

## Joint Statement by 3rd & Independent Sector Representatives in Response to

### Agenda Item 7 – ‘The Financial Crisis in the Care Home Sector.

This is a statement made on behalf of both the 3<sup>rd</sup> and Independent Sector care home providers in North Ayrshire. It has been considered necessary to make this statement following the inclusion of the IJB agenda item ‘The financial crisis in the Care Home sector’ and its associated paper ‘Plugging the Leaks in the UK care home industry’ produced by the CHPI.

We are both surprised and disappointed that this has been included as an agenda item today. Surprised, in the first instance, because neither Vicki nor I, as the IJB representatives of non-statutory sector care home provision in North Ayrshire, have had any consultation about this matter - the first we knew about it was when we received the IJB papers a week ago. This has given us very little time to solicit the views and concerns of local providers. It is ironic that a NA Care Home Commissioning Strategy is under way and a number of providers have volunteered to contribute to this process. There is dismay that this agenda item should have been included today. We are disappointed for those same reasons, but also for the emotive and contentious nature of the subject matter. It is incumbent upon all organisations which provide publicly-funded services to be aware of the political element of their external environment, but this item is a highly politically-motivated matter, with huge implications.

We note that the CHPI paper was commissioned and funded by Unison, and presented by Louise, the local Unison employee. It would be fair to state that Unison have traditionally viewed independent care service providers in a generally negative way. It appears to be part of that organisation’s own political stance.

The validity of the CHPI paper itself, is not without its issues:

- It is UK based and not Scottish – with very little relevance to the care home scene in Scotland;
- It concentrates on the ‘Big 26’ providers in the UK who deliver only 30% of the provision, making it impossible to extrapolate accurately its findings to the rest of the sector;
- It refers to the ‘leakage’ – a somewhat emotive term – of payments which are all legitimate business expenses – debt servicing, dividends, management charges, directors’ remuneration and rent/lease payments;

- The industry 'leakage' of an estimated gross £1.5bn is not validated nor any basis given as to how it has been calculated. It was presumably made up by the author;
- It refers to obtaining Value for Money but does not suggest how this should be gauged, and does not seek to compare with public sector provision;
- Oddly, although the author is stated as a chartered accountant, he adopts a 'profit before tax' analysis when EBITDARM (Earnings Before Interest, Tax, Depreciation, Amortization, Rent, Management fees) is the accepted method of analysing business financial performance. This suggests either a lack of understanding of finance or a deliberate attempt to mislead;
- Reference is made to companies not holding sufficient equity and net asset requirements to cover malpractice claims. In Scotland, at least, Malpractice is a mandatory insurance liability cover for all registered care homes, monitored by the CI and local authorities – the author clearly has no understanding of this.

But most importantly, this report can be seen by existing NA providers as a means and justification for the recommendations made in this agenda item when, as mentioned earlier, there is a dubious level of relevance to the care home scene here in NA.

Recommendation 1 – A Care Home Transparency Act. We should all be reminded, in the first instance, that sections C.9.1 & 2 of the NCHC gives the Council the ability to require, which they do, all care homes to provide significant financial accounting information in a form which is dependent on that organisation's status. Notwithstanding that, on the face of it, it might be argued this is a reasonable proposal given the arguments made for the funding provided to both local authority and self-funded service users. It should apply, however, to all sector provision as there are clear examples of poor planning and operation of expensive care in the largesse of public sector provision. The Big 26 are not the only organisations with complex accounting processes. How many times have we grappled with the complexity of NA's own finances? Just how easy is it to calculate the true, full cost of a care home bed at, say, Montrose House, or Anam Cara? Or, the true cost of a NA care at home worker compared to the rate paid to non-statutory care at home services? A caveat to be made with this recommendation, however, is that production and monitoring of such transparency should not become an industry in itself – the costs must not outweigh the benefits, otherwise the service user and/or the tax payer will pay a premium.

Recommendation 2 – A new form of care regulation to monitor and control the financial affairs of providers. Essentially a follow-on from the previous recommendation with the same arguments, and caveat, to consider. That old adage, the two inevitabilities in life are tax and death, comes to mind here. Whereas tax evasion is against the law, efficient tax management is an important component of any treasury function, be it a small or large organisation, and we know the Councils are no exception to this. We are not defending all the practices described in the report, but is this a movement to deter all inward investment from foreign companies – something this country relies upon? Referring to the last two bullet points of this recommendation – the cost of care calculator remains unresolved at national level after 3 years in some key areas – areas which have been independently ratified but which the local authorities, represented by Scotland Excel, have refused to accept as they highlight the significant underfunding of the sector within the NCHC rates. Given this obdurate approach, would it be fair to allow this level of control over these costs as part of a new form of care regulation?

Recommendation 3 – To provide low cost funding by the government for the provision of new care homes or to build new care homes in the statutory sector. This recommendation seems somewhat idealistic. The first part is an interesting idea but, even if the SG have the cash to do so through local authorities, it is likely low cost funding arrangements would lock in such conditions as to effectively make the care home under the full control of the funding authority. Referring to the second part of this recommendation, it is not for us to tell the statutory sector what it can and cannot do in its capital expenditure, but:

- The requirements of achieving ‘best value’ remain an imperative, in focus and, as such, must be closely scrutinised – this local authority does not have an exemplary record in this respect;
- North Ayrshire already has, according to senior personnel in the Partnership, sufficient care home capacity – these are existing local assets across all six localities. What does this say to those local providers already striving to do a good job?

This conjures up an uneasy parallel with the story so far of NA’s care at home sector. Where the provision split was previously 50% NAC and 50% independent, the IJB ratified a 70/30 split on the basis that independent providers had handed back their contracts. They had done this because the rates being paid no longer made their businesses viable. Commentators on this have opined the rates set by NAC in the years following the contract framework inception were prohibitively low and the

inevitable outcome entailed. The rates for independent care at home providers remain a controversial matter today with claims of inequitable terms between public sector care workers and what the non-statutory sector providers can afford for their staff. There is some conjecture whether even the 70/30 split exists now – it would seem NA, along with a number of other HSCP's, wish to bring the full CaH provision in-house. Is this agenda item the start of a similar strategy for care home services in NA?

In general terms, much of this agenda item has serious implications for a mixed economy of care. The claims made have a limited relevance to the care home sector in Scotland and, despite the two recent care home closures referred to, they have an even more tenuous relevance here in North Ayrshire.

Independent and 3<sup>rd</sup> sector providers take on the business risk and the challenge to provide safe, effective and person-led care because they wish a level of autonomy, within a regulated environment, in order to deliver their services in a way which reflects their own interpretation of what is required. This has produced examples of innovation and the highest levels of quality care coming from the non-statutory sector. It has also ensured the notion of choice, particularly relevant under Self Directed Support, is available to those seeking such services.

The concerns expressed in this statement are an early interpretation of these proposals. They are made in good faith on behalf of 3<sup>rd</sup> and independent sector providers, but the way this agenda item has been tabled today, with a lack of consultation and its contentious nature, brings into doubt just how much NA values this sector. Trust has been lost, and a true partnership across all sectors is in question.