

The Care Act - fees and charges

We are seeking views from individuals and from representative organisations. Once you've read all the information on this page. Please complete the attached survey and return to us using the enclosed stamped addressed envelope.

Introduction

The Care Act is the biggest change to English adult social care law in over 60 years and will reform the law relating to care and support for adults and their carers. It will replace a number of different pieces of legislation with a single legal framework that will have the wellbeing of individuals and carers at the heart of care and support services.

The majority of the changes contained within the Act are set to take place in April 2015, with the reform of funding (including the cap on care costs) to take effect from April 2016.

Much of the Act is prescriptive but there are a number of aspects to it that provide the Local Authority with some discretion. These include aspects relating to fees, charging and the Universal Deferred Payments Scheme as follows:

- The ability to charge a care arrangement fee to self-funders
- The requirement to have a single charging framework as between residential and domiciliary care and the potential to modify elements of the existing charging policy
- The ability to charge Carers for support provided to them so as to bring them onto an equal footing with service users
- The ability to charge interest and to charge a fee for the arrangement of a Deferred Payment. (The fee charged must be on the basis of what it costs the local authority to administer the Deferred Payment Agreement)

As these changes are discretionary in nature we are keen to get views on the various proposals described below. These proposals have been developed in the context of the Care Act Statutory Guidance, the need for us to use our resources effectively and the wish to ensure that people are treated equitably.

The consultation process

The consultation will run for 6 weeks. We are seeking views from individuals and from representative organisations. These include advice and advocacy organisations, Age UK, Community Council of Shropshire, the Senior Citizen Forum, Shropshire Partners in Care, the Clinical Commissioning Group, Shropshire Voluntary and Community Sector Assembly, learning disability providers, and Shropshire Disability Network. We will also involve the Learning Disability Partnership Board, the Family Carers Partnership Board, and the Making It Real Board. We are using a survey that can be accessed via the Shropshire website. Paper and easy read versions of the survey will also be made available.

The results of the consultation will be evaluated and taken into account when finalising any proposals. Final approval will be sought on the proposals at full council meeting in May 2015 and implemented from 1 June 2015 other than the arrangement fee for Care Home placements which will be implemented from 4 April 2016.

An initial Equality Impact Needs Assessment (EINA) has been carried out and this indicated that in relation to the Minimum Income Guarantee, younger people with disabilities may be impacted upon more negatively than other groups. We are therefore considering putting in place transitional arrangements on a case by case basis to mitigate this for up to six months.

The EINA will be updated following the consultation to inform the council decision making

Proposals being consulted on

Care arrangement fees

Shropshire's operating model aims to ensure that individuals who fund their own care are enabled and encouraged to make their own arrangements and that the system is easy to navigate. However there may be circumstances where a person asks the local authority to arrange care to meet their eligible needs and the council is able to do so.

Proposal A: Care arrangement fees be charged for care settings other than a care home placement. These fees would be set on a cost recovery basis and would be put in place from 1 June 2015.

Proposal B: Care arrangement fees be charged for care home settings. These fees would be set on a cost recovery basis and would be put in place from 4 April 2016.

Proposal information

The Care Act allows people with eligible needs and financial assets above the capital limit ('self funders') to ask the local authority to make the necessary arrangements to meet their needs.

The local authority must meet these needs where requested to do so but can charge an arrangement fee to cover the costs of putting in place the care and support required. The fees must be set at a level that would cover only the costs incurred in arranging the care and support (a cost recovery basis).

The local authority could choose not to charge a fee but that would mean that the time and resources used to support 'self funders' would not be available to support those who are entitled to local authority support and whose financial assets fall below the capital limit.

Charging

The Care and Support (Charging and Assessment of Resources) Regulations under the Care Act give legal parity to the charges to be made for residential and non-residential care. It also unifies the approach to financial assessments. We will therefore, develop a single charging framework for both residential and non-residential care in relation to charging. This framework will incorporate the requirements of the existing Fairer Charging Disability-Related Expenditures. As part of this single charging framework we are consulting on the following proposals.

Proposal C: Services are charged for from the week that the support or care starts

Proposal information

The previous regulations empowered local authorities to charge for **residential care** from the outset it arranged support and care for an individual.

However Department of Health statutory guidance has previously prevented local authorities from charging for **non-residential care** until the individual was notified how much their financial contribution would be.

This led to cases where some individuals, either through ill-health, or because they did not have appropriate financial representation, have had an extended period without having to contribute to their care. Others who provided financial information quickly have been charged soon after their support started, meaning the system for non-residential care penalised individuals for acting efficiently.

Changes to the regulations under the Care Act allows for all care to be charged for from the start date making charging more consistent and fair.

Proposal D: Charging for all replacement care

Proposal information

'Replacement Care' is care which replaces care usually provided by the family carer. It's provided to enable the family carer to look after their own health, to take a break, etc. Replacement care can be charged to the adult needing that care.

In the context of the Care Act we have been reviewing carers' services and how they are charged for. This highlighted the fact that for some time in Shropshire some replacement care has been charged for but not all, resulting in inequity. Therefore in order to ensure fairness and consistency it is proposed that all replacement care should now be charged for with the adult making an assessed contribution.

Universal deferred payment scheme

A deferred payment scheme is an arrangement whereby the person agrees to pay some of their fees at a later date. A person usually repays the local authority following a sale of their property at a later date, or from their estate.

Shropshire already has a local scheme for deferred payments. The Care Act provides a national single legal framework for the establishment of a universal deferred payment scheme but allows some areas for discretion. These are the areas on which we are consulting.

Proposal E: Administrative fee for deferred payments

Proposal information

The Universal Deferred Payment Scheme is intended to be cost neutral to local authorities and the fee charged must be on the basis of what it costs the local authority to administer the Deferred Payment Agreement (a cost recovery basis).

We could choose not charge an administrative fee but in the context of the current financial challenges we are proposing to do so in order to cover the costs of the administrative work associated with putting in place a deferred payment agreement.

Option F: Interest charges at the maximum rate allowable for both mandatory and discretionary deferred payments

Proposal information

The Care Act allows councils to charge interest at between zero per cent and a maximum set by government (currently at around 2.65%).

We could choose not to charge interest or to charge interest at a rate lower than the maximum allowed by government. However in the context of the current financial pressures we are proposing to charge the maximum allowed.

For people with a current deferred payment agreement entered into prior to that date there will be no change to the terms of their agreement.

Proposal G: The use of other land/property as security for deferred payments on a case by case basis

Proposal information

The Care Act allows councils to offer a deferred payment where the adult has an interest in land or other property which is not their main or only home and where a first legal charge capable of registration may be secured.

We could decide not to accept any such requests but that would limit the flexibility of the scheme. On the other hand we could decide to accept all such requests but that might expose the Council to unacceptable risks for example if the equity was not adequate to cover the care costs incurred. We are therefore proposing that we consider such requests on a case by case basis.

Other areas

Carers charging

Under the Care Act if the local authority is meeting the needs of a carer by providing a service directly to that carer it can charge the carer an assessed contribution. The Council is not obliged to charge carers but it has a discretion to do so. In Shropshire we are not proposing to do this. This is in recognition of the significant contribution that carers make as valued partners in care.

In considering the option to charge carers we recognised the fact that carers help to maintain the health and wellbeing of the person they care for, support the person's independence and enable them to stay in their own homes for longer. In many cases carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. We took account of the likely impact of any charges on carers, particularly in terms of their willingness and ability to continue their caring responsibilities. We concluded that it would be very unlikely to be efficient to systematically charge carers for meeting their eligible needs

Deferred payments - supported living accommodation

The Care Act allows councils to offer a deferred payment to those residents in supported living accommodation and accept other forms of security rather than the client's property. However at this point we do not know how many people will take up the scheme and what the potential cost will be. We will therefore not be offering deferred payments to those residents living in supported living accommodation. We will review these aspects at a later date once we have assessed the overall impact of the mandatory requirements of the scheme.

Minimum income guarantee

A person who receives care and support outside a care home will need to pay their daily living costs such as rent, food and utilities. Therefore the charging rules must ensure that they have enough money to meet those costs.

After charging, a person must be left with the minimum income guarantee (MIG) equivalent to Income Support plus a buffer of 25%.

Whilst the actual MIG amounts are fixed in the legislation, the percentage of surplus income that an authority can take in to account is discretionary. Shropshire currently takes in to account 100% of the surplus income and is not proposing any change to that arrangement. The charging ceiling of £120 is not applied in Shropshire and again we are not proposing any change to that arrangement.

However we recognise that as a direct result of legislative change that reduces the threshold for 18-24 year olds, there may be some negative impact on existing service users. We will therefore consider on a case by case basis putting in place transitional arrangements to mitigate this for up to 6 months.

The results of the consultation will be evaluated and taken into account when finalising any proposals. Final approval will be sought on the proposals at full council meeting in May 2015. The outcomes of the consultation will be made available on the Council website.

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