

27 September 2017**Agenda Item: 8****REPORT OF SERVICE DIRECTOR SOUTH NOTTINGHAMSHIRE AND
PUBLIC PROTECTION
DEPRIVATION OF ASSETS IN FINANCIAL ASSESSMENTS FOR PEOPLE
RECEIVING COUNCIL FUNDED CARE AND SUPPORT****Purpose of the Report**

1. This report explains what is meant by 'deprivation of assets' in the context of an individual's financial circumstances when assessing for social care support. The financial assessment undertaken determines the amount a person is required to contribute towards the cost of their care and support based on their income and assets
2. The report also outlines the process that is followed to ensure service users are making the required level of contribution towards their care costs and also the process followed when it is evident that there has been an intentional or unintentional 'deprivation of assets'.

Information and Advice

3. Deprivation of assets is defined in the Care Act 2014 as follows:

Deprivation of assets means where a person has intentionally deprived or decreased their overall assets in order to reduce the amount they are charged towards their care. This means that they must have known that they needed care and support and have reduced their assets in order to reduce the contribution they are asked to make towards the cost of that care and support.

4. Deprivation of assets may be considered to have occurred when there has been a full or partial transfer of ownership of a property or large gifts of money to another person in order to avoid the payment of contributions to care costs.
5. When making a decision on whether or not deprivation of assets has occurred the Council has to consider if avoiding the care and support charge was a significant motivation in the timing of the disposal of the asset and whether they would have had a reasonable expectation that they would need support with their care needs and that they would be required to contribute financially to that support.

Case example, Mrs. C sold her property in 2015 for £120k and moved into a warden aided flat which was rented. In April 2016, Mrs. C suffered a fall and spent several weeks in hospital. When she was due to return home, an assessment of needs was carried out which resulted in Mrs. C requiring 14 hours of homecare per week. A financial assessment was also carried out and Mrs. C was assessed as having to pay the full cost of her care as she had capital over the threshold level of £23,250.

In December 2016, Mrs. C decided to make gifts to her 2 children of £50k each and in February 2017 Mrs. C requested another financial assessment as her capital had reduced to below £23,250. At this point, having considered the personal circumstances and the evidence presented the council came to the conclusion that Mrs. C had deprived herself of £100k which should have been used to pay for their care costs.

Work undertaken by the Council

6. In Nottinghamshire the Council has taken a proactive approach with regards to deprivation of assets. The reason for this approach is to ensure that service users make a contribution to their care costs or pay the full cost of their care when they have the financial means to do so.
7. The Council's financial regulations and statutory responsibilities require that rigorous measures are put in place to avoid and address potential cases of fraud. The work undertaken within the Adult Care Financial Service (ACFS) team involves liaising with service users and their families and with agencies such as the Department of Work and Pensions to ensure that people are advised of the care contributions they are required to make. The work undertaken by the team has identified an increase in the number of cases of intentional and unintentional 'deprivation of assets' as outlined below;
 - 2013/2014 – 11
 - 2014/2015 – 0
 - 2015/2016 – 1
 - 2016/2017 – 92
 - 2017/2018 - from April 2017 to date there have been 22 cases
8. When this has occurred the financial assessment takes in to account the amount of money or assets that have been transferred, this is called a 'notional' amount. This means that people usually then pay a contribution towards their care costs or the full cost of their care dependent on the financial circumstances. In 2016/17 over £4million of capital was identified and therefore categorised as 'deprivation of assets'.
9. The number of cases identified as 'deprivation of assets' is small in relation to the numbers of people receiving a service and who make a contribution to their care costs. The total number of people who made a contribution to their care costs in 2016/17 was 6122
10. The ACFS team is responsible for carrying out financial assessment for all service users who receive care and support funding by the Council. Where people enter permanent residential or nursing care, a representative from the team will have a face to face meeting with the individual and/or their family to complete the financial assessment. This is sometimes undertaken in writing and where it is appropriate to do so a form is sent out for instance if the

individual cannot provide the information themselves and the family do not live locally. However, information is always checked and verified.

11. The visiting officers have been trained specifically in this area and they refer to documents including the Land Registry which show transfers of property ownership for the individual's current and previous properties. Other records are bank statements, invoices records and receipts of spending etc from service users and their families.
12. The team also use the Department for Works and Pensions Customer Information System (CIS) to determine the amount if any that the individual will be required to pay towards the cost of their care.
13. The ACFS team are also reviewing information that is available regarding the costs of care to ensure that it is clear and as simple as possible. In addition to this the team also attend team meetings of operational colleagues to share information about the cost of care and the processes undertaken within the team. It is important that when an individual has a social care assessment that they are advised very early in the process that they will have a financial assessment and subsequently may have to contribute to their care costs as outlined in the Care Act 2014.

Statutory and Policy Implications

14. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

15. The work undertaken by the ACFS team in relation to deprivation of assets means that the Council ensures that the amount of intentional and unintentional fraud is detected and addressed.

Implications for Service Users

16. The implications for service users of the approach undertaken is that they are required to pay a contribution towards the cost of the care and support needs as determined by the Care Act 2014 only when their financial circumstances have been assessed and it is established that they have the income available to do so. The work undertaken by the ACFS team ensures that there is consistency in the application of charges applied to service users.

RECOMMENDATION/S

- 1) The Committee consider the work undertaken by the Council in addressing 'deprivation of assets' and highlight any areas on which it would like to receive further information.

Paul McKay

**Service Director, South Nottinghamshire and Public Protection,
Adult Social Care Health and Public Protection Department**

For any enquiries about this report please contact:

Cherry Dunk

Group Manager Quality & Market Management

cherry.dunk@nottsc.gov.uk

Constitutional Comments (SMG 19/09/17)

17. The proposals set out in this report fall within the remit of this Committee.

Financial Comments ()

18. To be verbally reported to the Committee.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- 'None' or start list here

Electoral Division(s) and Member(s) Affected

- 'All'