CCRAG Fee Increase Procedures
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1 INTRODUCTION

1.1 The Cross-Regional Procedures for Fee Increases apply to Independent and Non-Maintained Special Schools (I & NMSS) and to Children's Residential Homes used by Local Authority CCRAG Partners. An up to date list of Local Authority Partners can be found on the CCRAG website.

1.2 Their purpose is to provide a co-ordinated, efficient and transparent approach to the consultation between LAs and Providers when such increases are proposed.

1.3 It is recognised that there may be justifiable reasons why a Provider is unable to keep their fees at the agreed rate. These procedures and the consultation process provide the opportunity to justify the increase.

1.4 The procedures are intended to operate in the spirit of partnership. Such working together offers potential benefits to both LAs and Providers. It does not however fall within the remit of the procedures for fee increases to be regionally approved in any binding sense. The procedures do not and cannot fetter the right of any LAs to individually pursue negotiations with the Providers they commission, nor do they remove the LAs responsibility for fee increase settlement.

2 DEFINITIONS

Cohort Group of Local Authority members of CCRAG
CCRAG Children’s Cross Regional Arrangement Group
I & NMSS Independent and Non-Maintained Special Schools
LA Local Authority
LLA Link Local Authority allocated to a provider for fee negotiations and/or monitoring

3 SCOPE

3.1 The Cross-Regional Procedures for Fee Increases apply to all I & NMSS and Children's Residential Homes used by LAs within the cohort.

3.2 The Cross-Regional Procedures apply to increases that relate to Providers’ overall fee structures. Any proposal to increase fees will be dealt with in line with these procedures.

3.3 These procedures do not cover any fee changes associated with child specific issues. Changes in need or fee banding will be appropriately negotiated through the Social Care review processes.

3.4 Providers with placements from only one of the cohort of LAs are not included in the allocation for the purposes of these Procedures. It will be the responsibility of the sole placing LA to undertake any required fee increase consultation with the Provider concerned.

4 PROCEDURES

4.1 The following procedures have been established with due reference to the legislation, guidance and general administrative law principles in force at the date of this
procedure being agreed. The full procedures and associated documentation are available via the CCRAG website.

4.2 In line with financial and academic years, there will be two fee review periods. For uplift requests effective from 1st April, the submission deadline is 1st March of that year. Requests effective from 1st September, must be submitted by 1st August. Should providers not meet the deadline, the request can be considered in the following fee review period, but this will inevitably result in a delayed decision. In any case, only one request can be submitted in any 12-month period.

4.3 Fundamental to the successful operation of the Cross-Regional Procedures is the willingness of individual LAs to undertake allocated tasks on behalf of all placing LAs. In order to facilitate this, Link Local Authorities (LLAs) are allocated to each Provider and will take responsibility for fee negotiations. LLAs are allocated based on the number of placements made with the requesting organisation and will remain in place throughout the financial year.

4.3.1 If different percentage increases are submitted across an organisation they will be treated as separate requests.

4.3.2 If an LLA ceases to hold any placement with a provider the LLA must inform CCRAG immediately to allow an alternative LLA to be allocated.

4.3.3 If a request is received relating to the following financial year, the current LLA will initiate the process. Once the new LLA is allocated, it is expected that the outgoing LLA will consult with the new LLA to agree how best to conclude the discussions.

4.4 It will be at the discretion of the LLA to decide the most appropriate internal arrangements to cover their commitment to consult with their allocated Providers.

4.5 Providers are expected to notify CCRAG (CCRAG@hertfordshire.gov.uk) of any proposed uplift and copy the relevant placing authorities. CCRAG will acknowledge receipt of the request and provide a link to the Provider Uplift Application Form. This needs to be completed and returned to CCRAG within 30 days from date of acknowledgement. Upon receipt of the completed Application Form, the provider will be informed of their allocated LLA and all documents will be forwarded to that LLA to take up the fee negotiations.

4.6 Fee uplift requests will be logged and published CCRAG Database to facilitate the tracking of requests. This information will only be visible on the Local Authority portal.

The following guidance is offered to LAs in performing their LLA tasks:

4.7 All fee uplift requests received will be recorded on the CCRAG database. If your local authority receives a request that is not already logged, please forward it to CCRAG at CCRAG@hertfordshire.gov.uk.

4.8 If your LA is not the LLA but has received an increase request, please inform the Provider that you will await the outcome of the consultation.
4.9 The LLA consults with the provider in accordance with the stages set out below in relation to any proposed fee increase and to make a recommendation to the relevant CCRAG placing authorities on the reasonableness of the proposed uplift.

4.10 The fee process has 2 stages. Stage 1 requests the completion of organisation details and basic financial information along with 3 years financial accounts. This information will be reviewed, and should further financial details be required, the provider will be notified that they need to complete Stage 2 of the process, i.e. the Budgetary Analysis Form (BAF). In most cases, this will only be required if a decision cannot be concluded from review of the Stage 1 accounts and narrative. However, Providers whose Gross Profit Margin (GPM) is in excess of 7.5% are unlikely to have their uplift request approved at Stage 1 and will need to provide additional justification if they wish to pursue their request further. In these cases, the provider should complete Stage 1 and Stage 2 (the BAF) as the same time to avoid delay.

4.11 Upon receipt of the completed Provider Uplift Application Form, an officer with appropriate experience and seniority within the LLA should review the information presented.

4.12 For those providers whose margins fall below the threshold above, the officer should consult with the Provider taking full account of all relevant circumstances.

4.13 Every effort should be made to achieve a resolution, bearing in mind that failure to reach agreement will not be in the interests of either LA or Provider.

4.14 Please ensure that CCRAG is informed of the outcome of fee negotiations as soon as they are concluded or if there are any significant issues that might impact on a timely decision being made. CCRAG will ensure the database is updated with this information.

4.15 The consultation process will typically involve the following LLA tasks:

- Scrutiny of the proposed fee increase notification paperwork (Stage 1)
- Correspondence by email or telephone where further detail or clarification is required followed, if necessary, by:
  - Scrutiny of the Budgetary Analysis Form (Stage 2), and possibly
  - A meeting with the Provider to consult over outstanding issues.
  (For the purpose of tracking the consultation process, LLAs are asked to notify CCRAG of the date of any arranged meeting – this can be done by copy of correspondence with the Provider).

4.16 Essentially there will be three possible outcomes of the consultation process:

- the LLA considers that the proposed fee increase is reasonable;
- the LLA considers that a negotiated, adjusted fee increase is reasonable;
- the LLA considers that, following full consultation, the fee increase is not reasonable.
4.17 Once the LLA has analysed all information and consulted with the provider they should share their conclusion firstly with the provider and then with the other LA’s in the cohort who have current placements.

4.18 The outcome of any consultation should be shared with the Provider using the standard emails at Appendix 3. Consultation decisions should also be shared with the other LA’s and CCRAG at the earliest opportunity. Fee decisions will be recorded on the CCRAG database.

4.19 In the circumstance of a fee increase not being considered reasonable after the consultation process has been exhausted, the Provider is informed of the reasons for this outcome and given an opportunity to make a representation within 10 working days. Following the receipt of any such representation, and assuming that the consultation outcome is unchanged, the LLA needs to forward the Provider's representation along with the final decision notification to CCRAG who will then circulate the information to all LAs. NB: Whatever the consultation outcome the case remains that the settlement of the fee increase must ultimately be at the discretion of the individual LA.

4.20 If a Provider has not been prepared to engage with the procedures and it has not been feasible to obtain any information to justify a fee increase, the LLA will need to inform the Provider that the fee increase will be considered unjustified due to the lack of information and that this will be communicated to the other LAs within the cohort. A standard email has been prepared at Appendix 3 should this situation arise.

4.21 Every attempt should be made by the LLA and Provider to complete their consultations in a timely manner, giving due consideration to the proposed effective date of the increase and taking full account of the dependence of other LAs on the consultation outcome. However, it is recognised that in certain circumstances the consultation process may be protracted and overrun the deadlines. Where there has been no resolution prior to the fee payment due date, it is advised that LAs should make an interim payment at the pre-increase fee level. Providers should be asked to submit an invoice at the pre-increase fee level (along with a second invoice for the balance of the uplift if they wish). The uplift invoice will be held until the consultation process is complete.

4.22 LAs are able to track the progress of any fee increase negotiation by accessing the spreadsheet on the CCRAG Database which will record:

1. Provider
2. LLA
3. Date Proposed Fee Increase Requested
4. Proposed Increase
5. Date Increase Effective
6. Outcome of negotiation and increase (%) recommended
7. Notes (i.e. any information that needs to be drawn to the attention of LAs).
APPENDIX 1: Consultation Checklist & Justification Criteria

1 General points

1.1 The assessment of increase requests must be objective and fair in all circumstances.

1.2 Any external financial impositions must be highlighted for consideration.

1.3 Providers should be expected to generate a reasonable surplus/profit for reinvestment in buildings and services.

1.4 There is an expectation of transparency. Audited accounts should be provided at an early stage in the process.

1.5 Providers should be able to fully justify their cost increases and show precisely how these increases translate into the level of fee rises.

1.6 Aside from legislative and inspection requirements, in aiming to improve the quality of its provision, a Provider should recognise the LA’s perspective that, as in the maintained school sector, developments should be pursued within the limits of the available budget.

1.7 Providers information needs to be stored securely and only shared on a need to know basis with other Local Authorities. Under no circumstances must provider information be shared with other providers. CCRAGs information sharing protocol can be found on the CCRAG website.

2 Justification - Suggested checks/questions

- How do the current and proposed fee levels compare with Providers offering similar services?
- Are any proposed cost increases as a result of legislative changes justified?
- Has the provider demonstrated significant actions to reduce costs either through re-negotiation, re-structure or re-procurement?
- Is there sufficient detail to show precisely how the cost increases translate into the fees?
- Are all of the costs considered to be essential and/or appropriate for LA funding?
- What was the Provider’s profit/surplus over the last year? How will this be deployed?
- Are the Providers reserves more than 3 months running costs? If not, what actions is the provider taking to address this?
- Can the increase be spread over a longer period, i.e. a staged increase agreement? (NB: Spreading the impact of an increase over several years should only be considered as a last resort rather than common practice and LLAs must consult other placing LAs regarding this option before a decision is taken).
- Has the Provider indicated that they will be requesting an increase next year?
- If the Provider has had a fee increase in the last 3 years how has this been taken into account?
- In light of the consultation, is the Provider prepared to review its proposed fee increase? Or, is the LA prepared to make a counter-offer.

Possible reasons for increases and possible questions in response are set out in the table below:

<table>
<thead>
<tr>
<th>Common Issues</th>
<th>Questions to ask</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase in insurance costs</td>
<td>Can a letter from the insurance company be provided to evidence the increase?</td>
</tr>
<tr>
<td>An increase in staff salaries is needed to attract / retain staff</td>
<td>What consultation have they had with staff to identify reasons for the low level of applicants or high turnover? What information has their research provided? (NB LAs should not have to financially subsidise poor management of staff if there is evidence that this is the case). If agreed, when will the new rate of pay be applicable and does the fee increase account for this timing?</td>
</tr>
<tr>
<td>New Health and Safety Legislation</td>
<td>Why has no allowance been made in the budget for such costs? In the circumstances can efficiency savings be pursued? (NB As there is always a risk of new legislation being introduced; Providers are expected to budget accordingly).</td>
</tr>
<tr>
<td>Training costs have increased above the expected level</td>
<td>Is this as a result of new legislation, staff turnover or restructuring? Have other sources of funding been tried?</td>
</tr>
<tr>
<td>The cost of DBS checks has increased</td>
<td>Whilst the increase in this cost is acknowledged, it will impact particularly upon Providers of new establishments or those with an exceptionally high staff turnover. If the latter is the case, are the problems of staff turnover being addressed? LAs should be mindful of the guidance on renewing DBS checks every three years.</td>
</tr>
<tr>
<td>Reduction of LA referrals are resulting in the need to share overhead costs</td>
<td>Has the Provider considered discussions with other Providers to condense specialist services so that the risk of voids is reduced? How has the Provider adapted their services to respond to LA needs? When there is a change in market activity, Providers do need to be creative, work together and with LAs and they should not expect that LAs will automatically pick up such increasing costs.</td>
</tr>
<tr>
<td>Introduction of The Living Wage and Workplace Pension and Apprenticeship Levy</td>
<td>Whilst the increase in this cost is acknowledged, this should be included under staff costs and listed as a contributory factor but there is no automatic increase due as a result of these changes.</td>
</tr>
</tbody>
</table>
APPENDIX 2: Provider Uplift Application Form

The Provider Uplift Application Form is to be completed to provide justification for the fee increase and submitted by email to CCRAG@hertfordshire.gov.uk.

NB Freedom of Information Act 2000

Due to the implementation of the Freedom of Information Act 2000, a Council is obliged to respond to requests for information that may include requests about the work the Provider carried out as a contractor.

Only certain specific classes of information can be considered to be automatically outside the Act's remit. The Act includes a public interest test, which means that even some exempt information may nevertheless be disclosed. There is an exemption for commercially sensitive information, but it only applies where prejudice is caused to commercial interests.

Any non-exempt requests for information from a Council must be dealt with in 20 working days and organisations contracted to work for a Council must comply with this requirement.
APPENDIX 3: STANDARD EMAILS

Email A: Uplift Request Acknowledgement

To be sent by CCRAG

Dear Provider

Re: CCRAG Fee Increase Request

We acknowledge receipt of your proposed fee increase request.

CCRAG Local Authorities have an established procedure for dealing with such requests. A copy of the procedure along with a full list of CCRAG Local Authority Partners is available on the CCRAG website. The procedures were established to promote efficiency, consistency and transparency for all parties.

A key feature of the CCRAG arrangements is the allocation of a 'Link Local Authority' (LLA) to undertake negotiation with the service provider (including the review of specific financial information) on behalf of the other placing CCRAG partner authorities in respect of any proposed fee increase. Once CCRAG receives your supporting documents you will be advised of your allocated Local Authority.

Although CCRAG Local Authorities fully appreciate the challenges of delivering efficiencies in service provision without compromising the quality of care provided, due to the current financial climate and pressures Local Authorities are facing in terms of budgetary constraints, the CCRAG Partnership expects Providers not to increase their fees unless there was an assessed change in support needs in individual cases. Where fee increases are requested CCRAG Local Authorities are obliged to demonstrate full justification for the request.

To enable an agreement to be reached please complete the Provider Uplift Application Form. This involves completing basic organisational and financial information and the submission of 3 years audited accounts. If a decision cannot be reached at that stage, further information will be required to support your proposal. Please refer to the full procedure document for further details.

Following the consultation, a recommendation will be made to all relevant CCRAG partners. However, as per the procedures, if this recommendation is not accepted by any of the partner authorities, they have the ultimate discretion to initiate further negotiations with you.

If you have any queries, please do not hesitate to contact us.

Kind regards,
Email B: Uplift Request Acknowledgement

To be sent by Local Authority

Dear Provider

Re: Fee Increase Request (Insert Provider Name)

We acknowledge receipt of your proposed fee increase request.

INSERT EITHER OPTION A) or B) AS APPLICABLE

Option A if you ARE the LLA

As your LLA, [your LA name] will be undertaking the consultation with you on behalf of all placing LAs within the Partnership. If you have yet to complete the appropriate CCRAG documentation it can be found on the CCRAG website. Please ensure that all documents are returned via CCRAG@hertfordshire.gov.uk for tracking purposes.

OR:

Option B if you are not the LLA

For the forthcoming fee round, it would appear that [name of the LLA] is your LLA and they will be in contact with you shortly. Our Authority will await the outcome of this consultation.

If you have any queries, please do not hesitate to contact us.

Kind regards,
Dear Provider

Re: Fee Uplift Request *(Insert Provider Name)*

We acknowledge receipt of your uplift request.

CGRAG has two fee review periods in line with financial and academic years. For uplift requests effective from 1st April, the submission deadline is 1st March. Requests effective from 1st September, must be submitted by 1st August.

Unfortunately, your request has been received outside of this timeframe and therefore cannot be accepted, however it can be considered in the following fee review period.

Please confirm if you would like to carry forward your request within 10 working days after which time the request will be closed?

Kind regards,
Email D: Request Agreed

To be sent by LLA with copy to CCRAG

Dear Provider

Re: Fee Uplift Request (Insert Provider Name)

We are pleased to inform you that, in accordance with our CCRAG Fee Increase Procedures, we have reviewed your uplift request and consider it to be reasonable. We will be sharing this recommend with all LAs within the cohort. Should CCRAG LA colleagues request sight of the financial information we considered in reaching our conclusion, we are obliged to share this with them.

Please note that LAs retain the right to exercise their discretion to the agreement or otherwise of any recommended fee increases and any issues regarding this will need to be addressed directly with the individual LA concerned.

We would encourage you to contact each LA directly to ascertain their position prior to raising invoices.

Kind regards,
Email E: Increase Declined

To be sent by LLA with copy to CCRAG

Dear Provider

Re: Fee Uplift Request *(Insert Provider Name)*

In accordance with our CCRAG Fee Increase Procedures, we have reviewed your uplift request and regret to inform you that, your fee uplift request is not considered to be reasonable for the following reasons:

* 
* 
* 
* 

In this circumstance you are welcome to make a representation to accompany the notification of the outcome of the consultation and we will circulate this on your behalf to all LAs within the cohort. If you wish to make a representation, please provide this in writing within 10 working days after which time if we have not heard from you, the file will be closed.

Please note that LAs retain the right to exercise their discretion to the agreement or otherwise of any recommended fee increases and any issues regarding this will need to be addressed directly with the individual LA concerned.

Kind regards,
Email F: Insufficient or No Justification Provided

To be sent by LLA with copy to CCRAG

Dear Provider

Re: Fee Uplift Request *(Insert Provider Name)*

As the Link Local Authority (LLA) for your fee uplift request, it is our responsibility under the CCRAG arrangements to consult over your notified fee increase. This process is undertaken on behalf of all the LAs in the cohort and is intended to be of benefit to both LAs and Providers, particularly in terms of the potential for reduced correspondence and time saving.

The purpose of the consultation is to establish a clear justification for the proposed fee increase. The submission of the requested financial information is therefore essential to support the decision-making process.

Unfortunately, as you have provided insufficient / no justification for your increase, we are unable to process your request. A notification will be made to the other relevant CCRAG LAs that the fee increase is not considered to be reasonable due to the lack of information. If you wish to make a representation, please provide this in writing within 10 working days along with the financial information previously requested. If after this time, we have not heard from you, the file will be closed.

Kind regards,