Care England
HR Group meeting
16 February 2023 – 13:00-14:00

Welcome & Introductions

George Appleton **(GA)** – Head of Policy at Care England and Chair, welcomed attendees to the meeting. Supporting this meeting: Louis Holmes (LH) – Policy Manager, Abi Moir **(AM)** – Senior Policy Officer at Care England, Charlie Lezard **(CL)** – Policy Officer at Care England, Fraser Rickatson **(FR)** – Policy Officer, Care England, and Hannah Bollard **(HB)** – Associate at Anthony Collins solicitors.

Discharge

GA: Outlined that at present there are two live pots of money: in September as part of the Plan for Patients, the government announced £500 million to support timely and safe discharge from hospitals into the community by reducing the number of people delayed in hospital awaiting social care; and in January, the Secretary of State announced another £250 million will be allocated to speed up hospital discharge. The latter went out to local areas in mid-January and insight from the Department of Health and Social Care (DHSC) and NHS England (NHSE) indicates that nationally, care packages are being bought and ICBs recording how the flow is going. The indication received from the centre is that there is capacity within the sector but this depends on factors e.g. workforce and wrap-around clinical packages.

GA: There are two forthcoming pots of money: in 2023/24 £600m; and in 2024/25 £1bn. The conditions for the 2023/24 fund are to be agreed, but half will go via ICBs and half via LAs (iBCF). This is where we see an opportunity to influence what these conditions look like.

GA: Nationally, there appears to be confusion around the packages of money that are how there and how they can be spent (500m + 200m). Care England has requested a table breakdown of the different pots of money and how they can be spent.

International Recruitment

AM: On 10 February, The Department of Health and Social Care has today published information on the £15m fund, allocated as part of Our Plan for Patients, to help tackle barriers of international recruitment, while upholding ethical recruitment and employment practices.

AM: The fund aims to promote collaborative arrangements which reduce administrative complexity and burden, particularly for SME providers. The fund is being established to enable a support offer to be set up at regional or sub-regional level which can be made available to all providers within the area.

AM: The conditions of the fund can be found on GOV.UK. In essence, the DHSC intends to distribute the grant through a lead local authority which will act on behalf of all the local authorities in the partnership and collaboration with local care alliances and local providers. The lead local authority will work collaboratively to develop an application which sets out in broad terms how the partnership proposes to address the needs and priorities of providers in their area. This initial plan

will set out approaches to facilitate and boost international recruitment in the adult social care sector.

AM: The money for this financial year (2022/23) is very time sensitive and operates on 'bid for what you can spend basis' so the majority of plans will likely involve ADASS regions commissioning legal advice and setting up internal procedures/ policies to help inform the next round of funding (£15m for 2023/24). The deadline for submission of bids to access funding for 2023/24 is 17 March 2023. Care England is working to establish greater clarity on how both the 2022/23 and the 2023/ 24 will be operationalised and how providers can best interact with these.

Members escalated concerns to us over the partnership involvement process. **Members** reported that engagement from Local Authorities had been scarce but some Local Authorities had contacted providers with expression of interest forms.

Action: Care England to follow up the Department of Health and Social Care on the IR Fund to provide clarity as soon as possible to members.

National Minimum Wage for overseas workers

HB: Some providers are providing accommodation and charging the employee for that. The NMW regulations say that any expenditure in connection with employment incurred by an individual once employed will reduce earnings for NMW purposes. So this means that when you're doing your internal assessments each month to check if NMW has been paid, you need to deduct the accommodation fees, to the extent that the fee exceeds the accommodation offset allowance. More information is available at GOV.UK.

HB: If an employer charges more than the offset rate, the difference is taken off the worker's pay which counts for the National Minimum Wage or National Living Wage. This means the higher the accommodation charge, the lower a worker's pay when calculating the minimum wage. If the accommodation charge is at or below the offset rate, it does not influence the worker's pay. If the accommodation is free, the offset rate is added to the worker's pay.

HB: Some providers are hiring out cars to staff from overseas and charging for that. Again, the cost will deduct pay for that pay reference period and so the charges could take that employee's pay under NMW. There is no offset allowance for cars.

HB: Other things that providers need to be aware of that aren't just applicable to overseas workers and which we have seen are of interest to HMRC:

- The cost of uniform if there is a uniform policy. e.g. that staff have to wear black trousers and they go and purchase black trousers. The cost of the trousers will reduce wages for NMW purposes.
- Training time – online – make sure you factor this time into the NMW calculation because time spent doing online training at home in their own time is working time for NMW purposes so if you're not paying it, could risk falling below NMW.
- Pre-employment training – this is a particular risk area if you're requiring them to do training whilst there is a contract in place and there has been an offer of work and an acceptance of work – not paying for this could risk coming under NMW.
- Admin fees – DBS checks. If the employer is charging an admin fee on top of the DBS check fee – then this will reduce pay for NMW purposes.
- Travel time and waiting time. Only significant issue in relation to homecare – be aware that travel time and waiting time count as working time for NMW purposes so if you're not paying for this time, could risk breaching NMW. Need to be clear on what you are counting as

rest/break time as opposed to waiting time. Need to have clear policies in place as to how you calculate travel time and how a worker lets you know if your calculation of travel time is incorrect because of traffic, etc.

Oliver McGowen Mandatory Training

CL: How the OMMT is rolled out has been left up to ICBs based on how they are structured and the services they have in their remit. ICBs have been asked to work with colleagues across health and social care to identify initial trainers to be trained and cascade the training across the ICB in the train-the-trainer model. Providers can express their interest on a form here. Larger providers are encouraged to do this as they have more infrastructure to create their own in-house trainers, who can also go on to train other staff at organisations.

CL: Social care providers can find a video and guide for how to access the OMMT eLearning here, as feedback has shown there have been difficulties accessing it.

CL: Skills for Care recommend being flexible with the eLearning section of the training. It can be completed in short bursts, and providers can discuss its content with their service users. They recommend not leaving too much time between part one and part two of the training for both tiers; providers can book part 2 in advance and then ensure part 1 is completed a week before. However, providers shouldn't delay in rolling out the training – instead they can put staff through part 1, and just ensure they refresh their knowledge ahead of part 2 (which references the first part). More information can be found on the HEE FAQ page here.

CL: A code of practice is in the works and will make recommendations for providers. This code of practice will be subject to a consultation, likely this Summer, to which Care England will respond. It will include provisions about the nature of the training including the content, delivery and ongoing evaluation of the impact of the training. It will also offer guidance to employers about what training will satisfy the requirement of the Act.

Strike Action

LH: The DHSC shared the main feedback from several meetings held recently with representatives from local authorities and adult social care providers to consider lessons learnt from industrial action over the last two months. The letter was shared with the group on 11 February. More information can be found here.

ICS Workforce Planning

FR: South West London ICS has developed a social care workforce strategy to identify what collective action can be done to help address the social care workforce challenge.
There are 12 key recommendations made within this strategy, with the main recommendations being to:

- Promote social care employment and career opportunities, develop routes into social care employment and address underrepresentation and inequalities in the social care workforce.
- Work with social care employers to develop targeted initiatives to improve the retention of social care employees.
- Refine local authority social care provider quality assurance to include co-designed recruitment and retention measures.
- Reduce barriers to employment in social care such as the cost of housing and transport.
- Identify and deploy resources and funding to address social care workforce challenges.

- A link to the full workforce strategy can be found here and a full list of the 12 recommendations and the actions to be taken, can be found here.

FR: Herefordshire and Worcestershire ICS have released their integrated care strategy, which highlighted the establishment of the Herefordshire Cares website (which can be accessed here). This website features local case studies showcasing 'working in the care sector' using a diversity of roles from different local providers. The website also hosts a jobs board advertising vacancies across the sector, these are updated weekly and provide what they refer to as a 'one-stop shop for job seekers looking for suitable work opportunities.'

Action: Members are to forward any ICS workforce strategies, or wider integrated care strategies, to FR (FRickatson@careengland.org.uk)

Harpur Trust vs Brazel Consultation

GA: The Government has launched a consultation following the recent decision in the Supreme Court concerning holiday entitlement, Harpur Trust v Brazel.

GA: Care England will be responding to the consultation as we believe there are implications for the sector.

Action: Care England members are to provide feedback on the Harpur Trust v Brazel consultation to amoir@careengland.org.uk.

Covid-19 Updates

GA: The government has extended the provision of free PPE for all health, social care and public sector workers to support their COVID-19 needs: first until the end of June 2021, then until the end of March 2022 and, in January 2022, this was extended until the end of March 2023 or until the NIPCM guidance was withdrawn or significantly amended (whichever was sooner). Most recently, the scheme was extended until DHSC's stocks are depleted or until the end of March 2024 (whichever is sooner).

GA: DHSC confirmed they would publish further information about stock-out dates by PPE category (when they expect to run out of specific types of PPE) by April 2023. This publication is now available and available here.

GA: In the case where items have run out from the free stockpile, these should continue to be available through the portal on a paid-for basis – or of course providers can seek other routes to purchasing them – the DHSC is hoping to get clarity on the expected prices through the portal soon to enable providers to make an informed decision about where their best value for money can be found for their PPE needs.

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