



Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: 13 February 2015

Committee:

Decision Making Session by Portfolio Holder for Adult Services and Commissioning (South)

Date: Monday, 23 February 2015

Time: 10.00 am

Venue: Grinshill Room, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of Decision Making Session by Portfolio Holder for Adult Services and Commissioning (South)

Lee Chapman

Your Committee Officer is:

Penny Chamberlain Principal Committee Officer

Tel: 01743 252729

Email: penny.chamberlain@shropshire.gov.uk

AGENDA

1 Care Act - Fees, Charging and Deferred Payments Scheme (Pages 1 - 14)

Report of the Director of Adult Services is attached marked 1.

Contact: Stephen Chandler – 01743 253704

Note: Portfolio Holder Decision Making Sessions are not open to the public. However Members of the public are welcome to submit a request to address or ask a question of the Member making the Portfolio Holder decision. Any request should be submitted in writing to the Chief Executive at The Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND by no later than 2 clear working days before the proposed Member Session. This is to ensure that the individual member has sufficient time to decide whether or not to hear such persons and if so the arrangements to be made. If you would like further details please telephone 01743 252729 or email penny.chamberlain@shropshire.gov.uk



<u>Committee and Date</u>	<u>Item</u>
Portfolio Holder for Adult Services	1
23 February 2015	
10 am	<u>Public</u>

Care Act - Fees, Charging and Deferred Payments Scheme

Responsible Officer Ruth Houghton

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1. Summary

The Care Act received Royal Assent on 14th May 2014, and will be implemented over the next two years. 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.

There are a number of discretionary areas in the Act which require a local decision. 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 and the potential to modify elements of existing charging policy
- The ability to charge Carers for support provided in line with bringing them onto an equal footing with service users.
- The ability to charge interest and a fee for the arrangement of a Deferred Payment (on a cost recovery basis).

This report brings forward options relating to the above and seeks approval to consult on those options. The outcome of the consultation will be reported back to full Council in May 2015 where final approval will be sought.

2. Recommendations

Agreement is sought on the following:

- to carry out a consultation on the proposals detailed below
- for the consultation process to be for 6 weeks

- that the results of the consultation be evaluated and taken into account when finalising any proposals
- that an initial EINA has been carried out and this will be updated following the consultation to inform the council decision making
- that final council approval to be sought on any changes at full council meeting in May

REPORT

3. Background

The Care Act received Royal Assent on 14th May 2014, and will be implemented over the next two years. 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.

There are a number of discretionary areas in the Act which require a local decision. These include aspects relating to Fees, Charging and the Universal Deferred Payments Scheme.

This report brings forward options relating to the above and seeks approval to consult on those options described below:

4. Proposals for Consultation

4.1 Care Arrangement Fees

Shropshire's approach is to ensure that individuals who fund their own care are enabled 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 meet their eligible needs and the council is able to do so.

4.1.1 Care Arrangement Fees for Care Settings other than a Care Home Placement

Under the Care Act people with eligible needs and financial assets above the capital limit ('self funders') may ask the local authority to meet their needs. In cases where the needs are to be met by care and support other than in a care home the local authority must meet those needs but can charge an arrangement fee to cover the costs of putting in place the care and support required

This arrangement fee would only be charged to 'self funders' whose resources are above the financial limits and who are therefore not entitled to financial support from the local authority

The fees would be set at a level that would cover only the costs incurred in arranging the care

The fees would be put in place from 1st June 2015

The proposal for consultation is that

A care arrangement fee (for Care Settings other than a Care Home Placement) is charged on a cost recovery basis

4.1.2 Care Arrangement Fees for Care Home Settings

The duty for the local authority to meet the eligible needs of self funders where the needs are to be met by a care home placement does not come in to effect until April 2016

This arrangement fee would only be charged to 'self funders' whose resources are above the financial limits and who are therefore not entitled to financial support from the local authority

The fees would be set at a level that would cover only the costs incurred in arranging then care

The fees would be put in place from 4th April 2016

The proposal for consultation is that

A care arrangement fee is charged on a cost recovery basis from April 2016

4.2 Charging

The Care and Support (Charging and Assessment of Resources) Regulations under the Care Act give legal parity to both residential and non-residential care. It also unifies the approach for financial assessments.

The council 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 seeking to consult on the following proposals

4.2.2 Charging for Care from the week it starts

The local authority has the power to charge for meeting a person's care and support needs from the moment it starts to meet those needs.

In practice the local authority might not actually collect charges from day one for example because it has not yet completed the financial assessment of what the person can afford to pay. However it is expected that any charges are back dated to the date when care and support needs first started to be met.

The proposal for consultation is that

Services are charged for services from the week that care starts

4.2.3 Carers Charging

Where a local authority is meeting the need of a carer by providing a service directly to that carer it has the power to charge the carer.

In recognition of the significant contribution that carers make as valued partners in care we are not proposing to charge carers an assessed contribution.

'Replacement Care' is care delivered to the cared for which usually provided by the family carer. It is provided to enable the carer to look after their own health, take a break, etc. and can be charged to the adult needing that care. This has been the approach for some services in Shropshire for some time, however the recommendation is that this should now be applied consistently across all "replacement care".

The proposal for consultation is that

That replacement care will be charged to the cared for person.

4.3 Universal Deferred Payment Scheme

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 (UDPS).

4.3.1 Administrative Fee

The UDPS is intended to be cost neutral to local authorities, with the local authority able to recoup the administrative costs associated with the deferred payment.

The proposal for consultation is that

An administration fee should be charged for arranging a deferred payment on a cost recovery basis

4.3.2 Interest Charges

The Care Act allows councils to charge interest at between zero interest or any rate up to a maximum set by government (currently at around 3.25%)

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

Any changes approved by full council as a result of consultation process will be implemented from 1st June 2015

The proposal for consultation is that

The rate of interest to be charged for deferred payments will be the maximum allowable and applied to both mandatory and discretionary deferred payments.

4.3.3. Adequate Security

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.

The proposal for consultation is that

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 and wishes to use this as adequate security the Council will consider such requests on a case by case basis

4.3.4 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 then potential cost will be We will review these aspects at a later date once we have assess the overall impact of the mandatory requirements of the scheme

4. The Consultation Process

The consultation will run for 6 weeks from 16 February to 27th March 2015. We are proposing to involve advice and advocacy organisations, Age UK, senior citizen forum, SPIC and VCSA We will use a monkey survey that can be accessed via the web. We will also involve

The Learning Disability Partnership Board, the Carers Partnership Boards, and the Making It Real Board.

5. Risk Assessment and Opportunities Appraisal

An initial EINA has been carried out and this will be updated following the consultation to inform the council decision making

6. Financial Implications

These will be reported to full council on completion of the consultation to inform the decision

7. Additional Information

7.1 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 user. We will therefore consider on a case by case basis putting in place transitional arrangements to mitigate this for up to 6 months.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

EINA Part 1

Cabinet Member (Portfolio Holder) Lee Chapman
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Local Member

Appendices

Equality Impact Needs Assessment (EINA)

Part 1 EINA (initial assessment with preliminary consultation)

Name of policy, procedure, function, project, etc	
Care Act - Fees, Charging and Deferred Payments Scheme	

Names (list those involved in carrying out assessment)	Job titles	Contact details
Kathryn Downton Rob Price Simon Smith	Care Act Manager Benefit Options Team Senior Assessment Officer	Kathryn.downton@shropshire.gov.uk Rob.price@shropshire.gov.uk Simon.smith@shropshire.gov.uk
Date commenced	9 th February 2015	

Aims of the policy and description

There are a number of discretionary areas in the Care Act (2014) which require a local decision. 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 and the potential to modify elements of existing charging policy
- The ability to charge Carers for support provided in line with bringing them onto an equal footing with service users.
- The ability to charge interest and a fee for the arrangement of a Deferred Payment (on a cost recovery basis).

Stakeholders, people concerned, interested parties

Shropshire Council
Existing service users and carers
Potential future service users and carers

People who fund their own care
 Advocacy organisations
 Current providers

Progress summary		Date	Signature
Head of service Ruth Houghton	Part 1		
Head of service	Part 2 (FULL)		

Potential Impact on Target Groups – Preliminary Consultation (see page 2)

Assess each of the following areas separately and consider how the policy may affect people's Human Rights

- Have you considered the relevant Protected Characteristics and/or consulted people with specialist knowledge?
- Will the policy create any problems or barriers to any Community or Group?
- Will any group be excluded because of the policy?
- Will the policy have a negative impact on community relations?

If the answer to any of these is **Yes** to any **High Impact criteria**, you must prepare a **Full (Part 2) EINA**.

Preliminary consultation will be required to help identify the impact and evidence of this recorded.

Initial assessment (and preliminary consultation)

Protected Characteristic groups	Significant (High) negative impact <i>Full EINA required</i>	Significant (High) positive impact <i>Full EINA required</i>	Medium or Low impact <i>Part 1 EINA only required</i>
Race (also ethnicity, nationality, culture, language, gypsy, traveller)			Low
Disability (mental & physical impairments, mobility, manual dexterity, speech, hearing, learning, understanding, visual, MS, cancer, HIV)			Low – financial impact but as part of means tested arrangements.
Sex (also associated aspects: safety, single-parenting, caring responsibility, potential for bullying & harassment)			Low
Gender re-assignment (also associated aspects: safety, single-parenting, caring responsibility, potential for bullying & harassment)			Low
Sexual Orientation (heterosexual, lesbian, gay, bi-sexual)			Low
Age (children, young people, working age, elderly)			Low. Legislation

			reduces threshold for 18-24 -local mitigation to reduce negative impact.
Religion & belief (Hinduism, Judaism, Buddhism, Christianity, Islam, Sikhism, Shinto, Non-conformists)			Low – further national research being undertaken into likely demand for Sharia-compliant scheme
Pregnancy & Maternity			Low
Other (other target groups relevant to your service, for example, family carers, marital status, rurality, poverty)			Carers – Low – decision taken not to charge carers for services Replacement care charges would ensure an equitable approach across all groups

High	Significant potential impact, risk of exposure, history of complaints, no mitigating measures in place or no evidence available, urgent need for consultation with customers, general public, employees
Medium	Some potential impact, some mitigating measures in place but no evidence available how effective they are, would be beneficial to consult with customers, general public, employees
Low	Almost bordering with non-relevance to the EINA process (heavily legislation led, very little discretion exercised, limited public facing aspect, national policy)

What is your evidence for your answers to the above questions?

Consider quantitative and qualitative data. Customer equality monitoring data, consultation process, research data. Log details in Evidence part of form (page 4)

- Department of Health Impact Assessment of Care Act
- Majority of changes as a result of government legislation
- Planned consultation will inform final decisions
- Shropshire Council is mitigating age related issue with proposed transitional protection
- Proposed interest charge for Deferred Payment Agreement is not compliant with Sharia law – but this is subject to further research by DH
- Existing policies are otherwise unaffected.

Important: Only policy, procedure, function, etc rated as **High Impact** needs a **Full (Part 2) EINA**. Full assessment requires more in-depth consultation with members from the target groups highlighted as being at the receiving end of any potential High Impact.

Part 2 – Full EINA

Sources of evidence

- List the main sources of evidence on each group, both quantitative and qualitative
 - Consider how the policy may affect people's Human Rights
 - Qualitative evidence may include comments and opinions from stakeholders, as well as academic research
- Useful sources of information: complaints monitoring, customer records, census data, focus groups, face to face interviews, surveys, related information produced by other public bodies)

Consider the following when assessing the impact & seeking evidence/during consultation

1. How is the policy likely to affect the **promotion of equality** and the **elimination of discrimination** in each of the areas?
 - a) Give a selection of key facts relevant to each area
 - b) If there is little or no evidence, say what you will do to find some evidence and give examples of the types of evidence you might find
2. How will the policy meet the needs of the **different communities** and groups?
3. Give details of any **consultation** that has already been done which is relevant to this policy
4. Give examples of **existing good practice** in this area, for example, measures to make it easier for people in particular groups to influence policy

Challenges and opportunities: questions to consider throughout the assessment

- Consider using a Critical Friend (external to the department or organisation) to challenge the assessment
- What measures does the policy include, or what could it include, to address existing patterns of **discrimination, harassment or inequality?** (Consider the alternatives)
- What impact will the policy have on **helping different groups of people** to get on well together to **improve community relations?**
- If the policy is likely to have a **negative** impact, what are the reasons?
- What **practical changes** will help reduce any adverse impact on particular groups?
- What will be done to **improve access** to **take-up** of services and **understanding the policy?**
- What can you do to **promote equality** and **eliminate discrimination** when you procure goods and services?

Detailed evidence

	Source of evidence & baseline data	Outline of impact
Race		
Disability		

Sex		
Gender Re-assignment		
Sexual Orientation		
Age		
Religion & Belief		
Pregnancy & Maternity		
Other		

EINA decision

Decide whether to adopt the policy based on the aims, evidence collected, consultation results, relative merits of alternative approaches and compliance with legislation. Ensuring that:

- The approach is methodical and logical, records are kept and decisions are justified
- Balanced decisions are made, best accommodating conflicting interests

Summary of findings and analysis - EINA decision

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Signature (Lead Officer)	Signature (Head of Service)
Date:	Date:

Next review date of this EINA

Every 3 years or when policy changes, if earlier Date:

Action Plan guidance notes

<p>Give an outline of your action plan, based on the evidence you find to support your decisions, and the challenges & opportunities you have identified. It could include:</p> <ul style="list-style-type: none"> • Plans that are already under way or that you are already thinking about to address the challenges and priorities you have identified • Arrangements for continued discussion and involvement with stakeholders • Arrangements for monitoring and evaluating the policy for its impact on different groups throughout the policy making process and as the policy is carried out • Arrangements for ensuring that any pilot projects are evaluated and take account of issues described in the assessment, and that they are assessed to make sure they are having intended impact • Arrangements for discussing how far you can take account of the issues in the assessment with other agencies, service providers, Non-Departmental Public Bodies and regulatory bodies • Arrangements for ensuring that your relevant colleagues are made aware of the assessment • Arrangements to make sure the assessment contributes to the Single Equality Scheme (SES) • Arrangements for disseminating information about the assessment to all relevant stakeholders who will be implementing the policy • Arrangements for improving the body of evidence you have <p>Also consider the following:</p> <ul style="list-style-type: none"> • Area of negative impact • Actions/changes proposed • Resource implications
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Action Plan

		Person responsible	Target date
Involvement & consultation			

Data collection & evidence			
Assessment & analysis			
Procurement & partnerships			
Monitoring, evaluating & reviewing (including publishing the results)			

You may wish to change the above categories in the first column to reflect the actions needed, relevant to the policy and assessment

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