

Individual Decision

The attached reports will be taken as
Individual Portfolio Member Decisions on:

Thursday 23 April 2015

Ref:	Title	Portfolio Members	Page No.
ID2806	West Berkshire Council Forward Plan - 27 May 2015 to 31 August 2015	Councillor Gordon Lundie	3 - 18
ID2975	Care Act 2014 - Deferred Payment Agreements	Councillor Keith Chopping	19 - 40



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Individual Executive Member Decision

Title of Report:	West Berkshire Council Forward Plan - 27 May 2015 to 31 August 2015
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	23 April 2015
Forward Plan Ref:	ID2806

Purpose of Report: To advise Members and residents of items to be considered by West Berkshire Council over the next four months.

Recommended Action: That the Leader of the Council agrees and where appropriate amends the West Berkshire Council Forward Plan.

Reason for decision to be taken: It is a statutory requirement that a Forward Plan be produced.

Other options considered: Not applicable.

Key background documentation: None

Published Works: None

Portfolio Member Details	
Name & Telephone No.:	Councillor Gordon Lundie
E-mail Address:	glundie@westberks.gov.uk

Contact Officer Details	
Name:	Moira Fraser
Job Title:	Democratic Services Manager
Tel. No.:	01635 519045
E-mail Address:	mfraser@westberks.gov.uk

Implications

Policy:	The Forward Plan details the Policies to be adopted by West Berkshire Council.
Financial:	The Forward Plan has no financial implications.
Personnel:	The Forward Plan has no personnel implications.
Legal/Procurement:	The Forward Plan has no legal or procurement implications.
Environmental:	The Forward Plan has no environmental implications.
Property:	The Forward Plan has no property implications.
Risk Management:	The Forward Plan has no risk management implications.

Is this item relevant to equality?	Please tick relevant boxes	
	Yes	No
Does the policy affect service users, employees or the wider community and:		
• Is it likely to affect people with particular protected characteristics differently?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)		
Relevant to equality - Complete an EIA available at www.westberks.gov.uk/eia	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Not relevant to equality	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Consultation Responses

Members:

Leader of Council:	Councillor Gordon Lundie
Overview & Scrutiny Management Commission Chairman:	Councillor Brian Bedwell at Overview and Scrutiny Management Commission Meetings
Ward Members:	All Members.
Opposition Spokesperson:	Councillor Jeff Brooks at Overview and Scrutiny Management Commission Meetings.
Local Stakeholders:	The West Berkshire Forward Plan will be published the first working day after the Individual Decision is signed.
Officers Consulted:	Nick Carter, John Ashworth, Rachael Wardell, Heads of Service, Group Executives.
Trade Union:	Not sought.

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input checked="" type="checkbox"/></p> <p>Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months <input checked="" type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p> <p>Report is to note only <input type="checkbox"/></p>		

Supporting Information

1. Background

- 1.1 West Berkshire Council's Forward Plan, which is published monthly, sets out the key decisions that the Executive (either collectively or by Individual Executive Members) are expected to take over the next four months.
- 1.2 Key decisions are defined by the Government (Regulation 8 of the Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2001) as:
- (1) Those which result in the Local Authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which the decision is related.
 - (2) Those which are significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the Local Authority.
- 1.3 The introduction of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in September 2012 include a requirement to publish 28 clear days' notice of any intended key decision. It should be noted that "clear days" means working days, from midnight to midnight, and excludes weekends and public holidays, so 28 clear days equates to around 5½ normal weeks.
- 1.4 On occasions, however, situations may arise where an urgent decision needs to be made in respect of an item that does not appear on the Forward Plan. There are two different ways in which this can be done:
- (i) the authority can take an urgent key decision without giving 28 days' notice where it is impracticable to give the full notice, provided that the authority gives at least five days' clear notice to all Members of the Overview and Scrutiny Management Commission, which can then call in the decision to check that it was genuinely urgent; or
 - (ii) where a key decision is so urgent there is not even time to give five clear days' notice, the authority can take the decision if the Chairman of the Overview and Scrutiny Management Commission has agreed that the key decision is urgent and cannot reasonably be deferred.
- 1.5 In addition The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 have introduced an entirely new requirement for the Council to publish 28 clear days' notice of the intention to hold a private meeting (or part of a meeting) of the Executive. This 28 day notice must be reinforced by a five day notice which sets out the reasons for the meeting to be held in private, details of any propositions received as to why the meeting should be open, and the Council's response. The response will be provided by the Monitoring Officer. The regulations again provide for an urgency procedure, under which the Council can decide the matter with shorter than 28 or five days' notice, provided that it has first obtained the consent of the Chairman of the Overview and Scrutiny Management Commission.

- 1.6 There are currently three confidential items scheduled for the 28 May 2015 Executive meeting and the required notice is attached as an appendix and will be displayed at the Council. If any representations are received the five day notice will be issued on 19 May 2015. The items are:
- Reshaping the Integrated Youth Support Service (IYSS)
 - Staffing implications associated with the 2015 restructure of the Integrated Youth Support Service (IYSS): approval to pay redundancy payments
 - Royal Berkshire Fire and Rescue Service - Provision of Monitoring Officer Support
- 1.7 The following item has been added to the Forward Plan for the 28 May 2015 Executive meeting, since it was last published:
- EX2957 Royal Berkshire Fire and Rescue Service - Provision of Monitoring Officer Support (item delayed from 23 April 2015 until 28 May 2015).
- 1.8 Details of decisions that Full Council, the Governance and Audit Committee, Standards Committee and the Personnel Committee are going to take are also included for ease of reference. It should, however, be noted that the new requirements only apply to Executive meetings.
- 1.9 Publication of the Forward Plan remains a statutory requirement of the Local Authority. The Forward Plan, any General Exception Decisions Notices and Notices of Private Decisions have to be available for inspection and also has to be published on the Council's website.
- 1.10 The Lead Member/ Portfolio Holder details will be amended post the May 2015 Council Meeting following the announcement of the portfolios by the Strong Leader at the meeting.

Appendices

Appendix A – West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015
Appendix B - Notice of confidential items for 28 May 2015 Executive meeting

West Berkshire Council Forward Plan



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West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Porfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
27 May 2015 to 31 May 2015											
EX2965	<p>Staffing implications associated with the 2015 restructure of IYSS (Integrated Youth Support Services): approval to pay redundancy payments (Paragraph 1 - information relating to an individual) (Paragraph 2 - information identifying an individual) <i>To seek approval to make the redundancy payments associated with the 2015 restructure of IYSS (Integrated Youth Support Service).</i></p>	EX	28/05/15 EX	Resources	Robert O'Reilly	Finance, Economic Development, Health & Safety, Human Resources, Pensions, Property	Yes	19/05/15			01 May 2015
ID2970	<p>Mill Lane and Boundary Road, Newbury Proposed 20mph Speed Limit <i>To consider the responses received during statutory consultation</i></p>	ID	01/05/15	Environment	Glyn Davis	Highways, Transport (Operations), Emergency Planning, Newbury Vision		tbc	Statutory consultees, general public, Town Council and Ward members		01 May 2015
ID2971	<p>Speed Limit Review March 2015 <i>To approve the statutory consultation for altering the speed limit on a number of roads following a meeting of the speed limit task group</i></p>	ID	01/05/15	Environment	Glyn Davis	Highways, Transport (Operations), Emergency Planning, Newbury Vision		tbc	Ward Members		01 May 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: mfraser@westberks.gov.uk to confirm the contents of any agenda before attending a meeting.
Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.

KEY:	
ID =	Individual Executive Member Decision
EX =	Executive
C =	Council
GA =	Governance & Audit Committee
S =	Standards Committee
PC =	Personnel Committee

West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Porfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
ID2972	Designation of Tilehurst Neighbourhood Area <i>To designate the Tilehurst Neighbourhood Area</i>	ID	01/05/15	Environment	Bryan Lyttle	Planning, Transport (Policy), Culture, Customer Services, Countyside, Waste, Environmental Health, Trading Standards, Licensing and Partnerships, Equality, Communities, Community Safety, Hungerford and Eastern Area Visions, Cleaner and Greener, Thatcham Vision		Tbc			01 May 2015
June 2015											
ID2956	Parking Amendment 19 <i>To consider the responses received during statutory consultation</i>	ID	01/06/15	Environment	Andrew Garratt	Highways, Transport (Operations), Emergency Planning, Newbury Vision					01 June 2015
ID2921	Parking Amendment 18 <i>To consider the responses received during statutory consultation</i>	ID	01/06/15	Environment	Andrew Garratt	Highways, Transport (Operations), Emergency Planning, Newbury Vision					01 June 2015

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West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015

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ID2901	Annual Report 2014/15 and Statement of Purpose 2015/16 of the West Berkshire Adoption Service	ID	01/06/15	Communities	Sandra Dopson	Children and Young People, Youth Service, Education, Safeguarding		tbc			01 June 2015
ID2902	Annual Report 2014/15 and Statement of Purpose 2015/16 of the West Berkshire Fostering Service	ID	01/06/15	Communities	Sandra Dopson	Children and Young People, Youth Service, Education, Safeguarding		tbc			01 June 2015
ID2913	Outside Body nominations	ID	01/06/15	Resources	Moira Fraser	Leader of Council					01 June 2015
ID2973	Home to School Transport Consultation <i>To seek approval to consult on proposed changes to the Home to School Transport Policy for 2015/16 and the Policy for 2016/17 (statutory requirement)</i>	ID	01/06/15	Communities	Caroline Corcoran	Child and Young People, Youth Service, Education, Safeguarding					01 June 2015
ID2936	West Berkshire Forward Plan - 22 July 2015 - 31 October 2015 <i>To agree the Forward Plan for the next four months.</i>	ID	18/06/15	Resources	Moira Fraser	Leader of the Council		10/06/15			01 June 2015
July 2015											
C2685	Annual Scrutiny Report 2014/15 <i>To provide members with an update on Scrutiny activity during the previous Municipal Year.</i>	C	02/07/15 C	Resources	David Lowe	Chairman of Scrutiny		24/06/15			01 July 2015

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West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Porfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
EX2832	Financial Performance Report - Year End 2014/15 <i>To inform Members of the latest financial performance of the Council.</i>	EX	23/07/15 EX	Resources	Melanie Ellis	Finance, Economic Development, Health & Safety, Human Resources, Pensions, Property, Insurance		15/07/15			01 July 2015
EX2974	Progress with Adverse Weather Debrief Actions <i>To provide an update on progress</i>	EX	23/07/15 EX	Resources	Carolyn Richardson	Emergency Planning		15/07/15			01 July 2015
EX2922	Schools Waste Contract (Paragraph 3 – information relating to financial/business affairs of particular person) <i>To inform Members of the intention to award the contract for the Provision of School Waste.</i>	EX	23/07/15 EX	Communities	Caroline Corcoran	Strategy & Performance, Housing, ICT & Corporate Support, Legal and Strategic Support	Yes	15/07/15			01 July 2015
EX2923	Building Cleaning Services Contracts (Paragraph 3 – information relating to financial/business affairs of particular person) <i>To inform Members of the intention to award the contract for the Provision of Building Cleaning Services</i>	EX	23/07/15 EX	Communities	Karen Felgate	Strategy & Performance, Housing, ICT & Corporate Support, Legal and Strategic Support	Yes	15/07/15			01 July 2015

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West Berkshire Council Forward Plan – 27 May 2015 to 31 August 2015

Reference	Decision and Purpose	Decision Body	Decision Path	Directorate	Contact	Lead Member (Porfolio Holder for . . .)	Part II	Date Report Published	Consultee(s)	Notes	Decision Month
EX2780	<p>Key Accountable Measures and Activities 2014/15. Update on progress: Year End outturns</p> <p><i>To report year end progress against the key accountable measures and activities for West Berkshire Council for 2014/15 and to report by exception those measures/activities not achieved/expected to be achieved and cite remedial action that is being taken.</i></p>	EX	23/07/15 EX	Resources	Catalin Bogos	Strategy & Performance, Housing, ICT & Corporate Support, Legal and Strategic Support		15/07/15			01 July 2015
ID2937	<p>West Berkshire Forward Plan - 2 September 2015 - 31 December 2015</p> <p><i>To agree the Forward Plan for the next four months.</i></p>	ID	30/07/15	Resources	Moira Fraser	Leader of the Council		22/07/15			01 July 2015

The items included in the Forward Plan were correct at the time of publication. The Forward Plan may, however, change and you are advised to contact Moira Fraser – Tel: 01635 519045 or e-mail: mfraser@westberks.gov.uk to confirm the contents of any agenda before attending a meeting. **Executive decisions may be taken by the Executive acting as a collective body or by officers acting under delegated powers.**

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NOTICE OF A PRIVATE MEETING OF A DECISION-MAKING BODY TO WHICH THE CHAIR OF THE OVERVIEW AND SCRUTINY MANAGEMENT COMMISSION HAS AGREED¹

Notice of an imminent occasion when the public may be excluded from a meeting due to the likelihood that if members of the public were present during an item of business confidential or exempt information would be disclosed to them and which the Chair of the Overview and Scrutiny Management Commission has agreed is urgent and cannot reasonably be deferred.

¹ In accordance with Regulation 5(7) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

1. At least 28 clear days before a private meeting² of a decision-making body, public notice³ must be given which must include a statement of reasons for the meeting to be held in private.
2. At least 5 clear days before a private meeting of a decision-making body, further public notice⁴ must be given which must include a statement of reasons for the meeting to be held in private, details of any representations received by the decision-making body about why the meeting should be open to the public and a statement of the Council's response to such representations.
3. Where the date by which a meeting must be held makes compliance with the above requirements impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from the Chair of the Overview and Scrutiny Management Commission.
4. Compliance with the requirements for the giving of public notice has been impracticable in relation to the business detailed below.

Date of Decision or period within which the decision is to be made	Ref No:	Matter in respect of which the decision is to be made	Short Description	Decision maker	Executive Member & Lead Officer	List of documents to be submitted to decision maker	Public or Private meeting. Statement of reasons if private.
28/05/15	EX2965	Staffing implications associated with the 2015 restructure of the Integrated Youth Support Service (IYSS): approval to pay redundancy payments	<i>To seek approval to make the redundancy payments associated with the 2015 restructure of IYSS</i>	Executive	Finance, Economic Development, Health & Safety, Human Resources, Pensions, Property Robert O'Reilly	Report and Associated Appendices	(Paragraph 1 – information relating to an individual) (Paragraph 2 – information identifying an individual)

5. The Chair of the Overview and Scrutiny Committee has agreed that the Executive may hold a private meeting to consider the business referred to in paragraph 4 above because the meeting is urgent and cannot reasonably be deferred for the reasons stated below.

² A 'private meeting' means a meeting or part of a meeting of a decision making body which is open to the public except to the extent that the public are excluded due to the confidential or exempt business to be transacted.

³ In accordance with Regulation 5(2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

⁴ In accordance with Regulation 5(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Date of Chair's agreement	Matter in respect of which the decision is to be made	Reasons why meeting urgent and cannot reasonably be deferred

Andy Day
Head of Strategic Support
West Berkshire Council

Date: 15 April 2015

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Individual Executive Member Decision

Title of Report:	Care Act 2014 - Deferred Payment Agreements
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	23 April 2015
Forward Plan Ref:	ID2975

Purpose of Report: To set a charging policy in respect of Deferred Payment Agreements

Recommended Action: To agree the charging policy as detailed in this report.

Reason for decision to be taken: To enable the Council to establish new policies in respect of changes introduced by the Care Act 2014

Other options considered: None

Key background documentation: Care Act 2014 'Factsheet' available from Department of Health website.

Portfolio Member Details	
Name & Telephone No.:	Councillor Keith Chopping - Tel 07825 733280
E-mail Address:	kchopping@westberks.gov.uk

Contact Officer Details	
Name:	Steve Duffin
Job Title:	Head of Service
Tel. No.:	01635 519594
E-mail Address:	sduffin@westberks.gov.uk

Implications

- Policy:** The Care Act 2014 contains a number of discretionary powers for which the Council will need to make policy decisions.
- Financial:** The policy decisions covered by this report would generate a small amount of income that would be used to offset the costs of the new universal deferred payment arrangements.
- Personnel:** Whilst overall the Care Act 2014 has significant staffing implications the very specific area covered by this report do not.
- Legal/Procurement:** The new powers are introduced by the Care Act 2014. There are no procurement issues to consider.
- Property:** None
- Risk Management:** No new risks arise from this report.

Is this item relevant to equality?	Please tick relevant boxes	Yes	No
Does the policy affect service users, employees or the wider community and:			
• Is it likely to affect people with particular protected characteristics differently?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Is it a major policy, significantly affecting how functions are delivered?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Will the policy have a significant impact on how other organisations operate in terms of equality?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to functions that engagement has identified as being important to people with particular protected characteristics?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Does the policy relate to an area with known inequalities?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
Outcome (Where one or more 'Yes' boxes are ticked, the item is relevant to equality)			
Relevant to equality - Complete an EIA available at http://intranet/EqIA			<input type="checkbox"/>
Not relevant to equality			<input checked="" type="checkbox"/>

Consultation Responses

Members:

Leader of Council: No comments on the report.

Overview & Scrutiny Management Commission Chairman: No comments on the report.

Ward Members: Not relevant to any specific Ward

Opposition Spokesperson: No comments on the report.

Local Stakeholders: Not applicable

Officers Consulted: Tandra Forster - Head of Adult Social Care
Joanne England - Service Manager

Trade Union: Not applicable

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p> <p>Report is to note only <input type="checkbox"/></p>		

Supporting Information

1. Background

- 1.1 On the 12th February 2015 Management Board considered a report covering a small number of new discretionary powers arising from the Care Act 2014 and approved a public consultation exercise.
- 1.2 That public consultation has now closed and the Council is in a position to make the necessary policy decisions in respect of Deferred Payment Agreements.

2. Deferred Payment Agreements

- 2.1 Deferred Payment Agreements (DPA) are a way for people who need to sell their home to pay their care home fees to put off the sale to a later date, or until the end of their lifetime. The Council has operated a Deferred Payment scheme for many years.
- 2.2 The individual is still required to make a contribution towards the costs of their care from their income and savings if they are assessed as financially able to do so. The care costs that are being deferred are paid by the Council during the period of the DPA and are then recovered when the property is sold.
- 2.3 There are four policy decisions required.

- (1) Does the Council wish to charge a fee to cover the costs of setting up a DPA?

Recommendation - The council charges a fee to cover costs (legal time, property valuations, Land Registry fees etc.) and that the level of the charge is set at £700 in 2015/16 and then subsequent levels to be set as part of the standard annual 'fees and charges' process. This initial figure is based on averaging costs where permitted plus the actual cost of such charges as valuations and Land Registry Fees. Where there are special factors that result in increased costs then the Council reserve the right to pass them on to the individual.

- (2) Does the Council wish to make an annual charge to cover the costs (property revaluations, monitoring compliance with agreement etc.) of administering a DPA?

Recommendation - The Council makes an annual charge and that the level of the charge is set at £100 in 2015/16 with subsequent levels to be set as part of the standard annual 'fees and charges' process.

- (3) What interest rate does the Council wish to apply to deferred payments, this can be anything from zero up to the maximum rate set by the Government (currently 2.65% per annum)? The Government will review the maximum rate every 6 months. If the Council elects for a local rate then that would need to be subject to review every 6 months to ensure it remains below the Government set maximum.

Recommendation - In order to cover the risk to the Council of agreeing DPA, which ties up taxpayers' money that could otherwise be invested

in other Council services, the Council will apply the maximum interest rate set by the Government.

- (4) Does the Council wish to agree that, in exceptional circumstances, it will allow a DPA in respect of a person in Extra Care Housing or Supported Living Accommodation

Recommendation - The Council will, in exceptional circumstances, allow a DPA in respect of a person in Extra Care Housing or Supported Living Accommodation

- 2.4 The consultation exercise resulted in no responses at all. It should be noted that there is no change for those small numbers of service users with an existing DPA and no future service users would be obliged to enter into a DPA.
- 2.5 The draft Deferred Payment Scheme Agreement document is provided as Appendix A (Section 7 on Page 6 contains the relevant points regarding both the interest rate and charges).

3. Equalities Impact Assessment Outcomes

- 3.1 A public consultation exercise was undertaken using 'consultation finder'. The new policy does not impact upon existing service users with Deferred Payment Agreements therefore there are no current service users adversely impacted by these policy decisions.
- 3.2 Whilst people who have care support needs are more likely to have the protected characteristics of age and disability, the proposed changes outlined in this report do not impact on them as a direct result of their age or disability. In addition, individuals are financially assessed to ascertain their ability to make a contribution towards the cost of any care and are not asked to pay charges beyond the level they are assessed as able to afford.

4. Conclusion

- 4.1 Changes in the Care Act 2014 require a small number of policy decisions to be made. These will impact on a very small number of future service users and no existing service user would be adversely impacted.
- 4.2 The purpose of the new charges being introduced is to cover the costs the Council will incur as a result of the introduction of the Universal Deferred Payment Agreements.

Appendices

Appendix A – Deferred Payment Agreement Policy

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Deferred Payment Agreement Policy

Document Control

Document Ref:	DPA01	Date Created:	March 2015
Version:	1	Date Modified:	
Revision due	June 2015		
Author:	Jo England	Sign & Date:	
Owning Service			
Equality Impact Assessment: (EIA)	Date undertaken:	16 th March 2015	
	Issues (if any):	None – See ID Report	
Chief Executive	Sign & Date:		
Corporate Director (Community Services)	Sign & Date:		

Change History

Version	Date	Description	Change ID
1	March 2015	New Policy	
2			
3			

Introduction

1. Purpose

- 1.1 The purpose of this policy is to set out how West Berkshire Council (WBC) will meet its requirement of the Care Act 2014 (sections 34 and 35) to offer Deferred Payments Agreements to allow a person to defer the sale of their home where it is needed to fund care fees.
- 1.2 The Care and Support (Deferred Payment) Regulations 2014 set out the legal framework and local authorities' responsibilities in greater detail. The new legal duties come into force on 1 April 2015.

2. Applicability

- 2.1 This Policy applies to persons eligible to receive Adult Social Care Services.

3. Policy

- 3.1 It is the policy of the Council to ensure that it uses a consistent and fair approach to offering Deferred Payments. This approach will promote affordable, sustainable support for people who require Adult Social Care Services.

4. Implementation

- 4.1 This Policy will be supported and implemented by the development and publication of Procedures (how to) and Guidance (advice).

5. Roles and Responsibilities

- 5.1 The overall responsibility for charging adults for care within WBC rests with the Client Financial Services team in Care Commissioning, Housing & Safeguarding.
- 5.2 The responsibility for day-to-day management of Deferred Payment Agreements throughout WBC rests with the Head of Care Commissioning, Housing & Safeguarding, who is also responsible for maintaining this Policy and for providing advice and guidance on its implementation.
- 5.3 All managers are directly responsible for implementing this Policy within their service areas and for the adherence of their staff and others.

6. Failure to comply with WBC Charging Policy

- 6.1 This document provides staff and others with essential information regarding charging and sets out conditions to be followed. It is the responsibility of all to whom this policy document applies to adhere to these conditions.

7. Review

- 7.1 This policy will be reviewed to respond to any changes and at least every year.
- 7.2 The Service responsible for reviewing this policy is Care Commissioning, Housing & Safeguarding.

Contents

1. Legal Status
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The National Deferred Payments Scheme

1 Legal Status

- 1.1 The Care Act 2014 (sections 34 and 35) requires local authorities to offer Deferred Payments Agreements to allow a person to defer the sale of their home where it is needed to fund care fees. The Care and Support (Deferred Payment) Regulations 2014 set out the legal framework and local authorities' responsibilities in greater detail. The new legal duties come into force on 1 April 2015.
- 1.2 The regulations require local authorities to offer deferred payments to people meeting certain eligibility criteria (see section two below). These agreements can be retained until the person dies, with the amount repayable from their estate, but can also be offered to persons who decide to sell their home whilst still alive (the deferred payment providing "bridging finance").
- 1.3 The Care Act and regulations also allow the deferred payment scheme to be offered to persons who have incurred debt in relation to their care fees.
- 1.4 The regulations also allow local authorities to offer the deferred payment scheme for extra care housing and supported living, but not for people receiving care in their own home.
- 1.5 Local authorities are also allowed further discretion to offer the deferred payment scheme where otherwise a person might be required to sell their home to pay for care.

2. Eligibility Criteria

- 2.1 The local authority must offer a deferred payment to people who meet the eligibility criteria set out below:
 - 2.1.1 anyone whose needs are to be met by the provision of care in a care home;
 - 2.1.2 anyone who has less than (or equal to) £23,250 in assets excluding the value of their home (i.e. in savings and other non-housing assets); and
 - 2.1.3 anyone whose home is not disregarded, for example it is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support.
- 2.2 Additionally:
 - 2.2.1 The person must have a beneficial interest in the property.
 - 2.2.2 There should be no outstanding mortgage on the property (or if accepting a mortgaged property, the outstanding amount must leave sufficient value to meet the criteria for self-funding).
 - 2.2.3 The person or their legal representative must consent to the agreement.

- 2.2.4 The deferred payment must be signed by a person with capacity to make the decision or their legal representative. See section nine for more information on mental capacity and deputyship.
- 2.3 When accepting a property as security, the local authority will ensure it is able to place a Land Registry charge on the property.
- 2.4 As a general guide a person should have sufficient equity in the property to cover a years' worth of their fees in order for a deferred payment to be accepted.
- 2.5 The local authority may exercise its discretion to take other forms of security rather than the person's property.
- 2.6 The local authority has discretion to refuse a deferred payment agreement if it is not satisfied that its interest is secure (aside from where it is able to secure a first legal mortgage charge, which it must accept as adequate security). Whatever security is provided, the local authority has to be satisfied that they could gain ownership of this asset on the death or receive the proceeds on the sale of the asset.
- 2.7 If a spouse or dependent relative moves into the property following entry into the deferred payment scheme, the local authority will review eligibility.
- 2.8 If the property is subsequently disregarded (and the person qualifies for local authority support as a consequence) then the deferred payment will be frozen and interest will continue to accrue.
- 2.9 The local authority will ask the person to complete an application for the scheme.

3. Permission to refuse a deferred payment agreement

- 3.1 The local authority can refuse a deferred payment if it cannot obtain a first legal charge on the property.
- 3.2 The local authority can refuse a deferred payment if the person lacks capacity and there is no appointed deputy to make such a decision.
- 3.3 The local authority may also refuse a deferred payment where someone is seeking a top up; and/or where a person does not agree to the terms and conditions of the agreement, for example a requirement to insure and maintain the property. Refusal can also be on the grounds that the property is uninsurable.

4. Information for cared-for persons

- 4.1 Local authorities are required to ensure that persons considering entering residential care are made aware of the ability to defer charges against their property for their care.
- 4.2 Local authorities must advise the person or their representative that there is an administration charge when entering into a DPA. See section seven below for more guidance.

4.3 Local authorities must advise the person or their representative, that interest will be applied from day one of the agreement. The 12 week property disregard must be allowed where appropriate. See section 13 below.

4.4 The local authority should advise the person of the criteria that is attached to eligibility for the Deferred Payment Scheme.

4.5 People wishing to take advantage of the scheme may wish to seek independent financial and legal advice.

5. Deciding not to sell and refusing a DPA

5.1 If a person does not want to sell their property and also chooses not to take advantage of the scheme, they should be deemed to be able to pay the full cost of their care and will be invoiced as such.

5.2 If they then fail to pay their invoices this will be dealt with via the local authority's debt recovery process.

5.3 The person may again seek independent financial advice if they decide not to sell or take advantage of the scheme.

6. Renting out the property

6.1 A person may choose to rent out their property (though this will not be mandatory) and any rental income will be included in the financial assessment.

6.2 The local authority should have sight of the tenancy agreement. Good practice would suggest that this should as a minimum be a six month assured shorthold tenancy.

7. Interest charges; calculation; fees

7.1 The Deferred Payments regulations set the maximum interest rate that can be charged on deferred payments. Local authorities have discretion to charge less than this maximum or to charge no interest at all; but cannot exceed the maximum. This maximum rate is fixed for periods of six months, and changes every 1 January and 1 July.

7.2 As the guidance and regulations set out, the maximum interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report. The one that accompanied the previous Autumn Statement (2014) is at:
http://cdn.budgetresponsibility.independent.gov.uk/December_2014_EFO-web513.pdf

7.3 The penultimate row of table 4.1 sets out the gilt yield rate, and the final interest rate is derived by adding the gilt yield rate for the year in which the period starts to the default component (0.15%).

- 7.4 On the basis of the current gilt rates at the time of publishing (as set out in the document linked-to above, for financial year 2014/15, this is 2.5%), the interest rate will be 2.65% (when the default component is added in). This rate will be applicable from the scheme's launch on 1 April until 30 June 2015.
- 7.5 Subsequent rates will be dictated by the next fiscal events:
- From 1 July – 31 Dec next year, the rate will match the figures published with the 2015 Budget (published March 2015).
 - From 1 January – 30 June 2016, the rate will match the figures published with the 2015 Autumn Statement.
- 7.6 Compound interest will be applied. This will be applied in line with our invoicing terms i.e. four-weekly.
- 7.7 A charge will be made for setting up a Deferred Payment Agreement in order to cover the following costs:
- (i) costs of postage, printing, scanning and photocopying
 - (ii) staff costs;
 - (iii) Land Registry fees;
 - (iv) Valuation fees
 - (v) Land search fees;
- 7.8 The standard charge to cover all of the above costs and fees is currently £700 but this may increase depending on the complexity, for example if the property is not registered with the Land Registry.
- 7.9 There will be an annual charge, currently £100, to cover the ongoing costs of managing the agreement, these include any costs associated with revaluing the property, the cost of providing statements, and any fee incurred in removing a legal charge from a property.
- 8. Types of property ownership**
- 8.1 Legal and Beneficial Owners
- A legal owner is the person in whose name the property is held. A beneficial owner is someone who is entitled to the proceeds of the sale of the property. In most cases the legal and beneficial owners will be the same.
- 8.2 Sole legal and beneficial ownership
- This situation arises where a person is both the sole legal and beneficial owner of the property and therefore owns their property outright, with no other owners. This is the most straight-forward case to handle and requires no special treatment.
- 8.2 Sole legal ownership
- This situation arises where a person is registered as the legal owner but holds the property on trust for the beneficial owner. This scenario is usually highlighted by a restriction being entered on the title of the property at the Land Registry. It would

be unlikely that a legal charge would be secured against a property in these circumstances as it is unlikely that the beneficial owner would agree to their property being taken as security for the charge.

8.3 Jointly owned property

Where a property is held/owned by more than one legal and beneficial owner (co-ownership) the parties can own the property in one of two ways:

8.3.1 Joint Tenants

- (i) This means that the co-owners have an indivisible share in the property and that all the co-owners are equally entitled to the whole of the property. Upon the death of a co-owner the deceased co-owner cannot leave the property in his/her Will as the whole of the property passes to the remaining co-owners by survivorship.
- (ii) To access the deferred payment scheme all co-owners will have to agree to the charge being placed on the property and will be required to sign and be party to the legal charge.
- (iii) Refusal of a deferred payment agreement does not mean the property cannot be taken into account, it just means the deferred payment scheme cannot be accessed. It is crucial that the person or their representative is made aware of the implications - i.e. that they will still be charged the full cost of their care (if assessed as being able to do so).
- (iv) To support the future claim if non-payment occurs regular invoices will be sent to the person or their representative for the care they have received.

8.3.2 Tenants in Common

- (i) Tenants in Common means that the co-owners are the joint legal owners of the property but that each co-owner holds a distinct beneficial share in the property. It is usual for the details of such beneficial ownership to be contained in a separate agreement (declaration of trust) between the parties. It is also usual for a restriction to be entered against the title at the Land Registry. The right of survivorship does not apply where beneficial interests are held by co-owners as tenants in common and therefore the interest of each co-owner will pass under their will or the intestacy rules upon their death.
- (ii) To access the Deferred Payment Scheme all parties will have to agree to the local authority having a charge on the property and the legal owners will be required to sign and be party to the legal charge.
- (iii) Refusal does not mean the property cannot be taken into account, it just means the deferred payment scheme cannot be accessed. It is crucial that the person or their representative is made aware of the implications i.e. that they will still be charged the full cost of their care (if assessed as being able to do so).

(iv) To support the future claim if non-payment occurs regular invoices will be sent to the person or their representative for the care they have received.

8.5 Unregistered land - On occasion a property may not be registered with the Land Registry. In order to enter into a deferred payment agreement the property will need to be registered. This will be undertaken at the time of the registration of the legal charge and will be subject to additional legal fees and land registry fees (which will be pursuant to the Land Registry's published fees order at the time of the registration – see para 7.8).

9. Mental Capacity Act

9.1 Definition

9.1.1 The Mental Capacity Act 2005 (MCA) applies to care, treatment and support of people aged 16 years and over, in England and Wales, who are unable to make some or all decisions for themselves.

9.1.2 The Act is accompanied by a statutory Code of Practice which explains how the MCA will work on a day to day basis and provides guidance to all those working with, or caring for, people who lack capacity. As the Code has statutory force, all staff who are employed in health and social care are legally required to 'have regard' to the MCA Code of Practice.

9.2 Where a person lacks the ability to enter into a Deferred Payment

9.2.1 This situation might arise where a person is unable to enter into a deferred payment agreement, due to lack of capacity; and there is no one empowered to support them. The good practice recommendation is that their family or a representative, or as a last resort the Local Authority should make application to obtain a Deputyship order to support their best interests being observed.

9.2.2 Whilst this is being obtained the Local Authority will pay the provider and send regular invoices detailing the charges to be paid to the person applying for deputyship. If the deputyship is obtained and the responsible party has not paid we will obtain a court order for the debt outstanding.

9.2.3 It is recommended that a letter of undertaking to pay the care fees is signed by the person applying for the deputyship order.

9.2.4 Confirmation that an application, including an interim order, for Deputyship has been made must be provided.

9.3 Enduring Powers of Attorney (EPA)

9.3.1 These only cover property and affairs, and remain valid as long as they were drawn up before 1st October 2007. No new EPAs can be created since October 2007 when Lasting Powers of Attorney were introduced. Details of the law and policies covering EPAs can be found via the Office of the Public Guardian (OPG).

9.4 Lasting Powers of Attorney

- 9.4.1 People over the age of 18 can formally appoint one or more people as Lasting Powers of Attorney (LPAs) to look after their personal welfare, and/or their property affairs. This allows persons to plan ahead for a time when they may not have capacity to make certain decisions.
- 9.4.2 The person making the LPA is known in legal terms as the donor, and the power they are giving to another person is the Lasting Power of Attorney. The person appointed is then called an attorney. The LPA gives the attorney the authority to make decisions on the donor's behalf. Attorneys acting under an LPA have a legal duty to have regard to the guidance in the Mental Health Act Code of Practice and act in the person's best interests.
- 9.4.3 An LPA must be registered with the Office of the Public Guardian (OPG) before it can be used. An unregistered LPA does not give the attorney any legal powers to make a decision for the donor. The donor can register the LPA while they still have capacity, or the attorney can apply to register the LPA at any time. Staff can check the register if they are unsure about the validity of an LPA. Contact details for the OPG can be found on their website.

9.5 Deputyship

- 9.5.1 A Deputy may be appointed by the Court of Protection when there is no one else who could act on behalf of the person lacking capacity to manage their financial affairs and/ or personal welfare decisions.
- 9.5.2 A Deputy can be a representative for the person or the local authority or a solicitor.

10. Valuation of Property / Securing the DPA

- 10.1 The Care Act 2014 section 34 subsection 4 states that:
“Regulations under subsection (1) may, in particular prohibit a local authority from entering into, or permit it to refuse to enter into a deferred payment agreement unless it obtains adequate security for the payment of the adults deferred amount.”
- 10.2 The Care & Support (Deferred Payments) Regulations 2014 states (regulation 4 paragraph 1a) that a local authority:
must obtain adequate security for the payment of the adults deferred amount... and must pursuant to regulation 4 (paragraphs 1B and 4) obtain the consent of any person who has an interest in the land in respect of which a charge will be obtained and whose interest may prevent it (the local authority) from exercising a power of sale or recovering the deferred amount...
- 10.3 The regulations make clear that “adequate security” means a legal charge against the property which is capable of being registered at the Land Registry.
- 10.4 The purpose of the valuation is initially to establish whether the available equity is greater than the upper capital limit which will make the resident self funding;

however the value of the property will also inform the limit on the amount of equity the person can draw. This must be set at:

Value of the person's share in the property, less 10% and less £14,250

- 10.5 When assessing whether the value of the property is greater than the upper capital limit, an allowance of 10% of the estimated value should be allowed for sale costs to give a net estimated value. (This has already been taken into account in the above calculation of the equity limit). NB when eventually sold the actual costs of sale will be deducted when assessing capital.
- 10.6 Where appropriate, the valuation will be net of any outstanding loan/mortgage on the property and of any repayment requirements of the property if it was purchased through "Right to Buy".
- 10.7 It is established best practice that the discount is the minimum percentage of ownership attributed to the person. The value is at current market value and not that of the original purchase.
- 10.8 The local authority always obtains a first legal mortgage charge to maintain adequate security. If there is an existing mortgage over the property the local authority will obtain the 1st mortgagee's consent for the charge to be registered.
- 10.9 There are a variety of methods to determine the valuation which can be summarised as follows:
- Local knowledge/newspapers
 - Internet sites
 - In-house Valuers
 - Estate Agents
 - Land registry for previous sale price
 - DWP who may have valued a property for benefit purposes
- 10.10 It is good practice to confirm the approximate value that is being taken into account in their financial assessment with the person.
- 10.11 An updated valuation should be obtained annually, normally on the anniversary of the deferred payment.
- 10.12 A professional valuer should be asked to provide a current market valuation of the property in all cases of dispute.

11. The Land Search Process

- 11.1 Ownership enquires will be made at the Land Registry and:
- 11.1.1 If the response to the enquiry is that the property is registered and in the sole name of the person, the legal agreement process as detailed below will be followed.
- 11.1.2 If the response is that the property is registered in joint names or there appears to be a trust situation, then further enquiries and information will be

gathered and agreement to register a charge must be sought from all parties, to enable entry to the deferred payment scheme.

12. The Legal Agreement

- 12.1 The person or their legal representative will sign an agreement confirming that they wish to take advantage of the DPS and that all implications have been explained.
- 12.2 A formal Legal Agreement and Legal Charge will be agreed and completed with the Local Authority's Legal Department.

13. Deferred Payments and the 12 Week Disregard

- 13.1 If it would be necessary to sell the property immediately to fund the care, i.e. any other available resources are below the upper capital limit (£23,250), then a 12 week property disregard will be automatic and the DPS will be available subject to the appropriate eligibility criteria.
- 13.2 If there are sufficient resources in excess of the upper capital limit (£23,250), to fund care for any period, no matter how short, access to the DPS can be given at the time that capital reduces to the upper capital limit and it would be necessary to sell the property.
- 13.3 Persons already in residential care who may need to access local authority funding are not entitled to the 12 week property disregard.
- 13.4 However, if the request to access local authority support is made due to a sudden and unexpected change the local authority has the discretion to allow a 12 week property disregard. An example where a local authority might consider exercising this discretion might be a person's partner dying suddenly.
- 13.5 The local authority will ensure that there is a smooth transition where possible to the deferred payment scheme by the 13th week of residential care.

14. Periodic Statement of Accrued Debt

- 14.1 The person will be informed at regular intervals of the current level of the outstanding debt, this will include a reminder of the rate at which it is growing and given an estimate of the length of time their remaining assets will be sufficient to fund the full cost of their care.
- 14.2 In times of an economic downturn it is possible that property values will go down, possibly significantly, and this could impact on the self-funding period. Regular valuations of the property should be undertaken it is suggested annually.

15. Re-valuation of Property

- 15.1 This will be carried out annually, preferably at an appropriate time to provide information for the process described in 14 above.

15.2 The method of carrying out a re-valuation of the property will be same as that described in section 10 above.

16. Benefits entitlement

16.1 As a self-funder the person is likely to be entitled to and should apply for Attendance Allowance or Personal independence Payments. They may already be in receipt of the Disabled Living Allowance (care component).

16.2 The person or the representative with authority to act on behalf of the person is responsible for notifying the Department for Work and Pensions of any changes to circumstances.

17. When the Deferred Payment ends (due to depletion of equity)

17.1 When the remaining equity value reduces to the lower capital limit the following process should be followed. A re-valuation of the property is required (see previously) though it is more likely that a professional valuation should be considered if this has not been done previously.

17.2 A copy of the charging order, or a letter from the authority's legal department acknowledging the authority's interest in the property, is also required.

17.3 An account detailing the amount of debt currently accrued against the property will be produced.

17.4 Supporting Documents should then be submitted with an Income Support/Pension Credit claim form to the appropriate Benefits Office, either the Local Pensions Service or Jobseeker Plus if a claim is appropriate.

17.5 When completing the Income Support/Pension Credit Claim form the final "Comments" box should be annotated with the following wording or similar.
Mr/Mrs (name) is the owner of the property detailed on this form. Although the property is not being actively marketed for sale the value of his/her equity in the property is now [£16,000] and I should be grateful if you would regard this as a valid claim for Income Support/Pension Credit. Evidence is attached that confirms the value of the current equity i.e. a current valuation, a copy of the Charging Order in favour of (name) local authority (or a letter from the legal department of the (name) local Authority) and confirmation of the current debt accrued against the value of the property".

17.6 When completing the Pension Credit claim form there is not a capital limit as such, but a similar statement showing the equity value remaining in the property after taking into account the accrued debt to the authority would be necessary.

17.7 As the accrued debt continues to increase it will be necessary to seek a review, by the appropriate Benefits Office, of the level of Income Support/Pension Credit being paid. At these times the Benefits Offices will require verification of the level of debt accrued to date and may, depending on the length of time since the initial claim was submitted and the nature of the property market i.e. whether prices remain static, require a re-valuation of the property

17.8 In the event of an Income Support/Pension Credit claim being rejected on the grounds that the property is not being marketed for sale a request for reconsideration should be made immediately that the refusal of benefit notification is received

18. Increased Personal Expenses Allowance for Property Maintenance/Insurance

18.1 The local authority will require a contribution from income to meet the costs of the person's care (the remaining care fees being the amount deferred); but the person must be left with a prescribed minimum allowance.

18.2 The general personal expenses allowance (PEA) received by every person placed in residential care by the local authority may not be enough to cover the maintenance of the property.

18.3 The costs involved in maintaining the property e.g. insurance and repairs must be met by the person. The Department of Health guidelines and regulations state that an amount of £144 per week should be allowed to be retained by the person towards the upkeep of their property, if they want it. This is called the Disposable Income Allowance and includes the PEA. A person could choose to keep less than this per week, thus reducing the amount being deferred. Any reduction will be agreed as part of the financial assessment process.

18.4 On leaving the deferred payment scheme (or if the deferred payment becomes frozen) the PEA reverts back to the normal figure currently £24.90 per week.

19. Calculation of equity limit

19.1 When identifying what equity the person should have left in their property, it should be noted that the local authority must leave the lower capital threshold currently £14,250 together with 10% of the property value intact in order to defray any costs incurred with the sale or settlement of the estate.

20. Notification on reaching the maximum deferred amount

20.1 When the deferred debt is reaching the maximum amount that can be deferred the regulations state that the local authority must give 30 days' notice. However, good practice would advise that you should do this sooner and it is suggested that 6 months is a more appropriate length of time.

20.2 At this time the local authority should be discussing cost of care with the person, in particular what might happen to any top ups or the need to consider movement to another care home/room if they are unable to make other arrangements.

21. Terminating the deferred payment - sale of property before Death

21.1 If the person has placed the property for sale from admission or chooses to sell at a subsequent date the accrued debt must be repaid upon the sale in order to remove the charge.

21.2 Sale of the property is one of the agreed reasons for termination of the agreement. This will terminate the Deferred Payment Agreement and the service user will

become self-funding. The person must give 30 days' notice in writing of placing the property on the market.

- 21.3 The actual sale price should be used for a final calculation of the debt and if appropriate, to identify when self-funding status ended.

22. Terminating the deferred payment - sale of property after Death

- 22.1 The Executor of the estate will notify the local authority of the death.

- 22.2 Calculating the Debt – the accrued debt should be added to any other outstanding amount due to identify the final debt that is payable.

- 22.3 Lodging a Claim – the Executor of the estate should be notified 14 working days after the death, with the amount of the actual or provisional debt. At this stage it would be reasonable to seek information on the approximate value of the estate to confirm previous financial assessment declarations. It would also be good practice to explain that the debt is due from 90 days after death.

- 22.4 Notifying Final Debt – If it has not already been notified the final debt should be confirmed in writing no later than 4 weeks after death.

- 22.5 Debt Collection – If the debt has not been cleared within 4 weeks of the expiry of the 90 day period a reminder should be sent confirming the rate of growth of the debt and requesting a progress report. If no response is received you the Council will follow normal debt procedures.

- 22.6 Calculating the Interest – The interest rate able to be charged is that as detailed in the Care and Support (Assessment) Regulations 2014. A debt pursued through the County Court procedure may attract a higher rate of interest.

23. Removing the Charge

- 23.1 Upon receipt of sufficient monies to repay the debt, including any interest and deferred administrative fees, the Local Authority's Legal Department will be notified of the receipt of the payment and will be instructed to apply to the Land Registry to remove the Charge at the Land Registry. In the case of a sale, the Solicitors acting in the sale should notify the Local Authority of the anticipated completion date and should confirm details of the completion date once contracts for sale have been exchanged. A final account can then be prepared and passed to the Legal department who will advise the Solicitors of the amount required and the necessary payment details for the payment to be made. Upon confirmation of receipt of the payment the Legal Department will apply to the Land Registry for the removal of the Legal Charge.

- 23.2 An electronic application is made to the Land Registry for the removal of the charge on form DS1 and is normally processed by the Land Registry within 10 days of receipt.

- 23.3 The Council's Legal Department will confirm removal of the Legal Charge to the person, their representative or their Solicitor upon receipt of Land Registry confirmation.

24. Continuing Healthcare

- 24.1 The deferred payment cannot cease just because full continuing health care funding is awarded and no funding is due from the local authority. It is good practice to ask for voluntary payments to continue, wherever possible, pointing out that this will reduce the amount of the accrued debt set against the value of the property.
- 24.2 The local authority will continue to charge interest until the debt is cleared.
-