
Cabinet Member for Adult Services

14th March 2024

Name of Cabinet Member:

Cabinet Member for Adult Services - Councillor Linda Bigham

Director approving submission of the report:

Director of Adults and Housing

Ward(s) affected:

All

Title:

Deferred Payment Agreement Scheme

Is this a key decision?

No - although the proposals affect more than two electoral wards, the impact is not expected to be significant.

Executive summary:

The expectation of the Care Act (2014) is that Local Authorities will assist an individual to access a placement in a care home where such a setting best meets eligible care needs and based on a 12-week property disregard, will fund that placement for those first 12 weeks.

During those 12 weeks, residents with property need to make arrangements to fund their own placements from the 13th week, either by liquidating their assets or by making a formal Deferred Payment Agreement (DPA).

Although DPA's have been available since 2015, Coventry City Council has not implemented a formal approach surrounding Deferred Payments which would have made people make a choice to enter into DPA's or fund their own care by other means, the consequence of this has been that residents in Coventry have chosen to do neither of the above and instead the Council has continued to fund, until such time as the property is sold and the resident is able to refund the payments made.

Recommendations:

The Cabinet Member for Adult Services is recommended to:

- 1) Endorse the revised Deferred Payment Scheme for all service users having 12-week disregards ending after the 31st March 2024.
- 2) Agree to implement the new approach to Deferred Payment Agreements.

List of Appendices included:

The following appendices are attached to the report:

Appendix 1 – Deferred Payment Agreement Policy

Appendix 2 – Equality Impact Assessment

Background papers:

None

Other useful documents

None

Has it or will it be considered by Scrutiny?

No

Has it or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Deferred Payment Agreement Scheme

1. Context (or background)

- 1.1. The Care Act 2014 requires local authorities to administer a scheme to enable people who meet certain criteria to defer the costs of their care until after their death with payments being made from their estate.
- 1.2. The legislation allows Councils to administer the scheme on a cost neutral basis, charging for the administration involved in setting up an agreement, as well as the interest on any deferred care charges up to a maximum rate of the cost of Government borrowing.
- 1.3. The expectation of the Care Act is that Local Authorities will assist an individual to access a placement in a care home where this best meets eligible needs and based on the 12-week property disregard, will fund that placement for those first 12 weeks.
- 1.4. During those 12 weeks, individuals with property need to make arrangements to fund their own placements from the 13th week, either by liquidating their assets or by making a formal Deferred Payment Agreement (DPA).
- 1.5. To ensure Coventry City Council adheres to the legislation surrounding Deferred Payments a revised policy document has been developed to provide clarity to both practitioners and service users. Without this clarity the Council is at risk of having unsecured social care debt from service users unnecessarily.

2. Options considered and recommended proposal.

- 2.1. Option 1: **Preferred option** to endorse the Deferred Payment Agreement Policy which will enable us to secure service users' care home debt and minimise the risk of not receiving service users' assessed contributions.
- 2.2. Option 2: to continue as we are with providing an optional Deferred Payment which will increase unsecured debt.

3. Results of consultation undertaken

- 3.1. Consultation is not specifically required on the content of this report as this relates directly to our statutory framework and was consulted on as part of the Care Act implementation.

4. Timetable for implementing this decision.

- 4.1. Should Cabinet Member endorse the revised approach to the Deferred Payment Scheme for all those service users who have a 12-week disregard ending after 31st March 2024, then the policy will be enforced as from 31st March 2024.

- 4.2. From 1st January 2024 all service users needing care in a care home were advised of the proposed revisions and advised as from 31st March 2024 that they would need to agree to fund their own placements either by liquidating their assets or by making a formal Deferred Payment Agreement with Coventry City Council.
- 4.3. Training has been provided to staff to ensure confidence with the content of the policy and the process and their role in providing information about DPA's and case recording those conversations. The process flow chart has been updated and is available on the Council's Intranet for staff to follow.
- 4.4. Coventry City Council webpages have been updated to include the latest information on Deferred Payment Schemes for service users to understand their options. This includes a printed leaflet which staff can discuss with individuals as part of the financial assessment, the leaflet is available in different languages if required.
- 4.5. Monthly panel meetings have been set up with the Financial Assessment team to discuss cases approaching the end of the 12-week disregard to ensure people have entered a DPA or if not, have been given appropriate advice in line with the new policy and understand that they will self-fund from the 13th week of their care home stay. This will be completed within the context of risk to individuals to ensure people are not left with no support.
- 4.6. All current service users with an unsecured deferred payment arrangement will be contacted in writing and advised of the Deferred Payment Agreement scheme and their options of funding for their care.

5. Comments from Director of Finance and Resources (Section 151 Officer) and Director of Law and Governance

5.1. Financial Implications

The Care Act 2014 introduced a new Deferred Payments scheme and at the same time removed previous existing protections around the Council being able to secure debt against property where a service user was financially assessed to contribute to a residential placement. Whilst deferred payments remain an option and the care costs are not being paid, this increases the level of unsecured debt the Council has. The proposals ensure clarity surrounding the debt position and remove this financial risk.

5.2. Legal Implications

Large parts of the Care Act 2014 came into force on 1 April 2015, reforming the law relating to care and support for adults and support for carers. The Act is supported by Regulations and Statutory Guidance.

The scheme for Deferred Payment Agreements was reviewed under the Act and is supported by the Care and Support (Deferred Payment) Regulations 2014, and the Care and Support (Deferred Payment) (Amendment) Regulations 2017, which set out the circumstances in which the Local Authority must enter into a deferred payment agreement, and those circumstances where it may enter into such an agreement.

The scheme is designed as a mechanism to enable those who meet the criteria to defer the costs of their care until after their death (if they wish), with payments ultimately being

made from their estate. The legislation also allows Councils to administer the scheme on a cost neutral basis, by enabling Councils to charge administration costs and interest. The Guidance makes it clear however that,

'It should be stressed from the outset that the payment for care and support is deferred and not 'written off'. The costs of provision of care and support will have to be repaid by the individual (or a third party on their behalf) at a later date.' (9.4) and

'Local Authorities need to ensure that adequate security is in place for the amount being deferred, so that they can be confident that the amount deferred will be repaid in the future'. (9.5)

The expectation therefore is that whilst Local Authorities are required to administer such a scheme, there must be appropriate security in place for the funding to ensure the debt will be repaid at a later date.

6. Other implications

6.1. How will this contribute to the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

6.1.2 The adoption of and embedding a Deferred Payment Scheme into practice contributes towards the City Council's One Coventry Plan. It will do this by ensuring that residents, who have been assessed as having an eligible care need are appropriately assessed as per the Care Act 2014 and where necessary, are able to make financial contributions to their care, thereby ensuring we are improving outcomes and tackling inequalities within our communities and the Council continue to secure financial sustainability.

6.2. How is risk being managed?

6.2.1 Financial risks will be mitigated by enforcing the Deferred Payment Agreement Policy.

6.2.2 Where people refuse to enter a DPA potential risks to the Council, the provider and the person's placement will be managed by a panel with representatives from finance and operations in line with the requirements of the Care Act 2014.

6.3. What is the impact on the organisation?

6.3.1 The Council is carrying what can be a high level of unsecured debt that can sometimes take years to resolve, thereby placing the Council at considerably high risk of being prevented from recovery, either through lack of co-operation or because claims are 'timed out' due to the limitation period for recovery (currently 6 years for debts incurred under the Care Act (2014)).

6.3.2 Deferred Payment Agreements provide security for the Council and enable the Council to recover costs if support is provided post the 12-week disregard period.

6.4. Equalities / EIA?

The Council must comply with the Public Sector Equality Duty (PSED) (Equality Act 2010) by paying due regard, when carrying out their functions, to the need to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act, to advance equality of opportunity and foster good relations between people who share a “protected characteristic” and those who do not. In doing so, The Council must consider the possible impact on those who are likely to be affected by the recommendation and their protected characteristics. Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Equalities information and data is continuously monitored within Adult Social Care.

An EIA is attached at Appendix 2 to this report.

6.5. Implications for (or impact on) climate change and the environment?

None

6.6. Implications for partner organisations?

None

Report author(s):

Tracey Denny
 Head of Service Localities and Social Care Operations

Service Area:

Adult Services and Housing

Tel and email contact:

Tel: 024 7697 7392
 Email: tracey.denny@coventry.gov.uk

Enquiries should be directed to the above person.

Contributor/approver name	Title	Service Area	Date doc sent out	Date response received or approved
Sally Caren	Head of Adult Social Care and Support	Adult Services and Housing	16.02.2024	20/02/24
Louise Ferro	Acting Head - Business Systems and Improvement	Adult Services and Housing	16.02.2024	20.02.24
Andrew Errington	Head of Practice Development & Safeguarding (Adults Principal Social Worker)	Adult Services and Housing	16.02.2024	20.02.24
Jon Reading	Head of Commissioning and Quality	Adult Services and Housing	16.02.2024	18.02.24
Ewan Dewar	Head of Finance	Finance	16.02.2024	20.02.24
Chris Whiteley	Finance Manager	Finance	20/02/2024	20.02.2024
Thomas Robinson	Governance Services Officer	Law and Governance	05.03.2024	05.03.24
Lisa Lawson	Programme Manager	Adult Services and Housing	16.02.2024	20.02.24
Janice White	Team Leader, Legal Services	Law and Governance	16.02.2024	20.02.24
Names of approvers for submission: (officers and members)				

Pete Fahy	Director of Adult Services and Housing	Adult Services and Housing	23.02.2024	23.02.24
Councillor L Bigham	Cabinet Member for Adult Services		23.02.2024	23.02.24

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