



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

<u>Item</u>
1
<u>Public</u>

## Care Act - Fees, Charging and Deferred Payments Scheme

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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**

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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 1<sup>st</sup> 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 4<sup>th</sup> 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 1<sup>st</sup> 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 27<sup>th</sup> 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.

<b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b>
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EINA Part 1
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<b>Cabinet Member (Portfolio Holder) Lee Chapman</b>
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<b>Local Member</b>
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<b>Appendices</b>
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