

11 June 2018

Agenda Item: 7

## **REPORT OF THE SERVICE DIRECTOR FOR STRATEGIC COMMISSIONING, SAFEGUARDING AND ACCESS**

### **CHANGES TO UNIVERSAL DEFERRED PAYMENT SCHEME LEGISLATION**

#### **Purpose of the Report**

1. The report explains the changes to the regulations and guidance on the Universal Deferred Payment Scheme and invites the Committee to recommend the revised Deferred Payments Policy, attached as **Appendix 1**, to Policy Committee for approval
2. The report also seeks approval for information on the 'loan type' Deferred Payment Agreement be provided to service users who are being funded by the Council during the 12 week property disregard period, in addition to signposting to independent financial advice.

#### **Information**

3. The Universal Deferred Payment Scheme (UDPS) was introduced in April 2015. It is a national scheme that means people should not be forced to sell their home in their lifetime to pay for care in a care home.
4. There are **two** types of Deferred Payment Agreement (DPA):
  - Traditional type – the Council pays the care home or supported living provider directly and defers part of the charges due from the person until a later date
  - Loan type – the Council loans the service user the cost of the care in instalments and the service user pays the care home or supported living provider.
5. To join the traditional scheme, a person must:
  - be receiving care in a care home
  - own their own home and it is not disregarded due to a partner or certain other people living there
  - have less than £23,250 in savings and investments excluding the value of the home.
6. In the original legislation and guidance, councils in England are only required to offer DPAs if the council was meeting the person's needs or believed they would be required to meet their needs if asked.

7. As councils are not required to meet the needs of self-funders in care homes, they were not generally offered a DPA. This was not the intended effect of the legislation and did not protect self-funders from having to sell their home to pay for their care.
8. The change to the legislation and guidance from 5<sup>th</sup> February 2018 means that the council cannot refuse to offer a 'loan type' DPA to self-funders who meet the qualifying criteria.
9. The council can however still refuse a DPA in the following circumstances:
  - i the council is unable to secure a first charge on the property. i.e. there are no mortgages or secured loans on the property
  - ii the person is seeking to defer a large top up which is not sustainable
  - iii the person does not agree to the terms and conditions of the agreement.
10. Nottinghamshire County Council is unlikely to experience any immediate significant increase in applications to the scheme. The Council has included the offer of a loan style agreement, as it was always present in the Care Act, but no applications have been made. Across the National Association of Financial Assessment Officers membership only one council, Cornwall, has been approached for this type of Deferred Payment since the original challenge.

### **Other Options Considered**

11. This is a legal requirement so no other options have been considered.

### **Reason/s for Recommendation/s**

12. It is recommended to accept Nottinghamshire County Council Deferred Payments Policy, in order to comply with changes in the Care and Support Statutory guidance and associated regulations, subject to approval by Policy Committee.

### **Statutory and Policy Implications**

13. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, 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, smarter working, sustainability and the environment 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**

14. This could place an increased financial burden on the Council dependent on demand for 'loan style' Deferred Payments. The loan will have to cover the private fee rates which are generally higher than the Council funded rates.

## **Implications for Service Users**

15. Service users who are currently self-funding in a care home cannot be refused a 'loan type' DPA from the Council.

## **RECOMMENDATION/S**

That the Committee:

- 1) recommends the revised Deferred Payments Policy, attached as **Appendix 1**, to Policy Committee for approval
- 2) gives approval for information on the 'loan type' Deferred Payment Agreement to be provided to service users who are being funded by the Council during the 12 week property disregard period, in addition to signposting to independent financial advice.

**Paul Johnson**

**Service Director for Strategic Commissioning, Safeguarding and Access**

**For any enquiries about this report please contact:**

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## **Constitutional Comments (LM 15/05/18)**

16. The Adult Social Care and Public Health Committee is the appropriate body to consider the contents of the report.

## **Financial Comments (DG 16/05/18)**

17. The financial implications are contained within paragraph 14 of this report.

## **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.

Care and Support Statutory Guidance

<https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>

The Care and Support (Deferred Payment) Regulations 2014

[http://www.legislation.gov.uk/ukxi/2014/2671/pdfs/ukxi\\_20142671\\_en.pdf](http://www.legislation.gov.uk/ukxi/2014/2671/pdfs/ukxi_20142671_en.pdf)

The Care and Support (Deferred Payment) (Amendment) Regulations 2017

<http://www.legislation.gov.uk/ukxi/2017/1318/note/made>

**Electoral Division(s) and Member(s) Affected**

All.

ASCPH554 final