top-up charge at a cost to the Council of £353 per week each. There were a further 25 service users whose top-up payments are currently being met by family and friends at a total cost of £5,723 per week.
- 27 Service users can contract for their care direct with the care home provider. This may mean they pay more for their care than they would if the Council had commissioned the care on their behalf. If residents pay more for their care than they would under the Council's contract, their capital will reduce more quickly and they may request financial support from the Council sooner. The Council does not offer a service to negotiate a contract on the behalf of these service users and there is inevitably less assurance around the quality of care provided than from Council contracted services.

## **Joint Council and service user funded residential or nursing home care**

- 28 As noted in **paragraph 25**, where the Council is responsible for contracting for residential or nursing care, it financially assesses service users to determine how much they should pay towards the cost of their care. The Financial assessment team undertakes the financial assessments. At the time of our fieldwork in February 2019 the Council funded 554 people in residential and nursing home care of which 163 were 'out of Conwy county' placements, with over 50% of these in Denbighshire. The Welsh Government incrementally increased the upper capital limit for financial assessments from £24,000 in March 2016 to £50,000 in April 2019 above which residents pay for their own care in full. As a result, the Council has part funded care home fees for those people with capital between £24,000 and £50,000: it would not have done this before the increases.
- 29 The Council estimates the cost of this to be approximately £864,675 during the first half of 2019-20, adding further budget pressures to the social care budget. As councils now have to financially support a larger number of residents than

<sup>3</sup> From 8 April 2019, people living in Wales have to pay the full cost of their own residential care if they have assets of more than £50,000.

previously, the Welsh Government is providing an additional £18.5 million per annum across Wales. This funding is distributed on a formula basis and so each council is receiving a share of this £18.5 million.

- 30 At the time of our fieldwork, elected Members we spoke to were not aware of these additional costs although the matter had been raised at one Cabinet meeting in 2018 but the issue has not been raised at any scrutiny meeting during 2019-20. Furthermore, during 2019-20 only limited performance information, such as the speed of processing assessments, had been presented to the Council.
- 31 The financial assessment undertaken by the Council follows Welsh Government guidance as set out in the Social Services and Well-being (Wales) Act 2014 Part 4 and 5 Code of Practice (Charging and Financial Assessment). The guidance identifies the need for the Council to check for deprivation of assets 'where a person may have tried to deliberately avoid paying for care and support through depriving themselves of assets – either capital or income'. In 2019-20, the Conwy financial assessment team undertook over 1,800 assessments for people in residential or nursing care and undertook 15 deprivation of assets investigations and three were proven. The Council's financial assessment application form asks if property has been sold transferred or given away in the last three years. However, while each application must be considered on its individual circumstances, as set out in *Yule v South Lanarkshire Council* [1999] 1 CCLR 546, there is no time limit on how far back councils can look when deciding whether a person has deliberately deprived themselves of assets to avoid residential care costs.

## **The Council acts to ensure that service users are in appropriate placements, but access to continuing health care funding can result in delays and disputes**

### **NHS funded continuing health care**

- 32 The process to agree CHC funding is that a multi-disciplinary team (MDT) made up of council staff and other professionals involved in the service user's care, engaging with the service user and close family members, should work together to complete a Decision Support Tool (DST) setting out primary health needs. The DST is then considered by the Health Board and if it confirms the MDT recommendation, the Health Board will quality assure and commission the care package. Where the Health Board agrees CHC funding, it bears the full care costs; service users do not contribute to the care costs. At the time of our fieldwork in February 2019 a total of 171 older Conwy people were fully CHC funded.

- 33 The Welsh Government makes clear, in its **National Framework for the Implementation of Continuing NHS Healthcare in Wales 2014**<sup>4</sup>, that ‘The individual must not experience delay in having their needs met because agencies are not working effectively together. Joint funding and pooled budget options must be considered wherever these can promote more agile, and as a consequence, more efficient responses to individual needs and preferences. Commissioners have a responsibility to resolve concerns/disputes at the earliest opportunity.’
- 34 We were told by Council officers that recommendations made by the MDT are often challenged or rejected by the Health Board, sometimes with little or no explanation of the reasons. The MDT can provide additional evidence to support its recommendations in such instances. The Health Board may also request that the MDT reconsider the recommended eligibility based on the available evidence presented. It is important that MDT members understand the reasons why the Health Board has not approved CHC funding so they can learn for future applications and can explain the position clearly to service users and their families. Given that this does not currently happen, individuals can experience delays in having their needs met; although the Council acts to reduce the impact on service users where possible, usually by continuing to pay care costs until responsibility has been agreed with the Health Board. During our fieldwork in February 2020 the Council was awaiting the outcome of four current disputes for CHC adult care funding amounting to £158,012. In addition, there are some ‘historical invoices’ from before April 2018 which involve 31 cases across services and all service types and a total debt of £712,523 which the Council told us they are progressing positively with colleagues in the Health Board.
- 35 We were told of instances where the Health Board had placed patients into nursing homes under continuing health care arrangements, but upon review had assessed that patient as no longer having primary care needs that the Health Board was responsible for meeting. In these circumstances, the care home provider is left in an untenable position;
- the patient is settled with no other accommodation to go to;
  - there is no contractual arrangement with the Council;
  - the contract with the Health Board may or may not have expired, but with no primary health care needs the Health Board has no ongoing funding responsibilities.
- In such cases, where a transfer agreement should be in place, the Health Board and the Council are not at times communicating effectively to ensure a timely handover of responsibilities.

<sup>4</sup> **Continuing NHS Healthcare the National Framework for Implementation in Wales 2014**

## NHS funded nursing home care

- 36 NHS funded nursing care can be agreed by the Health Board for people who
- live in a nursing home and are not eligible for CHC;
  - have still been assessed as requiring the services of a registered nurse; and
  - are not receiving registered nursing care in any other way eg from district nurses.

In such cases, the Health Board is responsible for £165.56 contribution to cover the funded nursing care element of the care home fees. The balance of the cost is met by the Council and service user; service users do not contribute to the funded nursing home care element but are financially assessed to determine how much they should pay towards the balance of the care costs.

- 37 NHS funded nursing home care is the responsibility of the Health Board and the contract should be between the Health Board and the care home provider. **Exhibit 3** shows that contributions to the pooled budget do not include the funded nursing home element, indicating that the Council has made payments on behalf of the Health Board for this service. The Health Board reimburses the Council the sums paid. There is no contractual arrangement for the funded nursing care element of the care and sums are paid based on good will between the Council and the Health Board.

## Joint NHS and Council funded nursing home care

- 38 People placed in a nursing home who are not eligible for CHC can still be funded jointly by the Council and the Health Board. In these circumstances there will be a three-way contract recognising the responsibilities of the Council, Health Board and provider. The Council and the Health Board normally share the costs, 50% each, although there are examples where the split may not be 50/50. The Council pays the full care costs, then requests reimbursement retrospectively from the Health Board. Service users will pay their contributions direct to the care provider.
- 39 There is no formal agreement between the Council and the Health Board covering the reimbursement of the Health Board's contribution to the Council. The table in **Exhibit 3** shows no joint funding contributions to the Council during quarter one and then only £11,273 in quarter two, and then £205,944 in quarter three. This suggests, assuming it is not an accounting error, this are either a number of very significant jointly funded placements made in quarter three, or that the Council is not receiving Health Board contributions promptly.



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