

## Report to the Cabinet

Meeting to be held on Thursday, 8 November 2018

### Report of the Head of Service Policy, Information and Commissioning (Live Well)

#### Part I

Electoral Division affected:  
(All Divisions);

### Implementation of the Care Act 2014 - Approval of Revised Adult Social Care Policies and Procedures: Deferred Payments (Appendix 'A' refers)

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#### Executive Summary

Following the introduction of the Care Act 2014, the county council has undertaken to review all adult social care policies, practice and guidance to ensure compliance.

A new policy is now presented for approval:

- Deferred Payments (Appendix 'A')

This is deemed to be a Key Decision and the provisions of Standing Order C19 have been complied with.

#### Recommendation

Cabinet is asked to approve:

- (i) The implementation of the Deferred Payments policy as set out at Appendix 'A'.
- (ii) The increase in the administration charge for arranging a Deferred Payment Agreement from £500 to £810.

#### Background and Advice

The Care Act 2014 significantly altered the landscape of adult social care for local authorities. In response, a comprehensive review of the county council's adult social care policies, procedures and guidance has been undertaken and key policy

documents have been identified for development and/or revision, as part of a phased programme to ensure compliance.

This phased programme continues with the submission of a new policy, procedures and guidance document:

- Deferred Payments

### **Current arrangements**

[A new framework was approved in March 2016 to ensure compliance with the Care Act.](#)

### **Summary of Revised Policies and Procedures and Guidance documents**

A new document, Deferred Payments, is now ready for approval by Cabinet.

### **Deferred Payments**

This document sets out the county council's response to powers under Sections 34-36 of the Care Act 2014 allowing it to enter into a Deferred Payment Agreement with an individual so that a person can use the value of their property to help pay for residential or nursing care.

This is a revised policy whose main changes are:

- Amended wording on debt recovery to align the Deferred Payments policy with the county council's Income and Debt Policy.
- A statement that, unless exceptional circumstances apply, the county council will require Deferred Payments Agreements to be repaid via Direct Debit.
- An increase in the applicable administration charge for arranging a Deferred Payment Agreement from £500 to £810.

A copy of the policy is set out at Appendix 'A'.

### **Consultations**

Wider public consultation has not been necessary as the documents in question reflect new duties and requirements placed on the county council under the Care Act.

### **Implications:**

This item has the following implications, as indicated:

### **Workforce**

Our support for Lancashire residents is guided by the county council's adult social care policies, procedures and practice guidance. The accuracy and relevance of

these documents is essential to support practice and the delivery of high quality services.

The Care Act and supporting guidance place a series of new duties and responsibilities on the county council in regard to care and support for adults. All revised or new documents have been reviewed and cleared by the county council's legal team before being presented to Cabinet for final approval. All documents will be publically accessible as part of this process, with the aim of reducing legal challenge and complaints due to a lack of understanding or transparency.

## **Equality and Diversity**

The Care Act itself was implemented following a period of consultation and its provisions were assessed for their equality impact. Policies and procedures guidance documents are primarily intended as a guide for social care employees in applying the Care Act 2014 and ensuring delivery of quality care and support. It is an intrinsic requirement that these are applied objectively and fairly to all people with protected characteristics (age, disability, gender identity, gender, race, religion or belief, sexual orientation, pregnancy and maternity and marriage or civil partnership status) and that, where necessary, reasonable adjustments are made to assist disabled people to participate in the process, or that other steps are taken to meet the requirements of the Equality Act 2010.

Furthermore, in line with the Public Sector Equality Duty, each policies and procedures guidance document has been considered by the Equality and Cohesion Manager and a short appendix added to highlight the aims of the Public Sector Equality Duty and protected characteristics in a proportionate manner. It is intended that this will provide staff with a bespoke summary of how each policies and procedures guidance may impact on protected characteristics groups and that this is a proportionate means of showing due regard in relation to each individual policies and procedures guidance document.

## **Financial**

A person's eligibility for care and support provided by the county council will be determined, following a proportionate assessment. The person must have needs arising from a physical or mental impairment or illness and be unable to achieve two or more outcomes, as defined in the Care Act 2014. This is further explained in our Eligibility Criteria policy. Information is provided during the assessment period as to the potential financial implications to the person receiving care and support when the outcome of the assessment has been determined and agreed by both the assessor and the person being assessed and/or a suitable person e.g. family member, advocate and/or attorney. This will detail how a person's contribution to care is worked out and — where an assessment determines that future care needs would be best met in a residential setting — describes the implications to the person if they own a property and the deferred payment options offered by the council.

Following the assessment stage, the individual's estimated personal budget must be shared when the care and support plan is being drafted.

Any financial implications that result from a needs assessment or care and support plan are addressed via the specific commissioning, delegation and funding arrangements governing each individual social care service, if so required.

## **Charges**

Under the Care Act 2014 the county council is able to levy an administration charge to cover the actual cost incurred in the provision of a Deferred Payment Agreement. The current charge of £500 per agreement was set when the scheme was introduced in 2014. This covered a number of costs including legal and valuation services. The scheme has operated now for almost four years, and this provides an opportunity to review the actual costs incurred in order that the charge can be updated for current costs.

A comparator group was selected which included all of the other 26 county councils in England. The amounts charged by these councils was analysed. As a result, the following two options for the approach to charging was identified:

- 1) A single one-off charge, fixed from the outset, as current
- 2) A charge based on the actual costs for each individual case

### Single one-off charge

The advantages of this approach are that the service user has a known cost for the lifetime of the agreement and it is administratively simpler to levy a single fixed charge compared to multiple charges based on actual costs per year of the agreement.

Based on the current costs (including overheads), the new one-off charge on this basis would be £810 per agreement, which will result in full cost recovery. As a comparison, the equivalent charge from the comparator group of 26 councils ranges from £450 to £1,337 for those that operate this type of approach to charging.

### Charged as actual

The advantage of this approach is that the service user receives a cost more directly related to the cost of administering their own agreement. However, using the actual costs the charge received by a service user would vary depending on the length of the agreement and the cost of the valuation.

For illustration purposes, the minimum, most frequent and five year case has been calculated:

	Lifetime charge estimate
Minimum	£575
Most frequent length and valuation	£877
Five year case	£1,453

## Review

The administration charge will be subject to an annual review to ensure that any cost increases related to the provision of an Agreement are covered by the charge. Any subsequent uplifts to the charge will be made under the Scheme of Delegation to Heads of Service.

## Recommendation

A single, one-off charge of £810 is recommended, due to the simplicity for the service user, and the efficiency in administration for the council.

The increase in charge is estimated to generate additional income to the council of £54,000 per annum.

## **Risk management**

The Care Act Statutory Guidance sets out that the county council should develop and maintain policies in relation to a number of subject areas covered in the Act, including a publicly-available list of administration charges that a person may be liable to pay. If the recommendations are not taken forward, the county council may be at risk of future legal challenges.

## **List of Background Papers**

Paper	Date	Contact/Tel
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None

Reason for inclusion in Part II, if appropriate

N/A