

UNISON Submission to London Borough of Islington Health and Social Care Scrutiny Committee, 16th July 2020

Subject: The council's response to the government's introduction of an Infection Control Fund for care homes and domiciliary services

1. Background and National Context

- 1.1 Approximately a third of the 43,000 deaths directly linked to the coronavirus have been in care homes. With the total number of people living in care estimated at 330,000 in the last census, this means about one in 20 residents have died after contracting the virus.
- 1.2 It now seems to be widely accepted that the level of infection in care homes arose from many providers being persuaded to take people from hospital who had not been tested. This situation was further compounded by a failure to test for the virus in a timely manner within the care homes and by many residents and staff who were infected, presenting as being asymptomatic.
- 1.3 A BBC Newsnight report on 3rd June featured care homes run by MHA in the North West of England. When the homes were eventually able to commence testing, approximately 42 per cent of staff and 45 per cent of residents who tested positive, were asymptomatic. This underlines, not only the importance of testing, but also the absolute necessity for infected staff to self-isolate.
- 1.4 Although perfectly lawful, many workers in care homes and in domiciliary or home care often have poor and unsafe working conditions, all of which are allowed by law:
 - Poor pay, often only the minimum wage
 - No occupational sick pay (equivalent to full pay)
 - No proper voice, often no trade union recognition or representation
 - Lack of PPE and training
 - Often, worse conditions for agency staff
- 1.5 Although there is a significant minority who will not be able to, most staff not receiving occupational sick pay will be able to claim Statutory Sick Pay (SSP) of £96 per week. However, this is about a quarter of a full-time worker's salary. There is usually a qualifying period of four days for receiving SSP but recently regulations were amended to allow payment from the first day of any Covid-related sickness absence.
- 1.6 Lack of proper provision for sick pay means that if, due to a positive test result for Covid-19 or a suspected infection, a member of staff needs to self-isolate, they will not be able to put food on the table and pay bills. The introduction of a track and trace system means it is highly possible that individuals could be advised to self-isolate several times over and clearly this could be even

more financially catastrophic for them. UNISON believes that at the very least, local authorities should be willing to encourage and financially support providers to at least pay full pay to staff who need to isolate (isolation pay). On 3rd July, UNISON senior national officer, Gavin Edwards said: “The best run homes pay employees full wages to workers off sick. In others, ill staff are effectively forced into turning up for work because they can’t survive with no money coming in.”

- 1.7 The Organisation of National Statistics (ONS) Vivaldi study, published on 3rd July and based on responses from 5,126 care homes in England, found that in homes where staff receive sick pay, residents were estimated to have lower odds of testing positive, compared with those where staff did not receive it. We believe that payment of full pay for isolating staff is a crucial measure and we do not believe that such payment should be restricted to those who have tested positive. Tests now seem to be more widely available whereas at the start of the pandemic, and particularly, in care homes, they were not. A positive test should however not be regarded as critical as there is quite significant evidence of false negative tests, particularly where a test may have been wrongly or poorly administered. It should also be clear that isolation pay can be made available to staff with a sick family member or to those who have been in contact with another infected individual or have been advised to self-isolate by the Track and Trace or Public Health service.
- 1.7 In April, a study undertaken by Public Health England - which has been partially suppressed – identified the issue of asymptomatic staff working across more than two or more care homes as being a significant factor in the spreading of the virus. It is reasonable to assume that most of these staff were agency or bank workers. The ONS Vivaldi report found that homes that used bank or agency staff most days or every day were 1.58 times more likely to test for Covid-19 than in homes not using such staff.
- 1.8 On 13th May, the government announced a £600m Infection Control Fund (ICF). The government’s grant circular for the ICF stipulates that local authorities must “ensure that 75% of the grant is allocated to support six specific measures. These are set out in Appendix 1.
- 1.9 The ICF applies to all homes within a borough’s boundary, irrespective of whether or not there is any contractual relationship between a home and the local authority.
- 1.10 Some ICF funding can also be channeled to those homecare providers with which a local authority may contract, again to pay isolation pay.
- 1.11 The Department for Health and Social Care required local authorities to submit a planning return detailing how the ICF was to be used by 29th May. It was not until that date that the Local Government Association (LGA) published its “Infection Control Fund grant conditions Briefing” online. It may be the case that the LGA’s members were provided with copies of the briefing prior to this but this is not clear, and it is therefore difficult to know to what extent, any authority might have benefited from this prior to submitting its planning return to the DOHSC.

- 1.12 The LGA briefing rightly describes the Grant Circular for the ICF as “an unusually prescriptive document”, the implication perhaps being what the government had done was to lay out a minefield which local authorities were then required to traverse without anything exploding in their faces. We believe however that the LGA is wrong in describing the six specific measures (shown in Appendix 1) as constituting “a limited range of infection control measures”. The briefing implies that these are not as important as PPE or provision of deep cleans and whilst not wishing to downplay the crucial importance of the latter measures, there seems here to be an inability to clearly see that staffing measures such as payment of full pay and preventing cross-home working are absolutely crucial in terms of infection control.

2. Care Homes in Islington

- 2.1 There are sixteen care homes in Islington. This submission is mainly concerned with those that provide care for older people. However, it is worth noting that eight of Islington’s care homes are relatively small ones, providing care for a range of service user groups:
- The council provides directly: three homes for people with learning disabilities. Staff working in these homes are on local authority terms and conditions of service, which includes entitlement to full occupational sick pay.
 - Three voluntary sector organisations provide four homes for younger service users with a range of needs: mental health; substance misuse; homelessness; physical disabilities. Whilst we have no precise details of the staff terms and conditions of these organisations, prior knowledge of the sector would suggest that staff are employed on terms and conditions which are broadly comparable to those of the local authority.
- 2.2 Six providers provide nine homes and 400 places for older people in Islington. Staff terms and conditions vary, and this includes entitlement to sick pay. ; we will return to this later.
- 2.3 The council contracts with Care UK to provide three of the homes for older people.

3. London Borough of Islington’s position on the Infection Control Fund and its responses to Islington UNISON.

- 3.1 Exchange of correspondence between Andrew Berry (AB) and the leader of the council, Councillor Richard Watts and the Executive Member for Social Care, Councillor Janet Burgess, regarding the ICF and isolation pay, occurred over a period of more than six weeks: between 19th May and 3rd July . This correspondence is attached in Appendices 2 to 8.
- 3.2 Enquiries from UNISON were not always responded to in a timely manner . AB sent UNISON’s first email regarding this matter on 19th May however the leader did not respond until 28th May. He stated that AB’S original email had been sent to his personal email account, but this is not correct.

3.3 A crucial point of difference emerging from the exchange of correspondence concerns how much control the council has as to how money can be spent by care home providers. Related to this, there seems to have been some difficulty in terms of the council - or at least the Executive Member for Social Care - acknowledging what the ICF is actually is and what it is for. Despite the grant circular for the ICF stating that local authorities should “ensure” it is spent on six specific measures (See para 1.8 above), both Councillor Burgess and Councillor Watts have painted a picture of the local authority having no agency in the matter and no control over how the money is spent.

3.4 In her email to AB of 28th May, Councillor Burgess stated:

“Despite the Government claiming it as extra funding for councils, the additional £600 million ring fenced infection control fund to support care homes, which you mentioned, is in effect an industry fund and not Council cash... ”

On 1st June, Councillor Watts, publicly tweeted in reply to a tweet from AB that the Infection Control Fund could not be used to pay isolation pay:

“Because, as we wrote to you, it’s a condition of the grant that it has to be given straight over to the care providers”.

3.5 In her email of 28th May, Councillor Burgess went on to say:

“It is estimated that the fund will provide a 50 bedded care home with about £50,000 additional resources, but if the occupancy levels are down to around 30 residents, the home will be making a loss of around £10,000 per week. Islington Council has also seen income reduce sharply over the past few months as costs linked to the pandemic rise and we have no idea for how long the current situation will go on.”

3.6 A letter of 22nd May, from the Minister of State for Social Care, Helen Whately, makes clear that the “funding should only pay for activity to help reduce the risk of infection and is not intended to be used to improve provider financial resilience.”

3.7 Replying to Councillor Burgess on 1st June, AB stated that he did not believe it was correct to represent the fund as “in effect an industry fund and not Council cash”. Although certain elements of the criteria for its use remained vague, it seemed clear that what the government wanted was for local authorities to make targeted interventions, particularly around staffing costs. Furthermore, the government’s press release, issued on 15th May, contained the following statement:

“Care homes will be asked to restrict permanent and agency staff to working in only one care home wherever possible. The funding could be used to meet the additional costs of restricting staff to work in one care home and pay the wages of those self-isolating.”

- 3.8 AB went on to say that surely it was possible for the council to demand certain measures are implemented when it comes to those providers with which it directly contracts. (i.e. the Care UK homes and domiciliary care providers.)
- 3.9 Helen Whately first wrote, regarding the ICF, to council leaders on 14th May. At the point at which AB wrote to Councillor Burgess on 1st June, the UNISON branch was not aware of a second letter from the minister, dated 22nd May and referred to above at paragraph 3.7. This attached further information regarding the ICF, including the grant conditions. The branch only became aware of this information several days later as a result of reading the LGA briefing which is referred to at paragraphs 1.11 & 1.12 above but was in fact published on 29th May, the day of the deadline for all local authorities to submit their planning returns regarding the ICF.
- 3.10 Having had no reply from Councillor Burgess to his email of 1st June and having now had sight of the information referred to in the above paragraph, AB wrote once more to Councillor Watts on 9th June. He stated he could not agree that it was simply “a condition of the grant that it has to be given straight over to the care providers”. He stated that an impression of this being the case may have emanated from paragraph 12 on page 5 of the DOH Grant Circular where it was stated:

“The funding should be prioritised for care homes and passed on as quickly as possible. We expect this to take no longer than ten working days upon the receipt of the funding in a local authority”.

AB pointed out however that paragraph 13 of the same document began:

“All funding must be used for COVID-19 infection control measures.”

In addition, the second paragraph of Annex A of the grant circular described the purpose of the grant as being as follows:

“...to provide support to adult social care providers, including those with whom the local authority does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience to deliver infection control. The grant must only be used to support care homes and domiciliary providers to tackle the risks of COVID-19 infections. Funding will be distributed to local authorities in England, to ensure funding reaches adult social care providers in their area. In order to ensure that the relevant infection control measures are put in place as speedily as possible, local authorities should make the relevant payments to providers as quickly as possible on receipt of these allocations. Any funds not used for the relevant infection control measures must be repaid to the local authorities by the end of September 2020 and if such repayments are not made the local authorities must take such steps as a necessary to recover them.

There was here, AB believed, a clear implication that local authorities must endeavour to ensure that any care provider will use the funding for infection control.

- 3.11 In her email to AB of 3rd July, Councillor Burgess appears to somewhat shift from her previous position of the ICF being an “industry fund” She says that officers “have looked again to see if the

Council does have more agency and control over the ICF than we had previously understood”, and that they “are still of the opinion that the guidance stipulated that Local Authorities must ensure that 75% of the grant is allocated (to care homes) to support a range of measures (6 identified), including ensuring staff away from work due to COVID-19 related symptoms are paid their normal pay.” But as has been made clear, the UNISON branch was already aware of the six specific measures. Prior to the Councillor Burgess’s email of 3rd July, they had not been mentioned by either her or Councillor Watts.

- 3.12 In the correspondence with Councillors Burgess and Watts, AB twice pointed to the issue of the council’s planning return on the ICF needing to be a publicly available document and available on the council’s website. Despite first being raised on 1st June, this point was not addressed until 3rd July, in Councillor Burgess’s email.
- 3.13 It is acknowledged that a letter dated 29th May from Linzi Roberts-Egan, Chief Executive of the London Borough of Islington, to Helen Whately, constitutes, as stated in the letter, “part of the required submission” regarding the IFC. We now know that this was posted on the website on the same date but despite this, its existence was quite hard to discover. A search within the website using the term “infection control fund” did not reveal its existence. It was only discovered through searching on the term “islington council infection control fund” through Google. This may be because the title given to the letter was “Covid-19 care home support package”. This did not immediately suggest that it contained any information relating to the IFC.
- 3.14 On reading Ms. Roberts-Egan’s letter, it became apparent that a further document was missing. The letter refers to a “Care Home Support Plan” being attached but it was not attached and nor was it posted on the council’s website. The co-author of this report, Brian Gardner (BG), who is also an Islington resident, wrote to Ms. Robert’s Egan on 29th June, pointing this out. The following day, the “Care Home Support Plan” – this actually being the template issued by the government which each local authority was required to complete – was posted on the website. In the last few days, the appearance of the document has been much improved and given a new title: “Islington Infection Control Support Plan” .
- 3.15 On 6th July, Katharine Wilmette (KW), Director Adult Social Care wrote to BG in response to his letter of 29th June. Her letter does not acknowledge that the Care Home Support plan was not in the first instance, posted on the website. However, it has now been published and she does seem to acknowledge that “the information was difficult to find on the council’s website and in the light of this confirms that the title of the webpage has been changed to now say: “Infection Control Fund and additional support for adult social care providers”.
- 3.15 The page which KW refers to above does now contain summary information of what the council is doing in relation to the ICF. Contained within this is the information that 75% of Islington’s allocation of the ICF “will be passed straight to care homes on a ‘per beds’ basis in two instalments.

3.16 The correspondence pertaining to the website and missing information is not attached, as we consider this matter to have been resolved. We remain however disappointed that it took so long to discover the information.

3.17 Though Ms Egan’s letter of 29th May is intended to be part of the required submission with regard to the IFC, the number of references made to the fund are very few. It does not explicitly reference the six infection control measures referred to at paragraph 1.8. above. Of the six, the only measure specifically referred to is that of placing returning staff or volunteers in care homes. Page 6 of the letter contains the following statement:

“Islington Council will passport the entirety of the 75% IPC [sic] grant funding to care homes in our borough, based on a flat rate per bed. This constitutes a clear fair offer to all care homes reflecting the spirit of the guidance.

3.18 The next paragraph is as follows:

“The council will use the remaining 25% of the Grant on other Covid 19 infection control measures, in response to local need. This may include support for domiciliary care providers and supported living providers”

4. Comparison with other local authorities

4.1 As has been pointed out to Councillors Watts and Burgess, a number of other local authorities have agreed to underwrite full isolation pay for staff, including a number of councils in the North-West of England. In her email to AB of 3rd July, Councillor Burgess states that Islington Council has been unable to ascertain how one of them – Salford – has funded full pay. She goes on to state:

“This area of the country has had a recent history of doing things differently, for example one authority set an hourly rate for domiciliary care fairly high (well above the UKHCA estimated minimum cost) in a bid to increase quality. “

This response appears somewhat vague.

4.2 As is made clear in the letter from Ms Roberts-Egan of 29th May, together with the boroughs of Barnet, Camden, Enfield and Haringey, Islington participates in the North Central London Clinical Commissioning Group. One might therefore think that there is a consistency or similarity of approach across these boroughs, but this is not the case. Responses from Barnet and Haringey make no mention of sick pay or isolation pay. The London Borough of Camden, which has sixteen care homes contained within its boundaries, has committed to paying staff who are self-isolating, full pay for 14 days. The Chief Executive of the London Borough of Enfield, which has seventy-nine care homes within its boundaries, states the borough is: “Supporting providers who have staff isolating in order that they receive normal wages”. Both of these boroughs have clearly been able work with providers in order to achieve these outcomes. The “Islington Infection Control Support Plan”, referred to at paragraph 3.14, is essentially a document which the government has required

all local authorities to complete, detailing what they are doing with regard to a range of potential actions. With regard to the potential action of “Paying staff full wages while isolating following a positive test” Islington highlights the following issue:

“The Older People’s care home market in Islington is primarily made up of large national providers who set their employment terms and conditions, and this presents some challenges in influencing a local approach.”

One could be forgiven for thinking however that such challenges would be at least partially replicated in both Camden and Enfield. Also, the question arises as to whether this is not in fact a red herring. Providers who do not pay full sick pay would surely not object to the council committing to fund isolation pay and the measure can be implemented without an employer needing to make any permanent alteration to its staff terms and conditions.

5. Conclusion

5.1 Paragraphs 3.15 & 3.17 above indicate that as per the grant circular for the ICF, 75% of the first portion of grant (approximately £420k) has already been passed to care homes, with no indication of any discussion having taken place as to how and on what, the money might be spent. It is correct that the fund has to be allocated on a per care home/per beds basis and it is also true that the government allowed only a limited period of time for councils to pass the money on. However, it is questionable as to whether the council has exercised due diligence and whether its interests have been safeguarded here. The government has said that it will claw back any money that has not been spent on the six specified areas referred to at paragraph 1.8 above

5.2 At paragraph 16 - “Breach of Conditions and Recovery of Grant” - of Annex C of the grant conditions issued on 22nd May, the following statement is to be found:

“If the authority fails to comply with any of these conditions, or if any overpayment is made under this grant or any amount is paid in error, the Secretary of State may reduce, suspend or withhold grant payments or require the repayment of the whole or any part of the grant monies paid, as may be determined by the Secretary of State and notified in writing to the authority. Such sum as has been notified will immediately become repayable to the Secretary of State who may set off the sum against any future amount due to the authority from central government.”

5.2 Ms. Roberts-Egan’s letter of 29th May points out that each provider will be required to keep records of how the money is spent in line with the national guidance but this seems to be placing the onus on providers to be responsible for appropriate use of the funding rather than acknowledge that the council should try to at least influence how the money is spent. It is hopefully quite clear by now that our position is that the council is able to influence providers and is in fact required to “ensure” (the term used by the government) that the money is spent appropriately.

5.3 At this stage, we would ask:

- i. What have providers indicated they are actually spending the money on and can anything be done at this point to reverse any situation where the money is not being spent appropriately or is not been spent on staffing or pay?
 - ii. Can anything be done at this stage to ensure that the second tranche of money is spent more appropriately
- 5.4 In addition to the above, we would like to ask if the council's plans to spend 25% of the second tranche of money on domiciliary or supported living services have been developed any further?
- 5.5 In her email of 3rd July, Councillor Burgess provides a breakdown of what care homes are paying their staff in terms of sick or isolation pay. She states that she is pleased that most of them are paying full sick pay. This is debatable as the number who are not doing or potentially not doing so is significant.
- 5.6 Staff working for Forest Healthcare which provides 129 beds in the borough only receive SSP.
- 5.7 From April 2020, staff employed by Barchester Healthcare – which provides 52 beds - will pay staff forced to self-isolate an additional sum of £13.50 per day (effectively twice the SSP day rate). This is something but is somewhat short of being full sick pay. Any staff member who tests positive for Coronavirus and is ill will be paid 80% of their pay whilst ill. This seems to be splitting hairs.
- 5.8 The information regarding staff of BUPA Care Homes Ltd – providing 55 beds – is unclear.
- 5.9 Councillor Burgess's information also seems to indicate - despite the council's return to the DOHSC not highlighting it as a serious problem – that there are still significant numbers of bank or agency staff working across homes. This is of great concern given that the information provided by Councillor Burgess also indicates that many bank staff do not receive the same staff sickness benefits as those who are regularly employed. In addition to the issue of full isolation pay, this is something that use of the ICF is supposed to address. However, it would appear the Council has paid little attention to this.
- 5.10 There are increasing calls for care homes and other adult social care services to be properly resourced and funded and even calls for nationalisation of care homes and de-privatisation. UNISON wants to see social care funded properly by the government, an end to privatisation and staff paid a decent wage reflecting their skills and the importance of the work being undertaken. We believe however that in the immediate term in Islington, the council needs to do its utmost to ensure that staff are paid full isolation pay and that measures to limit the numbers of staff working across homes are implemented.
- 5.12 The importance of these issues should not be diminished. The virus has not gone away and whilst it may be that as community transmission has lessened, so as a corollary, has infection in care homes, it seems likely that come the autumn, we will be facing a second wave. This means that in these homes, effective measures need to be in place.

5.13 It cannot be correct that the Council has no agency. We would argue also that the council has important strategic responsibilities in terms of both social care and public health and should bring its influence to bear on providers, particularly those with which it has a direct contractual relationship.

Andrew Berry (Islington UNISON Labour Link Officer) and Brian Gardner for Islington UNISON

7th July 2020

APPENDIX 1

Infection Control Grant Circular - page 13 extract

Local Authorities must ensure that 75 per cent of the grant is allocated to support the following measures in respect of care homes:

- Ensuring that staff who are isolating in line with government guidance receive their normal wages while doing so. At the time of issuing this grant determination this included staff with suspected symptoms of COVID-19 awaiting a test, or any staff member for a period following a positive test.
- Ensuring, so far as possible, that members of staff work in only one care home. This includes staff who work for one provider across several homes or staff that work on a part time basis for multiple employers and includes agency staff (the principle being that the fewer locations that members of staff work the better;
- Limiting or cohorting staff to individual groups of residents or floors/wings, including segregation of COVID-19 positive residents;
- To support active recruitment of additional staff if they are needed to enable staff to work in only one care home or to work only with an assigned group of residents or only in specified areas of a care home, including by using and paying for staff who have chosen to temporarily return to practice, including those returning through the NHS returners programme. These staff can provide vital additional support to homes and underpin effective infection control while permanent staff are isolating or recovering from COVID-19.
- Steps to limit the use of public transport by members of staff. Where they do not have their own private vehicles, this could include encouraging walking and cycling to and from work and supporting this with the provision of changing facilities and rooms and secure bike storage or use of local taxi firms.
- Providing accommodation for staff who proactively choose to stay separately from their families in order to limit social interaction outside work. This may be provision on site or in partnership with local hotels.

APPENDIX 2

19/05/20 – email to Councillor Watts outlining UNISON’s demands and requesting use of the Infection Control Fund be used to assist with paying full sick and isolation pay. .

Hi Richard

I hope you and your family are well and that you are staying safe.

I am writing to you regarding a serious concern which I’m sure you share. This is about care staff working in Islington not receiving full occupational sick pay or full pay to self-isolate.

The council has often taken the initiative in the past and we ask that it does so again to ensure that all staff working in care homes in Islington now receive this. This will include not only the staff working for Care UK, which the council contracts with, but also any other private care homes; I understand, there are a small number of these.

The contribution being made by all care staff needs to be adequately rewarded and this should include immediately giving them full pay when sick or self-isolating. However, our demand for sick pay is not simply about the value of their work. It is essential in helping contain the virus.

We also ask that the Council ensure that pay and other protections as set out in UNISON’s Ethical Care Charter are applied to all staff working for domiciliary services providing home care, including spot contracts as well as the current block contracts.

Yesterday, Care UK reported that 586 of its 12,409 residents across the country had died from Covid-19. You also know that many care staff have died, this at double the rate of the general population. I am sure therefore you will agree that staff need to feel confident in remaining at home if they or a member of their family are feeling unwell; also, if in the future, they or another member of their household are asked to self-isolate after being contacted as part of contact tracing.

Care staff should not feel they have to choose between self-isolating and feeding themselves and their family. I am sure you would also agree with UNISON that SSP is not sufficient to maintain any employee or their family and not all are even eligible to receive this.

I am aware that the “infection control fund” which the government announced last week, Wednesday, is in-part available to support wages of staff who need to self-isolate. Of course, I will not be surprised if you tell me that this is not sufficient funding for the support needed. And it is not clear to what extent the fund can be used in the wider social care context. It is however our view that this is too important an issue to wait for sufficient funding; it is about life and death. The council must find the money from reserves or even be prepared to run a deficit if this is required. I pledge now that Islington UNISON would stand with you in defending action taken to protect lives.

Islington has often taken the initiative and has often been ahead of other councils on progressive policies: bringing services in-house, the fairness commission, the living wage and signing UNISON's ethnical care charter. We therefore ask you to be one of the first councils in London to guarantee full pay for sickness and isolation for all staff in contracted care homes and all contracted homecare agencies.

We propose that sick/isolation pay is based on the average days' pay over the last 3 months and we ask that this be backdated to at least the beginning of March.

I look forward to an urgent response on this. As the Labour Link Officer, I am looking at raising this issue within the local party as I am sure there is deep concern amongst members. If this needs further discussion, then please do contact me or Jane Doolan.

Yours

Andrew Berry, Islington UNISON Labour link Officer

APPENDIX 3

28/05/20 – email from Councillor Burges in response to email to Councillor Watts of 19/05/20

Dear Andrew,

Re: Sick Pay in Social Care settings

I am responding to your email to Richard as this issue falls within my portfolio responsibilities.

Your email covered a number of complex issues and I wanted to respond to all of them in my reply; my apologies that preparing a proper response has taken some time.

As you would expect, I completely agree with the principle that care staff should receive full pay whilst they are sick or self-isolation –our front line care staff deserve to be supported and protected in their day-to-day work caring for our vulnerable residents but this is only possible with adequate government funding.

You will know only too well the repeated argument about NHS/social care funding and market structure. This Government, like many before it, has paid lip service to the need to recognise the importance of social care and fully fund the service, but has not acted upon it.

I hope that given the public outcry over recent weeks and months, the Government will acknowledge how fragile the current position is and reverse the trend on local authority budget settlements by providing adequate resources. Without social care, the NHS would not have been able to play their (considerable) part in dealing with the pandemic. With proper funding we could then systematically put in place care that people deserve, delivered by well trained staff who are properly remunerated for the excellent work that they do. The daily publicity about care homes has sadly put them centre stage but has, at the same time, raised public awareness about social care and the challenges we face as a society.

There are five older people's care home providers in Islington and as private organisations they each have their own policies related to sickness, absence and sickness pay. Currently at minimum all providers pay statutory sick pay (SSP) and recent pandemic-related changes in government policy mean that this has been paid from day 1 rather than day 4 so as not to disincentivise staff from taking time off if they should be isolating. Some providers are more generous than this: one provider pays staff 100% of their salary for 2-4 weeks, depending on their length of service, before moving to SSP. Our providers also report that they have supported vulnerable staff to shield e.g. through the furlough scheme. You may be aware that I did recently intervene in a case with a domiciliary care provider where staff were subsequently furloughed. It is possible that some staff felt unable to take time off due to sick pay arrangements, however we do not have confirmed evidence of this. Sickness rates have varied in different homes, in a way that broadly appears to match to the severity of their COVID-19 outbreaks.

Islington Council block purchases some beds and spot purchases the rest, both inside Islington but also further afield, and this is true of beds for other client groups besides older adults. All of these providers will have set their bed charge (or hourly rate in the case of domiciliary care and other

support services) based on their business model and agreed set of assumptions, set before the COVID-19 crisis.

Like all local authorities, Islington Council has taken significant steps to support its providers to deliver the assumptions mentioned above. We are about to pay a 5% uplift on all of the individual care packages we currently commission for residents, both in borough and further afield. This will cover services provided during April and May this year and include all client groups. In addition to this, Islington Council has supported provider organisations by ensuring the best Public Health advice is provided and, where necessary (and it has been necessary fairly regularly) appropriate PPE to safeguard care staff caring for vulnerable people in care homes, domiciliary care and other care settings. If guidance and advice is properly adhered to, there should be no reason why staff should not be properly protected whilst carrying out their job. We regularly monitor the position in our 8 care homes and domiciliary care provider settings. Commissioners, Public Health and NHS professionals are in contact with our providers regularly, offering advice and support during this pandemic.

I am sure you will be aware that the additional emergency COVID-19 resources made available to local authorities during this pandemic initially came in two tranches of £1.6 billion each. The share for London Councils of the overall £3.2 billion was around £500 million. It is estimated that there will be a shortfall of around £1.3 billion in London alone. In Islington, we face a significant budget challenge over the next 3 years due to both COVID-19 and overall resources available for services.

Despite the Government claiming it as extra funding for councils, the additional £600 million ring fenced infection control fund to support care homes, which you mentioned, is in effect an industry fund and not Council cash – an industry that faces mounting challenges. It is estimated that the fund will provide a 50 bedded care home with about £50,000 additional resources, but if the occupancy levels are down to around 30 residents, the home will be making a loss of around £10,000 per week. Islington Council has also seen income reduce sharply over the past few months as costs linked to the pandemic rise and we have no idea for how long the current situation will go on.

I hope that you, like us, will continue to lobby the Government for adequate resources and in the meantime we will work to ensure we support providers, social care workers and residents as much as we are able within our reducing resource envelope, and in keeping with Unison's Ethical Care Charter.

We would be pleased to support any campaign to call on government, to fund proper sick pay packages for all hard working care staff. I will also shortly write Matt Hancock MP to call on him to do just that.

We will continue review our commissioning strategy for care services and take every opportunity to revise our procurement and contract expectations in collaboration with providers.

We are in very challenging times, but if you would like to discuss further or raise in discussions with the Chief Executive, please do so.

With best wishes,

Councillor Janet Burgess M.B.E

APPENDIX 4

01/06/20 – email to Councillor Burgess in response to her email of 28/05/20

Dear Janet

Thank you for your very detailed account (28th May) of the council's response to the continuing challenges which Covid-19 presents to the social care sector and in particular, care homes, this in response to my email to Richard of 19th May. This concerned the possibility of the Council underwriting the payment of full pay to all care home staff in Islington who are sick or who have to self-isolate because of coronavirus. It also pointed to the existence of the new infection control fund which the government announced on 13th May. I wish here, primarily, to address your remarks regarding the latter.

I do not recall the government "claiming" the infection control fund as "extra funding for councils" though I may have missed this. I am fully aware that the money is to be given over to care homes and perhaps to a more limited extent, also to domiciliary providers. I do not however believe that it is correct to represent the fund as "in effect an industry fund and not Council cash" and though I understand the calculation, I don't understand the point you are making when you say: "It is estimated that the fund will provide a 50 bedded care home with about £50,000 additional resources, but if the occupancy levels are down to around 30 residents, the home will be making a loss of around £10,000 a week"

The fund has not been established to provide industry or business subsidy and although certain elements of its criteria and operation remain somewhat vague, it seems clear that what the government intends is to make targeted interventions around staff welfare, training on PPE, and perhaps most critically of all, staffing costs. It is clear also that the government wants local authorities to play a central part in this.

The letter from the Care Minister, Helen Whately, to Council Leaders, dated 14th May stresses "the importance of us moving to one model with increased consistent national oversight to support locally-led responses." The letter, she says, "sets out how the government will work with local authorities to achieve this".

The government's press release, issued on 15th May contains the following statement:

"Care homes will be asked to restrict permanent and agency staff to working in only one care home wherever possible. The funding could be used to meet the additional costs of restricting staff to work in one care home and pay the wages of those self-isolating."

It therefore seems to me that any suggestion that the money is simply to be handed over to care homes to do with as they please is wrong. The money is to be distributed through local authorities with care

homes in their area and each of these was asked to submit a planning return by 29th May. I assume Islington has done this.

Although the government literature is not explicit on this, it seems reasonable to assume that local authorities will not be without influence in determining how and on what the money is spent.

At the very least, it is surely possible for the council to demand certain measures are implemented when it comes to those providers with which it directly contracts.

Islington UNISON believes however that the Council should commit to a financial offer to pay the wages of all social care staff working in the borough who need to self-isolate even if the cost of this is greater than whatever monies might be available to it from the infection control fund.

From my email to Richard, I reiterate the following:

The contribution being made by all care staff needs to be adequately rewarded and this should include immediately giving them full pay when sick or self-isolating. However, our demand for sick pay is not simply about the value of their work. It is essential in helping contain the virus.

This is not just an adult social care matter or a commissioning issue. It is also about public health. It seems clear that the government intends to make local authorities responsible for containing future local outbreaks of infection without providing them with appropriate powers or resources. But if the Council were to commit to what we are suggesting, it would be making an important public health intervention by limiting the possibility of future transmission within the community.

Finally, I note from Helen Whately's letter that local authorities should make their planning returns publicly available. Could you please therefore let us have sight of the one submitted by Islington?

I would appreciate and urgent response to this email

Many Thanks

Andrew Berry

Islington UNISON Labour Link officer

APPENDIX 5

09/06/20 – email to Councillor Watts as result of no reply form Councillor Burgess 01/06/20

Dear Richard

Infection Control Fund and payment of full pay to self-isolating staff of care homes in Islington

I am writing to you again regarding the above. I apologise for the length of this. I would in normal circumstances have sent it as a letter.

As you know, I originally emailed you regarding this on 19th May and eventually received a reply from Janet on 28th May. I replied to her on 1st June seeking clarification on some of the points she made. However, I am now escalating this matter for two reasons: firstly, because I haven't had a reply and secondly because of our Twitter exchange last week. The latter began with my asking you on 3rd June "why at least some of the £845 plus allocation ... [could not] be used to pay sick and isolation pay now?" You tweeted in reply: "Because, as we wrote to you, it's a condition of the grant that it has to be given straight over to the care providers. The conditions set on the grant are from central government and we can alter them". You clearly mean "cannot" rather than can and I fully appreciate that you cannot add local conditions to a grant provided by central government for specific purposes. You also seem to be imply however, as does Janet in her reply to me, that the sole role of the local authority is simply to hand over the cash.

Having now seen all relevant documentation provided by the government, a substantial amount of which was not made available until after my original email to you, I cannot agree that it is simply "a condition of the grant that it has to be given straight over to the care providers". An impression that this is the case may emanate from paragraph 12 on page 5 of the DOH Grant Circular where it is stated: "The funding should be prioritised for care homes and passed on as quickly as possible. We expect this to take no longer than ten working days upon the receipt of the funding in a local authority". Yet, later, paragraph 13 on page 4 begins: "All funding must be used for COVID-19 infection control measures." and the second paragraph of Annex A describes the purpose of the grant as being as follows:

"...to provide support to adult social care providers, including those with whom the local authority does not have a contract, to reduce the rate of COVID-19 transmission in and between care homes and support wider workforce resilience to deliver infection control. The grant must only be used to support care homes and domiciliary providers to tackle the risks of COVID-19 infections. Funding will be distributed to local authorities in England, to ensure funding reaches adult social care providers in their area. In order to ensure that the relevant infection control measures are put in place as speedily as possible, local authorities should make the relevant payments to providers as quickly as possible on receipt of these allocations. Any funds not used for the relevant infection control measures must be repaid to the local authorities by the end of September 2020 and if such repayments are not made the local authorities must take such steps as a necessary to recover them.

There is here, a clear implication that local authorities must endeavour to ensure that any care provider will use the funding for infection control.

Paragraph 6 of the grant conditions set out at Annex C make it clear that no payment can be made to a provider who does not submit a capacity tracking return to the local authority; so clearly here, the local authority has discretion to withhold payment.

Whilst I appreciate that a turnaround time of ten days may severely limit the ability of each local authority to adequately determine and ensure that providers will spend the money legitimately, it is simply not true that the money simply has to be handed over.

It concerns me that Janet's reply to me seems to contain misconceptions similar to your own and I wonder if these are also shared by those officers who may have provided advice. She refers to the Infection Control Fund (ICF) as "in effect an industry fund and not council cash". I hope I have already demonstrated that this is not the case. She provides the example of a 50-bed care home which is 40% under-occupied merely using the fund as subsidy but again, the ICF has not been established to keep care homes financially afloat. The letter of 22nd May, from the Care Minister, Helen Whately, makes clear that the "funding should only pay for activity to help reduce the risk of infection and is not intended to be used to improve provider financial resilience."

Both Janet and you are presumably aware of the briefing on the grant conditions for the Infection Control Fund (ICF) which has been produced by the Local Government Association (LGA). This sets out what it believes to be the "key headlines" of the ICF. In summary, these are:

The allocation to each local authority to be paid in two instalments.

The funding formula and clarification that the fund also covers homes with which the authority has no contractual relationship; the timescale for disbursement of funding to providers.

The issue of the capacity tracking return referred to above.

That payment of 75% of the fund must be for what the LGA describes as a "limited range of infection control measures".

That 25 "per cent of the grant may be used on other COVID-19 infection control measures payments including domiciliary care and wider workforce measures".

The LGA describes the ICF Grant Circular as "an unusually prescriptive document". I believe that most, if not all, local authorities will struggle to comply with its rigidly bureaucratic demands and reporting requirements. It may be that the government is deliberately setting up councils to fail and this may be part of a wider strategy of shifting the blame on to local government if, and when, any second wave of infection occurs. On the other hand, after seeing many of the planning returns from local authorities, it could be that the government has blinked a bit and this may be why, at yesterday's daily press briefing,

David Pearson was introduced as the new chair of the seemingly also new, Covid-19 social care support task force. It looks like he is going to work quite closely with local authorities and care providers.

Comments are made in the LGA briefing that the infection control measures specified in paragraph two on page 13 of the Grant Circular “relate [essentially] to additional staffing costs” and constitute “a limited range of infection controls”, for instance not including PPE or deep cleans. This is short-sighted of the LGA and unhelpful and even possibly demonstrates a lack of understanding.

Whilst I have no desire to defend the government, all the measures cited are potentially effective infection control measures and may in the longer term have a greater impact than a deep clean. The letter of 22nd May from the Care Minister, Helen Whateley, points to the use of the fund being “to stop transmission in and between care homes, in particular by minimising the movement of staff to reduce the risk of asymptomatic transmission of the virus”. This seems in fact, very sensible. The specific measures are:

- Payment of full wages to staff required to isolate.
- Preventing staff from working across homes and thus spreading infection across them.
- Recruitment of additional staff, both to cover for absences and preventing staff from having to work across homes.
- Limiting or mitigating the use of public transport which in terms of cost might necessitate providing the use of changing facilities, accommodation for people to stay over at work - or nearby - or the use of taxis.

Recent studies and reports in the media have highlighted how, in care homes, the virus has been spread by infected but asymptomatic staff and residents and through staff working across more than one care home.

Both The Guardian on 18th May and a report by C4 News, highlighted a study undertaken by Public Health England over the Easter weekend into the behaviour of the virus in six care homes in London. This showed that bank or agency staff working in more than one care home had spread the virus across them. According to the Guardian, it found that “in some cases, workers who transmitted coronavirus had been drafted in to cover for care home staff who were self-isolating expressly to prevent the vulnerable people they look after from becoming infected.” Also, advice from a 2019 PHE document on flu pandemic preparations urging operators to “try to avoid moving staff between homes and floors” seems to have been largely ignored.

On 3rd June, BBC Newsnight had an extended report on care homes run by MHA in the North West of England. When the homes were eventually able to commence testing, approximately 42 per cent of staff and 45 per cent of residents who tested positive, were asymptomatic. This appears to demonstrate not only the necessity to constantly test but also the need for infected staff to self-isolate.

A journalist from the Islington Tribune informed me yesterday that Care UK has agreed to pay full pay to staff working in the homes it provides in Islington and who have to self-isolate. UNISON's Assistant Branch Secretary has written to the provider seeking further clarification. Could you also clarify, has this change of heart come about as a result of any intervention by the council as the contractor and/or is this related to the infection control fund?

We are very pleased that Care UK appears to have made this decision though at present, we do not know the details or how long the arrangement will be for.

Since writing to you originally on 19th May, Islington UNISON has not changed its position and I would be grateful if you could provide me with a clear answer to the following questions:

- Will you ensure that staff working in non-contracted care homes and home care staff employed through block and spot contracts receive full sick and isolation pay, either via the IFC or through other funding? A number of other local authorities in England – all of them, I believe, Labour administrations - have committed to paying staff full pay.
- Will you ensure that pay and other protections as set out in UNISON's Ethical Care Charter are applied to all staff working for domiciliary services providing home care, including spot contracts as well as the current block contracts?
- Will you ensure that full isolation and sick pay is paid retrospectively to those staff who have had to isolate in the last four months?
- Will the Council please immediately publish the planning return it has submitted to the government regarding the infection control fund? Other local authorities have done so. As pointed out in my email to Janet, the 14th May letter from the Care Minister, Helen Whately, to council leaders, states that local authorities should make their planning returns publicly available. I believe that authorities are also required to publish it on their website.

In conclusion there are clearly several challenges for local authorities in dealing with the IFC and I haven't said anything in this communication about another aspect which is the complicated situation around EU state aid rules which currently still apply.

I note that the LGA is still trying to engage with the government regarding the fund and lobby for changes and simplifications. I recently attended a UNISON National Labour Link meeting, which was also attended by Angela Rayner, and I raised some of the difficulties with her. She was unaware of any problems with the fund but I wonder if these matters have been raised with the Labour front bench by the LGA or you or Janet. If not, I feel they should be.

I look forward to hearing from you.

Andrew Berry, Islington UNISON Labour Link Officer

APPENDIX 6

13/06/20 – email Response from Councillor Burgess after AB asked a question at Leaders question time.

Dear Andrew,

I am writing again, as I wanted to send you brief email to confirm what Richard updated you on in the earlier Leader's Question Time.

As you know, we completely agree with you that this is not just an issue not just about fairly rewarding staff for the hard work they are doing, it is vital to help us contain the virus, and not risk carers having to choose between losing wages or risk spreading the virus.

We have asked Council Officers to again seriously look into what can be done with the Infection Control Funding to ensure those working in care sector in Islington receive payment of full pay if they are sick or self-isolating staff.

I will of course get back to with an substantive reply to the other points you have raised in your email, and provide a further update on the above.

Best wishes,

Janet

Councillor Janet Burgess M.B.E.

Labour Councillor for Junction Ward; Deputy Leader of the Council and Executive Member for Health & Adult Social Care

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APPENDIX 7

16/06/20 - email from AB to Councillor Burgess.

Dear Janet

Thank you for your reply of the 13th June and thank you also to Richard for his response at Leader's Question Time. I appreciate that you both understand my argument and appreciate the need for full sick and isolation pay. However, as you know other councils have taken steps to ensure this and I believe we now need to see similar action in Islington.

Both Richard and you still appear to be suggesting that the Council has little agency in terms of the Infection Control Fund whereas advice and guidance I have been able to access would suggest otherwise. You state you "have asked Council Officers to again seriously look into what can be done with the Infection Control Funding..." Whilst we welcome this, it might also suggest that approximately £423k (half of Islington's total allocation) has already been handed to the care home sector without the authority expressing any views or opinions as to how it should be spent or at the very least, a discussion taking place with the relevant providers. It cannot be the case that the council has no influence with regards to companies with which it directly contracts (care homes provided by Care UK; block home care contracts) or from which it purchases on a spot basis as with some home care.

As with other local authorities, the council was required to submit a "planning return" by 29th May and has presumably done so. Why has it not, as per Helen Whateley's letter of 14th May, made this public? This is the third time we are raising this with you, having previously raised it on 2nd & 8th June.

The Infection Control Fund may not be fit for purpose; it may not be enough to pay all the isolation and sick pay that may be required. If this is the case, the council needs to find another way to fund this. I believe we are all agreed that this is a public health issue and as such, requires urgent attention

I am sure you are aware that an informal meeting of Islington North CLP is taking place tomorrow evening. I will be raising these issues there and asking for Labour Party members and other Labour councillors to support Islington UNISON in our campaign for full isolation and sick pay.

I hope that I can have a full response from both you and Richard soon.

Andrew Berry

Islington UNISON Labour Link Officer.

APPENDIX 8

03/07/20 – Email to AB from Councillor Burgess.

Dear Andrew,

I can now respond in more detail to your queries.

Officers have looked again to see if the Council does have more agency and control over the ICF than we had previously understood, and that we can mandate care providers to use a portion of this money to pay for Full Sick Pay. They are still of the opinion that the guidance stipulated that Local Authorities must ensure that 75% of the grant is allocated (to care homes) to support a range of measures (6 identified), including ensuring staff away from work due to COVID-19 related symptoms are paid their normal pay. The first months payment of the grant was required to be made by the local authority direct to care homes within their geographical area on a per beds basis including to social care providers with whom the local authority does not have existing contracts. The 2nd tranche of the 75% will be paid in the manner described above as long as the grant conditions have been met.

In regard to your point about Councils in the North West, we have been unable to ascertain how Salford have funded full pay. This area of the country has had a recent history of doing things differently, for example one authority set an hourly rate for domiciliary care fairly high (well above the UKHCA estimated minimum cost) in a bid to increase quality.

On your point about ensuring that pay and other protections as set out in UNISON's Ethical Care Charter are applied to all staff working for domiciliary services providing home care, including spot contracts as well as the current block contracts, you may be aware that the Health & Social Care Scrutiny Committee recently held a scrutiny into domiciliary care. This was welcomed by myself and officers, and gave us a deep insight into current conditions. It will also help to form the next round of commissioning of this service. As part of the evidence gathering exercise, providers met elected members. The issue of zero contract hours was flagged strongly as an issue, but an issue that staff (who also met elected members) were keen to continue with as it gave them significant freedom about when they worked. The managers of the agencies, who were at the same Scrutiny Committee meeting, offered there and then to give contracts, as they said that they would prefer the certainty of having permanent staff, but I don't know if anyone took up the offer. Much that is outlined in stages 1,2 and 3 of the charter are either place or form part of our on-going discussions with the Domiciliary Care Provider Forum. Officers met a number of providers last week to talk about C19 related issues and they commended LBI on the way they had worked with the market, and we have a number of initiatives to explore together over the coming months.

With regard to your request that full isolation and sick pay is paid retrospectively to those staff who have had to isolate in the last four months, even if we were able to mandate providers to pay full sick pay using the ICF, there would not be enough funds to cover this. An Options Paper is being prepared, based on the Camden analysis, to project the full cost of this proposal.

Notwithstanding the above, I am pleased that most of our care home providers are paying full sick pay, as follows

Care UK: staff off work for Covid-related reasons are paid COVID sick pay at the equivalent of their full hourly rate from day one. Bank staff are eligible for the same if they miss shifts to which they had been allocated. Staff who are shielding have been furloughed. Staff off for non-Covid related reasons are paid Statutory Sick Pay (SSP) from day four of absence.

Forest Healthcare: Staff off work for Covid-related reasons are paid SSP from day one, and they are exploring the possibility of payment of full pay from day one. Bank Staff are eligible for SSP, assuming they meet the SSP earnings criteria. Staff who are shielding, or otherwise categorised as vulnerable, are being furloughed at present.

Barchester: as of April 2020, any staff member forced to self-isolate due to exposure to Covid is paid an additional sum of £13.50 per day (effectively twice the SSP day rate). This is paid irrespective of contracted hours. Any staff member who tested positive for Coronavirus and was ill was paid 80% of their pay whilst ill. If any staff member who passed away as a result of Covid, their estate received £20,000 death in service benefit. Shielded staff have been furloughed, with Barchester topping up the 20%.

BUPA: levels of sick pay are contract specific and depend on role and length of service. If staff are off sick for Covid-related reasons, they are paid sick pay from day one.

The Charterhouse: If staff are off for Covid-related reasons, they are paid two weeks full sick pay. Other sickness payments depend on length of service. Bank staff are entitled to SSP. Shielding staff have been furloughed.

On the issue of publishing the return, this is now available at <https://www.islington.gov.uk/social-care-and-health/support-and-guidance-during-covid-19/useful-guidance-and-resources-covid-19/test-and-trace-for-local-organisations>.

Best wishes,

Janet

Councillor Janet Burgess M.B.E.

Labour Councillor for Junction Ward; Deputy Leader of the Council and Executive Member for Health & Adult Social Care

Islington Council

Town Hall

Upper Street