

EXECUTIVE BOARD – 18 NOVEMBER 2014

Subject:	Deferred Payments for Adult Residential Care following the introduction of the Care Act		
Corporate Director(s)/ Director(s):	Alison Michalska, Corporate Director for Children and Adults Helen Jones, Director of Adult Social Care		
Portfolio Holder(s):	Councillor Alex Norris, Portfolio Holder for Adults, Commissioning and Health		
Report author and contact details:	Bev Osborne, Business Manager, Income Collection and Recovery bev.osborne@nottinghamcity.gov.uk 0115 8764066		
Key Decision	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Subject to call-in
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Reasons:	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Income	<input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
			<input type="checkbox"/> Revenue <input type="checkbox"/> Capital
Significant impact on communities living or working in two or more wards in the City			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Total value of the decision: Unknown at this stage – see section 4			
Wards affected: All	Date of consultation with Portfolio Holder(s): 20 October 2014		
Relevant Council Plan Strategic Priority:			
Cutting unemployment by a quarter			<input type="checkbox"/>
Cut crime and anti-social behaviour			<input type="checkbox"/>
Ensure more school leavers get a job, training or further education than any other City			<input type="checkbox"/>
Your neighbourhood as clean as the City Centre			<input type="checkbox"/>
Help keep your energy bills down			<input type="checkbox"/>
Good access to public transport			<input type="checkbox"/>
Nottingham has a good mix of housing			<input type="checkbox"/>
Nottingham is a good place to do business, invest and create jobs			<input type="checkbox"/>
Nottingham offers a wide range of leisure activities, parks and sporting events			<input type="checkbox"/>
Support early intervention activities			<input type="checkbox"/>
Deliver effective, value for money services to our citizens			<input checked="" type="checkbox"/>
Summary of issues (including benefits to citizens/service users):			
<p>With effect from April 2015, the Care Act 2014 introduces the universal deferred payment scheme which means people should not be forced to sell their home, in their lifetime, to pay for their care. By taking out a Deferred Payment Agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provide peace of mind in a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into residential care.</p> <p>Local Authorities need to have a scheme ready for January 2015, however the final guidance from the Department of Health was only issued on 23 October 2014 and the 'toolkit' from the National Association of Financial Assessment Officers (NAFAO) is due to be issued in November 2014.</p> <p>This report is therefore seeking approval to some general principles in relation to Deferred Payment Agreements and to delegate authority to the Portfolio Holder for Adults, Commissioning and Health to make the final decisions in connection with these, and any further decisions required on emerging policy details as they are determined.</p>			
Exempt information:			
None			
Recommendation(s):			
1 To approve the charging of interest on any amount deferred under a deferred payment			

agreement, at a rate to be determined, but which must not exceed the nationally-set maximum rate, and delegate authority to the Portfolio Holder for Adults, Commissioning and Health to determine the final figure.

2 To approve that an administration fee will be charged to recoup the administrative costs associated with deferred payment agreements, including legal and ongoing running costs (likely to be in the region £400-£500), and delegate authority to the Portfolio Holder for Adults, Commissioning and Health to determine the final figure.

3 To delegate authority to the Portfolio Holder for Adults, Commissioning and Health to decide on policy and procedure for areas of discretion.

1 REASONS FOR RECOMMENDATIONS

1.1 Interest on amount deferred

The new regulations stipulate that to cover the cost of lending and the associated risks, Local Authorities can charge interest on any amount deferred, including any administration charge deferred. The regulations stipulate that this interest rate must not exceed the nationally-set maximum rate. The national maximum interest rate will change every six months on 1st January and 1st June to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility.

The rate determined will be on a cost-neutral basis enabling the Authority to recoup costs incurred in the deferral of fees, covering the cost of lending and the risks to the Local Authority associated with lending, for example default.

The recently issued Department of Health guidance will be used as a basis for further modelling work considering a range of interest rates to support the final decision.

We recommend that Executive Board delegate authority for this decision to the Portfolio Holder for Adults, Commissioning and Health

1.2 Administration Fee

Guidance is expected from NAFAO in November 2014 on how to construct the administration fee, in order for consistency of approach across Local Authorities. The fee level must be reasonable and reflect the actual costs incurred by the Local Authority.

The administration fee is expected to be cost neutral, and in the region of £400-£500. It is important to note that citizens have the option to defer the administration fee along with the rest of their costs.

We recommend that authority is delegated to the Portfolio Holder for Adults, Commissioning and Health to determine the final fee, once guidance is received and local cost analysis is complete.

1.3 Delegation of decisions on policy and procedure

Detail is still emerging and discussions are ongoing within the NAFAO community relating to these new regulations, and while the Care Act comes into effect from 1 April 2015, we need to be ready to share Deferred Payment information with our citizens in January 2015. To enable timely decisions relating to NCC policy, for the elements where local procedures, policy or discretion is required, we recommend that the Portfolio Holder for Adults, Commissioning and Health is delegated the authority to make these decisions.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 The Care Act 2014 requires local authorities to offer deferred payment agreements (DPA's) to people who meet certain criteria in respect of eligibility for the scheme. This requirement comes into effect from April 2015, although Local Authorities need to have a scheme ready for January 2015.
- 2.2 All recommendations are made in line with The Care Act 2014 and the Care and Support Statutory Guidance issued under The Care Act by the Department of Health

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1 Local Authorities have the option not to charge interest or administration fees, in relation to Deferred Payment Arrangements. However, the scheme is intended to be cost neutral and not applying these fees would be costly for the Local Authority.

4 FINANCIAL IMPLICATIONS (INCLUDING VALUE FOR MONEY/VAT)

- 4.1 The Care Act 2014 requires Local Authorities to offer deferred payment agreements (DPA's) to people who meet certain criteria in respect of eligibility for the scheme. This requirement comes into effect from April 2015.

This decision delegates the final determination of the discretionary elements of deferred payments to the Portfolio Holder for Adults, Commissioning and Health. The final statutory guidance from the Department of Health was only issued on 23 October 2014 and the 'toolkit' from the NAFAO is due to be issued in November 2014. This will support the formulation of the council's deferred payments policy to meet the legal obligations the Care Act imposes.

- 4.2 It is not possible at this time to assign a value to the deferred payment agreements, however, the issue of the toolkit will enable financial modelling to be undertaken.
- 4.3 For the areas covered by the recommendations in this report, there are key elements contained in the guidance that need to be considered:
- the DPA scheme is intended to be run on a cost-neutral basis with Local Authorities able to recoup the costs they may incur in deferral of fees via an interest rate charge.
 - Local Authorities can also recoup the administrative costs associated with DPAs including legal and ongoing running costs. This level must be reasonable and reflect the actual costs incurred by the Local Authority.
 - administration charges and interest accrued can be added to the total amount deferred. Interest can be charged on deferred amounts to cover the cost of lending and the risks to Local Authorities associated with lending, for example default.
- 4.4 Now that the final Department of Health guidance has been issued further modelling work will be undertaken relating to a range of interest and administration rates to support the final decisions on the discretionary elements of DPAs.

5 RISK MANAGEMENT ISSUES (INCLUDING LEGAL IMPLICATIONS AND CRIME AND DISORDER ACT IMPLICATIONS)

- 5.1 Sections 34-36 of the Care Act 2014 and the Care and Support (Deferred Payment Agreement) Regulations 2014 cover the circumstances in which local authorities must offer deferred payment agreements to people who meet certain criteria governing

eligibility for the scheme, in order to ensure people are not forced to sell their home in their lifetime to meet the costs of their care.

- 5.2 The Regulations and related *Care and Support Statutory Guidance* issued in October 2014 set out detailed arrangements surrounding the setting up of deferred payment agreements. However, as identified in the body of this report, there are certain aspects over which local authorities have discretion; in particular whether to charge interest on any deferred amount under a deferred payment agreement and whether to charge administration costs. In relation to both of these, if an authority decides to make such charges the regulations set parameters in relation to the calculation of these.
- 5.3 When considering proposed new or changing policies, services or functions, including decisions on funding for services, and decisions on implementation of policies developed outside the Council, councils must have due regard to their general duties under the Equality Act 2010 towards people with particular protected characteristics (age, disability, gender reassignment, marriage and partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) There is a statutory duty on all public authorities, in such circumstances, to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity for groups protected by the legislation. The Equality Impact Assessment should assist in identifying issues which need to be taken into account before any decisions are made. Councillors should consider the proposals in this report (taking into account the information in the accompanying Equality Impact Assessment) in the light of that duty.

6 **SOCIAL VALUE CONSIDERATIONS**

Not applicable

7 **REGARD TO THE NHS CONSTITUTION**

Not applicable

8 **EQUALITY IMPACT ASSESSMENT (EIA)**

Has the equality impact been assessed?

- (a) not needed (report does not contain proposals for new or changing policies, services or functions, financial decisions or decisions about implementation of policies development outside the Council)
- (b) No
- (c) Yes – Equality Impact Assessment attached

Due regard should be given to the equality implications identified in any attached EIA.

9 **LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

- 9.1 None

10 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT

10.1 The Care Act 2014 and associated Care and Support Statutory Guidance

11 OTHER COLLEAGUES WHO HAVE PROVIDED INPUT

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