

PLYMOUTH CITY COUNCIL

Subject: Implementing the Care Act 2014
Committee: Cabinet
Date: 10 February 2015
Cabinet Member: Councillor Tuffin
CMT Member: Carole Burgoyne (Strategic Director for People)
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Ref: DS/KJ/Cab13/1/15
Key Decision: Yes
Part: I

Purpose of the report:

The Care Act 2014 creates a single modern piece of law for adult care and support in England. It will update complex and out-dated legislation that has remained unchanged since 1948.

The reforms introduce significant new duties on Local Authorities and consequently will involve significant change to finances, processes and people.

The purpose of this report is to provide an update on the Care Act and implementation in Plymouth and have approval for the following:

1. Care & Support Needs Policy (*Appendix B*)
2. Decision not to financially assess Carers
3. Deferred Payments Policy (*Appendix C*)

The implementation of the Care Act is linked to the wider Integrated Health and Wellbeing Transformation Programme. Stakeholders across the council include Finance, Policy, Performance and Partnerships

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

The propositions made in this report align to the Plymouth City Council Corporate Plan by working co-operatively to meet the objectives of creating a Caring and Pioneering Plymouth. It also aligns to the Health and Wellbeing Board's vision of achieving Integration by 2016, as decided in June 2013.

This project will support the Corporate Vision through:

- Being **pioneering** in developing and delivering quality, innovative brilliant services with our citizens and partners that make a real difference to the health and well-being of the residents of Plymouth through challenging economic times.
- **Growing** Plymouth through learning and community development creating opportunities for vulnerable people to develop, making us and them stronger and more confident as a result.

- Putting citizens at the heart of their communities and work with our partners to help us **care for Plymouth**. We will achieve this together by supporting communities, help them develop existing and new enterprises, redesign existing services which will in turn create new jobs, raise aspirations, improve health and educational outcomes and make the city a brilliant place to live, to work and create a future for all that reflects our guiding co-operative values.
- Raising aspirations, improving education, increasing economic growth and regeneration people will have increased **confidence in Plymouth**. With citizens, visitors and investors identifying us as a “vibrant, confident, pioneering, brilliant place to live and work” with an outstanding quality of life.

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land:**

For the parts of the Act that will come into force in April 2015 the government has calculated that these will cost £470 million. The costs will be met from: £335 million as announced in the June 2013 Spending Round; and £135 million that has to be met through local areas' Better Care Fund (BCF) allocations.

For Plymouth we have been awarded the following grants in relation to these elements:

	£'000	Funding Source
Self-funders assessments	674	Dept. for Communities and Local Government
Carers and Care Act Implementation	297	
Deferred Payments	405	
Total	1,376	
Carers	343	From the Better Care Fund
Information, Advice and Support	74	
Safeguarding	28	
Assessment & Eligibility	167	
Veterans	9	
Law Reform	24	
Advocacy	47	
Total	692	

Modelling to understand if these grants are sufficient to meet the new duties is underway and will be closely monitored throughout 15/16.

Costs and grants for the changes from April 2016 are still not known and when further information becomes available this will be brought to Cabinet.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

No specific Child Poverty, Community Safety or Health and Safety Issues have been identified.

The project will follow the Risk Management Strategy set out for Transformation Programmes and Projects by the Portfolio Office.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Y

Recommendations and Reasons for recommended action:

1. Cabinet note the contents of the report and the progress made to date.
2. Cabinet approves the Care and Support Policy
3. Cabinet approves the Deferred Payments Policy
4. Cabinet to receive a further update on the financial implications of the Care Act once they are known, including a revised Fairer Charging Policy.
5. Cabinet to approve not to financially assess Carers, to do so could impact negatively on the council should carers decide to withdraw from their caring role, we believe that that the personal budgets carers might require for their unmet needs will be relatively low one off costs and back office processes would be resource hungry with little return in terms of income

Alternative options considered and rejected:

The Care Act 2014 is a new and far reaching piece of law effective from April 2015, and therefore obligatory. The reforms introduce significant new duties on Local Authorities and consequently will involve significant change to finances, processes and people. The project approach that Plymouth City Council is adopting will ensure the successful implementation of this change.

Published work / information:

1. DH Fact Sheets
[Care Act 2014 Part I: factsheets - Publications - GOV.UK](#)
2. DH Care and Support Statutory Guidance 2014
[Care Act 2014: statutory guidance for implementation - Publications - GOV.UK](#)
3. Care Act 2014 legislation
[Care Act 2014](#)

Background Papers:

Title	Part I	Part II	Exemption Paragraph Number						
			I	2	3	4	5	6	7
EIA – Care and Support Needs Policy	✓								
EIA – Deferred Payments Policy	✓								

Sign off:

Fin	CD R 14/1 5.37	Leg	LT/2 2131 3/4	Mon Off	LT/2 2131 /3	HR		Assets		IT		Strat Proc	
Originating SMT Member: Dave Simpkins, Assistant Director Adult Social Care													
Has the Cabinet Member(s) agreed the content of the report? Yes / No													

Introduction

The Care Act 2014 builds on recent reviews and reforms, replacing numerous previous laws, to provide a coherent approach to adult social care in England. Part one of the Act (and its Statutory Guidance) consolidates and modernises the framework of care and support law; it set out new duties for local authorities and partners, and new rights for service users and carers.

The Act aims to achieve:

- **Clearer, fairer** care and support
- **Wellbeing** – physical, mental and emotional – of both the person needing care and their carer
- **Prevention and delay** of the need for care and support
- **People in control** of their care.

Appendix A summarises the key areas of the Act and the duties on local authorities.

Implementing the Care Act

There is a monthly project group meeting in place led by the assistant director of Adult Social Care with the leads of the identified work streams meeting fortnightly to ensure that we are Care Act compliant for 1st April 2015.

There are also sub-regional meetings led by Plymouth to explore what we might be able to do collaboratively to ensure consistency across the region. Authorities involved are: Plymouth, Devon, Cornwall, Torbay Trust and Isles of Scilly. Work streams for this include: Eligibility and Assessment, Communications and Deferred Payments.

Officers from Plymouth are also linked into various ADASS forums such as finance and performance.

In order to ensure that Plymouth City Council complies with the duties of the Care Act we have developed two new overarching policies; Care and Support Needs Policy at Appendix B and Deferred Payments Policy at Appendix C and we seek cabinet approval for these.

Summary

The Care Act represents the most significant change to Adult Social Care legislation since 1948. Part 1 comes into effect on 1st April 2015. Work is well underway to ensure that we are compliant and able to meet our responsibilities. There will shortly be consultation with the Department of Health relating to the funding reforms for self-funders and the Local Authority will need to continue with a formal project approach to ensure successful implementation. It is recommended that the implementation of Part 2 of the Care Act remains linked to the wider Integrated Health and Wellbeing Transformation Programme.

Summary of the Care Act 2014

1. A new emphasis on wellbeing

The new statutory principle of individual wellbeing underpins the Act, and is the driving force behind care and support.

The nine key areas of wellbeing are:

1. Personal dignity (<i>including treatment of the individual with respect</i>)	6. Social and economic wellbeing
2. Physical and mental health and emotional wellbeing	7. Domestic, family and personal
3. Protection from abuse and neglect	8. Suitability of living accommodation
4. Control by the individual over day-to-day life (<i>including over care and support provided and the way it is provided</i>)	9. The individual's contribution to society
5. Participation in work, education, training or recreation	

2. Information and Advice and Advocacy

The Care Act ensures that people will have clearer information and advice to help them navigate the care system, and a more diverse, high quality range of support to choose from to meet their needs. There is a new duty to provide advice and information to service users and carers who do not meet the eligibility threshold and the Act also places a duty on local authorities to ensure that information and advice on care and support is available to all and when they need it. Independent advocacy must also be arranged if a person would otherwise be unable to participate in, or understand, the care and support system.

3. Prevention

The Act places more emphasis than ever before on early intervention and prevention – shifting from a system which manages crises to one which focuses on people's strengths and capabilities and supports them to live independently for as long as possible and maintain their wellbeing.

4. Shaping the Market

Key principles under the Act include ensuring that we have a wide range of good quality care and support services that will give people more control and choice and ensure better outcomes. Local authorities have an important role in developing the quality and range of services that local people want and need and integrated commissioning with key partners, including health and housing, is essential to ensure quality as well as value for money and improve user satisfaction. From 2015 the Act puts a duty on local authorities to join up care and support with health and housing where this delivers better care and promotes wellbeing and ensure that there is a wide range of care and support services available that enable local people to choose the care and support services they want.

5. Assessment and Eligibility

The Act introduces a national minimum eligibility threshold. Eligibility is to be set nationally, based on risk to the individual's wellbeing as opposed to the risk to the individual's independence. The assessment must focus on outcomes and wellbeing for the person and the assessment should take into account the needs of the whole family as well as of any carers.

When a person does not meet the eligibility threshold we now have a duty to provide advice and information.

To meet our legal duties and ensure that we can support the implementation of the new national eligibility threshold by April, we will need expanded assessment capability and ensure workforce skills to cope with increased new demand, including self-funders and that assessments are focused on outcomes and wellbeing.

6. Carers

The Care Act strengthens the rights and recognition of carers with improved access to information and advocacy to make it easier for carers to access support and plan for their future needs. The emphasis on prevention will mean that carers should receive support early on and before reaching crisis point. Adults and carers have the same rights to an assessment on the appearance of needs and for all carers this is no longer dependent on the cared-for person meeting the eligibility criteria. We must meet the eligible needs of carers and prepare a support plan. Where there are unmet eligible needs then there is a right for Carers to have a personal budget.

Similar to the assessment of a cared for, if a Carer does not meet the eligibility threshold we now have a duty to provide advice and information.

7. Transition to Adult Care and Support

Under the Act there are new arrangements for transition to adult care and support. This includes: a duty to assess young people, and carers of children, who are likely to have needs as an adult where it will be of significant benefit, to help them plan for the adult care and support they may need, before they (or the child they care for) reach 18 years. We must ensure that there is no gap in necessary care and support when young people and carers move from children's to adult services.

8. Safeguarding

The Care Act puts adult safeguarding on a legal footing and from April 2015 each local authority must set up a Safeguarding Adults Board with core membership from the local authority, the Police and the NHS (specifically the local Clinical Commissioning Group) and the power to include other relevant bodies. Safeguarding Adults Boards will be strengthened and have more powers than the current arrangements set up by "No Secrets" but they will also be more transparent and subject to greater scrutiny.

The Act includes new duties for agencies to work more closely together and share information. Fears of sharing information must not stand in the way of protecting people. Agencies that support adults at risk can prevent and detect harm but they must act swiftly and competently when abuse is suspected or reported. There must also be sufficient support, specialist expertise, independent advocacy and access to criminal justice within each area. The advances in personalisation of social care go hand-in-hand with the new approach to safeguarding; empowering people to speak out, make informed choices, with support where necessary, and encouraging communities to look out for one another. The two concepts are also inseparable from quality of life and dignity.

9. Integration and partnership working

Under the Act there is a statutory requirement to collaborate and cooperate with other public authorities, including a duty to promote integration with NHS and other services. The £3.8 billion Better Care Fund (BCF) announced by the Government in the June 2013 Spending Round is to support transformation and integration of health and social care services to ensure local people receive better care and is one of a number of initiatives through which the integration of care and support will be achieved.

The implementation of the Care Act project is part of the Integrated Health and Wellbeing Programme, which includes the development of a new integrated provider for Health and Social Care services as well as the establishment of an Integrated Commissioning Unit between the CCG and local authority. The commissioning project has developed a new specification to ensure that the provider is compliant with Care Act requirements and this will be monitored through the Contract. The new provider will be expected to develop pathways of support across statutory and non-statutory services for individuals across the whole community.

10. Managing provider failure and other service interruptions

There is a duty for local authorities to step in to ensure that no one is left without the care they need if their service closes because of business failure and CQC must have oversight of the financial health of providers most difficult to replace were they to fail and to provide assistance to local authorities if providers do fail.

11. Moving between areas

People with care and support needs may decide to move home perhaps to be closer to family or to pursue education or employment opportunities, or because they want to live in another area. Where a person decides to move to a new area and as a result their ordinary residence status changes, it is important to ensure that care and support is in place during the move, so the person's wellbeing is maintained. In circumstances where a person is receiving local authority support and chooses to live in a different local authority area, the local authority that is currently arranging care and support and the authority to which they are moving must work together to ensure that there is no interruption to the person's care and support.

12. Funding Reforms

As well as introducing a national minimum eligibility threshold the funding reforms will introduce from April 2015 a universal Deferred Payment Scheme and from April 2016 a cap on care costs, the introduction of Independent Personal Budgets and the maintenance of Care Accounts. The key principles of these reforms are to ensure:

- Financial protection: everyone will know what they have to pay towards the cost of meeting their eligible needs for care and support.
- People will be protected from having to sell their home in their lifetime to pay for any care home costs.
- People will be helped to take responsibility for planning and preparing for their care needs in later life.

13. Deferred Payments

Under the Act, people who face the risk of having to sell their home in their lifetime to pay for care home fees will have the option of a deferred payment.

The local authority already has a deferred payment scheme in place; the important changes are that everyone in a care home who meets the eligibility criteria will be able to ask for a deferred payment regardless of whether or not the local authority pays for their care.

The deferred payment agreement scheme is intended to be run on a cost-neutral basis, with local authorities able to recoup the costs associated with deferring fees by charging interest. Local authorities can also recoup the administrative costs associated with deferred payment accounts (DPAs), including legal and ongoing running costs, via administration charges which can be passed on to the individual.

The Act allows for local authorities to set Management Fees and Interest Rates for deferred payments as local authorities will have the ability to charge interest on any amount deferred, including any administration charge deferred. This is to cover the cost of lending and the risks to local authorities associated with lending, for example the risk of default.

The national maximum interest rate will change every six months on 1st January and 1st July to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility.

14. Charging

A Financial Assessment must be offered to all clients who approach us for care provision to enable us to assess if they are able to make a contribution to their care. We will continue to support those most vulnerable who need support and will continue to work with appropriate organisations as well as family members to ensure that a fair and transparent process is followed and clearly communicated to the client.

Charging in a residential setting is based on a consistent national framework rather than local agreements for other settings. Clients in these settings must be left with a minimum amount of income called a Personal Expenses Allowance as set out in regulations. This amount is not to be used towards any aspect of a client's care.

The Care Act introduces a legal framework for the recovery of debts.

- We will no longer be able to recover debt by means of a charging order unless agreed under a Deferred Payment Agreement.
- We will still be able to undertake County Court Proceedings to enforce payment and interest can be charged and fees for action passed on the client.
- The statute of limitations will increase to 6 years in respect of new debt raised from April 15.

15. Cap on Care Costs and Care Accounts

In April 2016 the remaining provisions of the Care Act 2014 will take effect. These include the lifetime cap on care costs and the need to maintain a Care Account for every person, with eligible needs, paying towards their care whether through the current Plymouth City Council Adult Social Care system or as a private self-funder.

Systems and processes will need to be in place by October 2015 so that we can start to undertake assessments of need for self-funders and for those with eligible needs and set up their Care Accounts to take effect from 1st April 2016.

DRAFT CARE AND SUPPORT NEEDS POLICY

Co-operative Commissioning and Adult Social Care



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Introduction

The Care Act is an historic and significant piece of legislation that modernises the framework of care and support law, bringing in new duties for local authorities and new rights for service users and carers.

The Act places more emphasis than ever before on prevention and aims to make care and support clearer and fairer and to put people's wellbeing at the centre of decisions, and embed and extend personalisation.

The Care Act 2014 provides carers with the same recognition, respect and parity of esteem with those they support. This policy document applies equally to carers and those that are cared for.

Statutory Framework

The Care Act, 2014

The Act¹, implemented in April 2015, consolidates adult social care legislation into a single framework for both adults with care needs and carers. A copy of the Act is available [here](#).

The Children and Families Act, 2014

The Act², implemented in April 2015, provides for the assessment of young carers under the age of 18 and parent carers, carers of a child under the age of 18. The Act gives Young Carers and Parent Carers the legal entitlement to an assessment of need. If a young person continues in their caring role once they have reached the age of 18 they may also be entitled to a personal budget.

A copy of the Act is available [here](#).

Definitions

Adult with care needs

An adult living in Plymouth with possible care and support needs.

Carer³

A carer is an individual who provides unpaid help and support on a regular basis to a partner, family member, friend or relative. They may provide practical help, care, physical or emotional support to a person who is vulnerable for a wide variety of reasons, whether through age, physical or mental illness, disability or other issues such as substance misuse.

This policy refers to carers over the age of 18 unless otherwise stated. The rights of young carers⁴ and parent carers⁵ are covered under the Children and Families Act 2014 referred to above.

Young carer's in transition are covered by the Care Act and we will also assess the needs of young carers as they approach adulthood.

¹ Care Act 2014

² Children and Families Act 2014

³ Definition taken from the Plymouth Carers Strategy 2014 - 18

⁴ A child or young person, usually aged 18 or under, who carries out significant caring tasks and assumes a level of responsibility for caring for a parent or relative who has an illness or disability or is experiencing mental distress, which would usually be carried out by an adult.

⁵ A parent of a disabled child who provides substantial and regular care beyond that which would usually be expected for a similar age child.

CARE AND SUPPORT NEEDS POLICY STATEMENTS

1. Wellbeing and Prevention

The local authority will ensure that it applies the principle of wellbeing as outlined in the Care Act 2014.

We are committed to working in full partnership with people and carers with care and support needs in the production of preventative strategies and services.

Plymouth Health and Wellbeing Board brings together key organisations to promote the health and wellbeing of all the people in Plymouth, including those in need of care and support. Members of the Health and Wellbeing Board, like those in receipt of care, operate within a system which crosses geographical, organisational, cultural and political boundaries. It is recognised therefore that services do not often respond well or quickly to the needs of the citizens. To address this the Health and Wellbeing Board is promoting a collective approach to start a movement for change within the population through local initiatives and campaigns.

2. Information and Advice

The local authority has a legal duty to provide information and advice relating to care and support locally. This includes access to the advice, information and support a person may need on a range of topics including housing, welfare benefits and other financial information. Plymouth City Council will ensure that all information that individuals may need to access and use is clear, relevant, up-to-date and easily available. The authority will also ensure that there is adequate provision of information and advice including independent financial advice.

Plymouth City Council will also ensure that all carers, including young carers and parent carers of disabled children, are aware of the carer focused information and support available in the city.

The authority will work with partners such as children's services, schools, primary care, voluntary and community sector, libraries and the job centre to ensure that relevant information and advice is widely available in appropriate formats, including Plymouth Online Directory (POD).

Plymouth City Council will ensure that its workforce is sufficiently trained to provide information and advice and signpost where appropriate.

3. Assessment

Where it appears that an adult may have needs for care and support, Plymouth City Council has a duty to carry out a needs assessment. The duty to carry out a needs assessment applies regardless of the authority's view of the level of the adult's needs for care and support, or the level of the adult's financial resources.

Under the Care Act 2014, carers who provide care for another adult also have the right to an assessment of need where it appears that they may have any levels of need for support, regardless of the need of the cared for person. This includes younger carers caring for adults and parent carers.

The assessment may be in different formats and carried out in different ways which may include⁶:

- A face to face assessment with an assessor
- A supported self-assessment, completed by the assessed with support from an assessor
- An online or phone assessment

⁶ Care Act 2014 Care and Support Statutory Guidance page 76 Section 6.3

- A joint assessment with relevant agencies
- A combined assessment with the 'cared for'

The assessment will involve the individual concerned, any carer they have and any other person they wish to be involved such as a GP. The assessment will consider information and advice and preventative services during the assessment and the impact on a person's wellbeing and what the person wants to achieve in their own day to day life.

The requirements of the Mental Capacity Act and access to an independent Mental Capacity Advocate apply for all those who may lack capacity. Where a person lacks the capacity to request an assessment or express their needs, Plymouth City Council may carry out supported decision making and will carry out a capacity assessment.

Where an adult refuses an assessment, the council is not obliged to carry out an assessment unless the person lacks mental capacity or the authority identifies the person is experiencing, or at risk of experiencing, abuse or neglect.

Where a person is thought to have substantial difficulty in participating in the assessment, Plymouth City Council has a duty to find an appropriate and independent adult to support and represent the person concerned. Where there is no appropriate family or friend available, the council will act in the best interest of the person.

Wherever possible, Plymouth City Council will seek to carry out a joint needs assessment with the carer and cared for person and will seek to integrate assessment processes with other agencies, such as health.

Plymouth City Council reserves the right to delegate its duties around needs assessments to other local organisations where appropriate.

4. Eligibility

Under the Act, Plymouth City Council has a responsibility to meet the needs of adults with care and support needs and carers based on national eligibility criteria set out in the Care and Support (Eligibility Criteria) Regulations 2014.

Once the assessment has been completed, Plymouth City Council will decide whether the person's needs are 'eligible' for support and will provide the person with a copy of their decision.

If the person is deemed as having eligible needs, Plymouth City Council will agree with the person which needs they would like the authority to meet, consider how these needs can be met and establish whether the person meets the ordinary residence requirements. In the case of adults, they must be resident in the local authority area. In the case of the carer, the person they are caring for must be ordinarily resident in the local authority area.

If the person is determined as having no eligible needs, Plymouth City Council will provide information and advice and sign post to what support is available locally to meet, prevent or reduce these needs.

5. Delegating Statutory Responsibilities

In some instances, outside organisations may be better placed to carry out some of the authority's care and support functions. The Care Act 2014 allows Plymouth City Council to delegate some of its care and support functions to other authorities although the council retains ultimate responsibility for how the functions are carried out.

Where appropriate, Plymouth City Council may choose to delegate aspects of its duties relating to adults with care and support needs or carers, such as assessment of needs, to specialist organisations.

6. Financial Assessments and Charges

Plymouth City Council will offer a financial assessment to all adults receiving care and support services. Further details concerning financial assessment and charges for domiciliary care and support services can be found in the Plymouth City Council Fairer Charging Policy.

Further details concerning financial assessment and charges for people in residential care are set out in the national guidance and the Council will apply the revised guidance to people entering residential care from 1 April 2015.

Plymouth City Council will not be undertaking financial assessments for carers.

7. Support Planning and Personal Budgets

Once the authority has agreed to meet the care and support needs of a person whether as a cared for person or as a carer, Plymouth City Council will:

- prepare a care and support plan or a support plan for the person concerned;
- tell the person which (if any) of the needs that it is going to meet may be met by direct payments; and
- help the person with deciding how to have the needs met.

The care and support plan, or support plan in the case of a carer, will incorporate the following:

- the needs identified by the assessment;
- whether, and to what extent, the needs meet the eligibility criteria;
- the needs that the authority is going to meet, and how it intends to do so;
- for a person needing care, for which of the desired outcomes care and support could be relevant;
- for a carer, the outcomes the carer wishes to achieve, and their wishes around providing care, work, education and recreation where support could be relevant;
- indicative allocation and personal budget;
- information and advice on what can be done to reduce the needs in question, and to prevent or delay the development of needs in the future;

In preparing the support plan, Plymouth City Council will involve the person concerned, any carer and any person that the person or carer of that person wishes to be involved in the process.

Where a person lacks capacity, an appropriate friend or family member or independent advocate will also be involved in the support planning process.

8. Carers and Personal Budgets

Personalisation for carers means tailoring support to a person's individual needs with the carer being part of the discussion about support for them and support for the person they are looking after. Our offer to carers operates on two levels:

Level 1 universal services for all carers

These are a wide range of services funded by the council that people can access themselves and can include: emotional and practical support, counselling, advice and information, support groups, money and benefit advice, assisting hospital discharge, carers participation groups and befriending.

Level 2 for carers of people eligible for funding from the council

In addition to level 1, a proportion of the personal budget and support plan of the cared for will focus on things that will enable the carer to continue in his/her caring role. The amount will vary from person to person depending on each individual situation.

Where a carer has unmet eligible needs outside of the support plan offered to the cared for person, this may attract a personal budget for the carer.

9. Reviews

Plymouth City Council has a duty to keep care and support plans under review for both adults with care needs and carers. It must also review the plan on reasonable request from the individual or their carer.

The review will involve the person needing care and/or carer as well as an independent advocate where appropriate. The review process will be person-centred and outcomes focused, as well as accessible and proportionate to the needs to be met.

The local authority will seek to co-operate with other health and care professionals who may be able to inform the authority of any concerns about the ability of the plan to meet needs. Where appropriate, it will consider authorising others to conduct a review which could include a third party (such as a provider) or another professional, with the local authority adopting an assurance and sign-off approach.

Planned Review

Where possible, the timeframe for review will be agreed during the support planning process. Following this, Plymouth City Council will seek to carry out a periodic review no later than every twelve months.

Consideration will be given to the most appropriate type of review available and we will seek to ensure the involvement of other people, such as independent advocates where appropriate. Where possible, the authority will seek to align the reviews of a carer and cared for person as well as with reviews to be undertaken by any relevant partners such as education, housing or health reviews.

Unplanned Review

If there is any information or evidence that suggests that circumstances have changed in a way that may affect the efficacy, appropriateness or content of the plan, the authority will conduct a review to ascertain whether the plan requires revision.

Requested Review

Under the Act, Plymouth City Council has a duty to conduct a review if a request for one is made by the adult with care and support needs or carer and where the request is considered to be a reasonable one. A carer may also request a review for a cared for person. The authority has a duty to provide information and advice to people at the planning stage about how to make a request for a review.

10. Transitions

Plymouth City Council has a duty to assess the needs of a young person with care and support needs or young carer as they approach the transition to adulthood.

There is also a duty to assess the needs of an adult carer where there is a likely need for support for a child after they turn 18 and it is of significant benefit to the carer to do so.

Plymouth City Council will ensure that robust transition plans are in place and that there is an effective transition pathway between Children's Services and Adult Social Care to avoid any gap in service provision wherever possible.

11. Portable Accounts

Plymouth City Council is required to meet the care needs of an adult who is "ordinarily resident" in the area. In respect of carers, the authority is required to meet the needs of carers who care for a person who is ordinarily resident in their area.

Plymouth City Council will follow the terms and conditions laid out in the Care Act 2014 statutory guidance when seeking to determine whether a person is ordinarily resident in the area.

Where a carer cares for more than one person and they are resident in different local authority areas, the authority will seek to co-operate with the other authorities concerned. During the period of determination of ordinary residence, existing services will be maintained until an assessment is undertaken.

When a person with care and support needs or a carer is planning to move into or out of the local authority area, Plymouth City Council will follow terms and conditions outlined in the Care Act 2014 care and support guidance in order to ensure continuity of care.

12. Continuing Healthcare

Where it appears that a person may be eligible for NHS Continuing Healthcare (NHS CHC)⁷, Plymouth City Council will notify the relevant Clinical Commissioning Group (CCG). Plymouth City Council will work with the local CCG on the undertaking of needs assessments and commissioning of support packages.

13. Safeguarding

Safeguarding means protecting a person's right to live in safety, free from abuse and neglect. Plymouth City Council will apply all the principles within the statutory guidance.

14. Confidentiality

The local authority will respect the confidentiality of individuals at all times insofar as this is consistent with protecting their safety and welfare and the safety and welfare of others.

Confidentiality may not be preserved, if to do so would be inconsistent with protecting a person's safety and welfare or the safety and welfare of others. There are circumstances in which an individual's confidentiality may be overridden so that they can make choices about when and how much sensitive information they share about themselves and their families.

⁷ Care Act 2014 Care and Support Statutory Guidance page 91 Section 6.80

17. Review

This policy will be reviewed and updated periodically and will be subject to amendment following the introduction of further parts of the Care Act 2014 legislation.

Document Control

Version	I
Author	Sarah.gooding@plymouth.gov.uk Kate.jones@plymouth.gov.uk
Adoption route and date	Cabinet 10 February 2015
Review owner / due date	Dave.simpkins@plymouth.gov.uk Ad hoc review throughout 2015 / 16 following phased publication of national guidance
Distribution	www.plymouth.gov.uk
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VERSION CONTROL

Version	Author	Date	Description of change

DRAFT DEFERRED PAYMENTS POLICY



Co-operative Commissioning and Adult Social Care

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I. INTRODUCTION

- 1.1 The Care Act 2014 establishes a universal deferred payment scheme, which means that from April 2015 people may not need to sell their home in their lifetime to pay for the costs of care. A deferred payment is a way of deferring the costs of care against a property which is the person's main home. It is a loan against the value of the property.
- 1.2 From April 2015, all Councils in England are required to provide a deferred payment scheme for local residents who go to live in residential or nursing care, own a property and have other assets below a certain amount. They must also have assessed care needs for residential or nursing care. The new scheme has a national eligibility criteria which replaces Plymouth City Council's existing eligibility criteria for deferred payments.

2. SCOPE OF POLICY

- 2.1 The purpose of this Policy is to set out set out the framework for Plymouth City Council's Deferred Payments Scheme from April 2015. This framework takes into account the main changes introduced by the Care Act 2014 and the statutory guidance published by the Department of Health (October 2014).
- 2.2 Local authorities are required to follow new national guidance on the eligibility criteria for a deferred payment.
- 2.3 Access to the deferred payment scheme is available to people who have local authority arranged care and people who arrange and pay for their own care.

Previous Deferred Payment Scheme

- 2.4 Plymouth City Council previous deferred payments scheme was offered under Section 55 of the Health and Social Care Act 2001. The scheme allowed someone to defer their payments for permanent residential accommodation costs in exchange for granting the Council a legal charge on their main or only residence as security.
- 2.5 Those in receipt of support under the current Deferred Payment scheme will remain within their current agreement until the agreement is terminated.
- 2.6 Under Section 34 – 36 of the Care Act 2014 and the Care and Support (Deferred Payment Agreements) Regulations 2014, all councils must have a Deferred Payments scheme which:
 - Has a set of national eligibility criteria on entitlement;
 - Allows Councils to charge interest and administrative fees to offset the costs of the scheme; and
 - Retains some local discretion, for example the amounts that can be deferred.

3. PLYMOUTH CITY COUNCIL'S DEFERRED PAYMENTS POLICY STATEMENTS

The Deferred Payments scheme set out in this policy is consistent with relevant legislation and statutory guidance. Plymouth City Council's principles underpinning the scheme are:

- To ensure that those who have been assessed as needing care may not need to sell their property to pay for care
- That those who can afford to pay a contribution towards care should do so
- To ensure that residents are fully informed about deferred payments and eligibility
- That the scheme is self-financing and sustainable

3.1 Eligibility Criteria

3.1.1 Deferred Payment Agreements are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care. Plymouth City Council must offer them to people who meet all three of the criteria set out in the regulations below and who are able to provide adequate security:

- a) anyone whose needs are to be met by the provision of care in a care home. This is determined when someone is assessed as having eligible needs which the local authority decides should be met through a care home placement. This should comply with choice of accommodation regulations and care and support planning guidance and so take reasonable account of a person's preferences;
- b) 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
- c) 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 (i.e. someone whose home is taken into account in the local authority financial assessment and so might need to be sold).

3.1.2 Plymouth City Council will offer the Deferred Payments Scheme to people who have local authority-arranged care and support, and also people who arrange and pay for their own care, subject to these criteria.

3.1.3 Plymouth City Council reserves the right to discretion where criteria are not quite met.

3.2 Administration Fees and Interest Charges

The Care Act 2014 allows Local Authorities to charge an administrative fee for arranging the deferred payment and an on-going administrative fee that becomes payable during the period of the Deferred Payment Agreement. These fees can be added to the deferred payment arrangement if requested or paid separately.

- 3.2.1 The administrative fees are the actual costs of providing the deferred payment including;
- The cost of Land registry searches and registering the charge with the Land Registry.
 - Costs of valuation and re-valuation of the property
 - Costs of statements/notification

- Staffing, management and legal costs

- 3.2.2 The Care Act also allows Local Authorities to charge interest on the deferred payment amount, including any charges that the person has chosen to defer. The same interest rate should be charged on all deferred payments within the Council.
- 3.2.3 The Deferred Payments regulations set the maximum interest rate to track the market gilt rates specific in the most recently published report by the Office of Budget Responsibility. This is published in the Economic and Fiscal Outlook which is usually published twice yearly. The maximum rate is fixed for period of six months and changes every 1st January and 1st July.
- 3.2.4 Plymouth's Deferred Payment Scheme will follow the interest rate as set by Government and ensure the scheme is cost neutral to the Council. Every six months interest rates will be adjusted in line with changes to government set interest rates.
- 3.2.5 All charges and fees will be clearly set out within the Deferred Payment Agreement.
- 3.2.6 A schedule of Plymouth's costs can be found at [\(web link to be added when available\)](#)

3.3 Independent Financial Advice

Financial information and advice is fundamental to enabling people to make well informed choices about how they pay for their care. It is integral to a person's consideration of how best to meet care and support needs, immediately or in the future. People with good and impartial financial information and advice have a better understanding of how their available resources can be used more flexibly to fund a wider range of care options.

- 3.3.1 Plymouth City Council has a duty to provide people with information on the availability of different ways to pay for care including through income and assets. In addition the council must facilitate access to an independent source of information or advice where relevant. This will be of particular relevance where a person will be meeting the total cost of care and support themselves or may be considering taking out a deferred payment agreement.

3.4 Financial Arrangements

A 12 week property disregard is where a person has been assessed as having eligible needs for residential or nursing care and owns a property, during the first 12 weeks stay in residential accommodation, the capital value of the property is disregarded.

- 3.4.1 After 12 weeks, unless there is a statutory disregard of the property, the property will be taken into account by Plymouth City Council as a capital resource. A statutory disregard will apply where, for example, the property is occupied by a spouse, partner or close relative who is incapacitated or aged 60 or over.
- 3.4.2 During this 12 week period, Plymouth City Council will provide advice and information about deferred payments. Advice and information will include, as appropriate, referring the person or their carer for independent financial advice. Advice and information about deferred payments will be available in a variety of mediums, for example leaflets, and the Council's website.

- 3.4.2 Under the Deferred Payment Scheme, Plymouth City Council will arrange for a valuation of the property against which payments will be deferred.
- 3.4.3 The person applying for the deferred payment will also be entitled to request an independent valuation; this would be separate to the Council's own valuation. In some cases where the deferred payment is anticipated to be needed for less than 6 months, (i.e. the property is currently on the market and is expected to be sold in the very near future), the Council may be prepared to accept an Estate Agent's valuation. The cost of valuation(s) will be paid for by the applicant or their representative. If the deferred payment is approved the costs of valuation can be rolled up into the Deferred Payment Agreement and will accrue interest.
- 3.4.4 The valuation of the property will be periodically reviewed during the lifetime of the Deferred Payment Agreement to ensure that the upper limit is not exceeded and in any other circumstances where the value of the property will affect the sustainability of the Deferred Payment Agreement. Disputes about property valuation will be dealt with under the appeals procedure (see 3.8)
- 3.4.5 Loan to value:
Where a property is used as security to offer a deferred payment agreement, the equity limit will be calculated in line with Care Act 2014 guidance.
- 3.4.6 When a person is approaching or reaches the point at which they have deferred 70% of the value of their chosen security, Plymouth City Council will review their circumstances and ongoing care needs and will consider jointly whether a deferred payment agreement continues to be the best way to meet their care costs.
- 3.4.7 Plymouth City Council will not allow additional amounts to be deferred beyond the equity limit, and will refuse to defer care costs beyond this however, interest can still accrue beyond this point, and administrative charges can still be deferred.
- 3.4.8 Applicants entitled to a deferred payment will be assessed to make a financial contribution towards the cost of care from their assessable income and capital (for example, savings and investments). The assessed contribution will follow Department of Health guidance and the person will have the option to retain a proportion of their income (the disposable income allowance) currently set at a maximum rate of £144 per week, together with a proportion of rental income if required.
- 3.4.9 Annual Review & DP Statements - The Deferred Payment Agreement will be reviewed periodically to assess the value of the property and ensure there is adequate security to protect the Council's legal charge on the property. The frequency of the review will be decided on a case by case basis.
- 3.4.10 Plymouth City Council will provide people with six-monthly written updates of the amount of fees deferred, of interest and administrative charges accrued to date, and of the total amount due and the equity remaining in the home. Plymouth City Council will also provide a statement on request within 28 days.

3.5 Types of Security

- 3.5.1 Plymouth City Council will only secure on property. This decision will be reviewed when the policy becomes due for review. (9.62) **(Real property only – to review later on but do not include in the policy). Need to clearly establish ownership**

3.6 Deferred Payments Agreement

- 3.6.1 The customer must have capacity to enter into a deferred payment agreement, or must have a Deputy or Attorney (a person with a relevant Enduring Power of Attorney or Lasting Power of Attorney) to act on their behalf, or have someone who is their deputy appointed by the Court of Protection.
- 3.6.2 The person agrees to all the terms and conditions in the deferred payment agreement.
- 3.6.3 In cases where a deferred payment agreement is to be secured with a jointly owned property, Plymouth City Council will not enter into a deferred payment agreement unless all owners' give their consent and agreement to a charge being placed on the property. All owners will need to be signatories to the charge agreement and the co-owner must agree not to object to the sale of the property for the purpose of repaying the debt due to Plymouth City Council.
- 3.6.4 Plymouth City Council can refuse a deferred payment agreement even if all of the eligibility criteria are met if it is unable to secure a first legal charge on the person's property
- 3.6.5 Plymouth City Council will cease to defer any further care costs when a person has reached their equity limit as set by the Care Act 2014, or if they are no longer to receive care in a care home setting.
- 3.6.6 Where Plymouth City Council has cause to refuse to defer any further care costs, the Council will provide a minimum of 30 days advance notice that further deferral costs will cease. Plymouth City Council will also give an indication of how care costs will be met in the future.
- 3.6.7 The person agrees to notify Plymouth City Council of any changes to their care and support if those changes are ones which will mean that the authority must or is entitled to stop making further instalments under the agreement or to alter the amount of the instalments.
- 3.6.8 Payments for residential or nursing accommodation becomes payable to Plymouth City Council when the Deferred Payment Agreement ends.
- 3.6.9 Plymouth City Council expects the property to be maintained in reasonable standard of repair and condition.
- 3.6.10 Confirmation that the property is adequately insured must be provided on an annual basis.
- 3.6.11 All outgoings associated with the property (e.g. Council Tax, service charges, ground rent) are paid.
- 3.6.12 Any net rental income derived from letting the property during the period of the scheme will be assessed in accordance with Department of Health statutory guidance. Plymouth City

Council will allow the customer to retain a percentage of any rental income – **national Toolkit should give further guidance on this when it is released.**

- 3.6.13 Where a contribution towards care costs is required from a person's income, the person has a right to retain a proportion of their income (the 'disposable income allowance'). This is a fixed amount of the person's income which they are permitted to retain if they choose to.

3.7 Termination of Deferred Payment Agreement

- 3.7.1 A deferred payment agreement can be terminated in three ways:
- (a) at any time by the individual, or someone acting on their behalf, by repaying the full amount due (this can happen during a person's lifetime or when the agreement is terminated through the DPA holder's death);
 - (b) when the property is sold and the authority is repaid; or
 - (c) when the person dies and the amount is repaid to Plymouth City Council from their estate.
- 3.7.2 On termination, the full amount due (including care costs, any interest accrued and any administrative or legal fees charged) must be paid to Plymouth City Council.
- 3.7.3 If a person decides sell their home, they should notify Plymouth City Council during the sale process. They will be required to pay the amount due to the council from the proceeds of the sale, and the council will be required to relinquish the charge on the property.
- 3.7.4 Where a deferred payment is terminated due to the person's death, the amount due to Plymouth City Council must be either paid out of the estate or paid by a third party. Where a person's family or a third party wishes to settle the debt by other means of repayment, Plymouth City Council may accept an alternative means of payment, provided this payment covers the full amount due.
- 3.7.5 Responsibility for arranging for repayment of the amount due (in the case of payment from the estate) falls to the executor of the will or the administrator of the estate. Interest will continue to accrue on the amount owed to the local authority after the individual's death and until the amount due to the local authority is repaid in full.

3.8 Review and Appeals Procedure

- 3.8.1 The decision on the outcome of the application for a deferred payment can be reviewed. The grounds for review could include:
- The decision to refuse the application failed to take into account any new information which would have led to the revision of a decision
 - There are eligible care costs which the Council have failed to take into account
- 3.8.2 Requests for a review should be made within 20 working days of being notified of the outcome of the application for a Deferred Payment Agreement. This period can be extended if there are exceptional circumstances.

- 3.8.3 If the person is dissatisfied with the outcome of the review, they can then appeal within 20 working days of being notified of the outcome of the review. This period can be extended for exceptional reasons.
- 3.8.4 If the person remains dissatisfied with the outcome of the appeal then they can request that this matter is dealt with under Plymouth City Council's Complaints procedure.

4. Document Control

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