

## 1. Topic of assessment

<b>EIA title:</b>	<b>Deferred Payments Agreement policy – Adult Social Care</b>
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<b>EIA author:</b>	Tristram Gardner, Project Manager
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## 2. Approval

	<b>Name</b>	<b>Date approved</b>
<b>Approved by</b>	Dave Sargeant	10/02/2015
<b>Approved by</b>	Adult Social Care Directorate Equality Group (DEG)	09/02/2015

## 3. Quality control

<b>Version number</b>	2	<b>EIA completed</b>	09/02/2015
<b>Date saved</b>	09/02/2015	<b>EIA published</b>	

## 4. EIA team

<b>Name</b>	<b>Job title (if applicable)</b>	<b>Organisation</b>	<b>Role</b>
Toni Carney	Head of Resources	Surrey County Council	Project Team
Dina Bouwmeester	Policy Development Manager	Surrey County Council	Project Team
Lyndon Edwards	Information Officer	Surrey County Council	Chair of Directorate Equality Group

## 5. Explaining the matter being assessed

<p><b>What policy, function or service is being introduced or reviewed?</b></p>	<p>The Health and Social Care Act 2001 enables local authorities to operate a deferred payment scheme. Regulations made under Section 55 of the Act allow councils to agree to take a legal charge on a person's main or only home, in which they have a beneficial interest, instead of requiring the immediate payment of the person's full contribution towards the care home fees.</p> <p>Deferred payment schemes were introduced in October 2001. The Department of Health expects councils to operate a scheme but councils retain the discretion as to whether or not to agree to a deferred payment according to the individual circumstances of the case. Surrey County Council has a policy on deferred payments and operates a deferred payments scheme.</p> <p>The aim of the scheme is to allow a person with property, but without sufficient income or other assets, to fund their chosen residential placement, whilst enabling the person to keep their home on admission to residential care.</p>
<p><b>What proposals are you assessing?</b></p>	<p>Under the current arrangements, deferred payment agreements are discretionary. At any one time the council has around 80+ agreements in place and proactively offer the scheme to people who meet our criteria. From 1 April 2015, local authorities must offer a deferred payment to people who meet the basic eligibility criteria for the national scheme.</p> <p>It is proposed to implement the new national scheme from 1 April 2015, and to implement the discretionary aspects of the scheme as follows:</p> <ul style="list-style-type: none"> <li>• The council is permitted to offer a deferred payment agreement to people who do not meet the basic eligibility criteria. The proposed response to this new power is covered in paragraphs 11 and 12 of the 'Charging Deferred Payments Agreements policy – Adult Social Care'. In particular we propose to promote the use of deferred payments to encourage people to consider supported living and extra care housing arrangements as an alternative to residential care.</li> <li>• The council may seek contributions from a person's income, savings or other assets but must leave the person with up to £144 per week available income. It is proposed that we will require a contribution from a person's income to minimise the level of debt.</li> <li>• The council is permitted to accept other forms of security, such as a third-party guarantor, a solicitor's undertaking, a valuable object or an agreement to repay the amount deferred from the proceeds of a life assurance policy. The proposed response to this is covered in paragraph 15 of the 'Charging Deferred Payments Agreements policy – Adult Social Care'.</li> </ul>

	<ul style="list-style-type: none"> <li>• The council is permitted to charge compound interest on any amount deferred from the commencement of the agreement until the debt is repaid. The amount of interest must not exceed the maximum amount specified in regulations. It is proposed that the council will charge interest at the maximum amount specified in regulations. The interest rate to be applied from 1 April 2015 is 2.65%.</li> <li>• The council is permitted to charge an administration charge to include any reasonable costs incurred by the council in relation the deferred payment agreement. At the Cabinet meeting on 25 June 2013, it was agreed that the Council charge legal fees of £250 plus the cost of any Land Registry fees for any deferred payment application whether or not the matter proceeded to completion and a further £125 for the work involved in discharging the legal charge. It is proposed that the schedule of charges attached to 'Charging Deferred Payments Agreements policy – Adult Social Care' apply from 1 April 2015 to cover the administration costs and any fees incurred by the Council.</li> </ul> <p>The specific proposals are outlined in a separate Cabinet report titled: 'Implementing the Care Act – charging policy' (24<sup>th</sup> February 2015); the proposed revised deferred payments policy is titled 'Deferred Payments Agreements policy – Adult Social Care'.</p>
<p><b>Who is affected by the proposals outlined above?</b></p>	<p>The proposals will affect Surrey residents who have been assessed to pay the full cost of their care home fees but cannot afford to pay the full amount immediately because their capital is tied up in their home. The proposed changes will <i>not</i> affect those residents who make a deferred payment agreement with the council before 1<sup>st</sup> April 2015; it will affect residents who may seek to make a deferred payment agreement with the council after this date.</p> <p>Carers and families may be directly affected if they are funding care and support for their relative. Whilst most families not providing funded support will not be directly affected, they will need to understand the changes nonetheless when assisting their loved ones with care planning.</p> <p>Surrey County Council staff will not be directly affected by the changes; however they will need to understand the new policy and any new procedures which come out of the proposals. Staff in frontline teams will also need to understand the policy so they can provide appropriate advice and guidance during assessments.</p> <p>External organisations will not be directly affected; however they will need to have an awareness of the changes to the deferred payments policy so that they are able to provide correct advice and guidance to their customers.</p>

## 6. Sources of information

Engagement carried out
<p>Consultation on the proposed changes to the council's deferred payments scheme took place from 15 December 2014 for a period of 7 weeks. The consultation was published online on the county's consultation hub <a href="http://www.surreysays.co.uk">www.surreysays.co.uk</a>, circulated to key partners and networks, and was publicised through local newsletters, partnership board meetings, the directorate's weekly e-brief and posters in public libraries.</p> <p>We received just 4 responses to this consultation. However, it is acknowledged that it is difficult to engage with people who fund their own care who are likely to only be interested in the deferred payment scheme at the time of considering a residential or nursing placement.</p> <p>Separate, ongoing consultation with Surrey residents and council staff has also been undertaken in relation to the Care Act and its implementation in the county. This has included consultation on the deferred payment agreement sections of the legislation as follows:</p> <ul style="list-style-type: none"> <li>• Hosting two Care Act consultation events for both residents and staff in July 2014. During both days, held in east and north Surrey, we ran four workshops specifically focussing on charging and deferred payments. These were attended by a mixture of service users, residents, staff and interested groups from District and Borough councils, Carers groups, Health colleagues from Virgin Care and NHS, Surrey Coalition for Disabled People and care providers.</li> <li>• At the same time as the above two events we encouraged residents to respond to the national consultation on the Care Act via our web site and postal addresses and have a generic Care Act e-mail address where concerns and questions can be raised.</li> <li>• We have run staff road shows during November and December with all frontline social care staff informing them of the changes and giving the chance to feedback concerns and answer questions. Deferred payments were a part of these road shows.</li> </ul> <p>We have been engaging early with local empowerment boards, the Health and Wellbeing Board, partnership boards and other user-led organisations and networks to inform them of the impending changes.</p>
Data used
<p>The following data has been used to inform changes to the and deferred payments policy:</p> <ul style="list-style-type: none"> <li>• Department of Health Impact Assessment on the Care Act 2014.</li> <li>• Surrey County Council in house financial modelling on the impact of the Care Act</li> <li>• Surrey County Council in house data from the Adults Information System (AIS) database on client characteristics</li> <li>• Joint Strategic Needs Assessment (JSNA) data on the profile of Surrey's population broken down by the protected characteristics.</li> </ul>

## 7. Impact of the new/amended policy, service or function

### 7a. Impact of the proposals on residents and service users with protected characteristics

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 229</p> <p><b>Age</b></p>	<p>Changes to the deferred payment policy are likely to be beneficial for Surrey residents who currently own their own homes but are at risk of having to sell them if they move into residential or nursing care in the near or far future. As Surrey house prices are above average for the UK this is likely to have a positive impact on people entering care who can to afford to have greater choice in homes than if they were not able to have a deferred loan.</p> <p>1) <i>The council is permitted to offer a deferred payment agreement to people who do not meet the basic eligibility criteria</i></p> <p>This will benefit people who are looking to move into supported living or extra care accommodation, and supports the council's direction of travel to encourage residents to explore these options as an alternative to residential care.</p> <p>2) <i>The council may seek</i></p>	<p>1) <i>The council is permitted to offer a deferred payment agreement to people who do not meet the basic eligibility criteria</i></p> <p>No negative impact could be identified.</p> <p>2) <i>The council may seek</i></p>	<p><b>AIS data</b></p> <ul style="list-style-type: none"> <li>• There are currently just over 23,000 open clients on the AIS database and around 7,000 carers receiving support of some kind.</li> </ul> <p><b>Department of Health Impact Assessment for the Care Act 2014</b></p> <ul style="list-style-type: none"> <li>• The impact assessment states that the new rules around deferred payments will have a positive impact on three groups: <ul style="list-style-type: none"> <li>○ Group 1: When people enter residential care</li> <li>○ Group 2: When people already in residential care spend down their assets over time</li> <li>○ Group 3: When people lose eligibility for a housing disregard due to the death or entry into care of a relative or spouse</li> </ul> </li> </ul>

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
	<p><i>contributions from a person's income, savings or other assets but must leave the person with up to £144 per week available income</i></p> <p>No change to current policy.</p> <p>3) <i>The council is permitted to accept other forms of security</i></p> <p>This may enable more residents to benefit from a deferred payment agreement (dependent on the individual circumstances of the case) than currently, i.e. beyond only those who can provide a property as adequate security.</p> <p>4) <i>The council is permitted to charge compound interest on any amount deferred from the commencement of the agreement until the debt is repaid</i></p> <p>Increasing the available income taken will mean that there will be a larger contribution paid towards the overall Adult Social Care budget which may help in the longer term to ensure that council services are</p>	<p><i>contributions from a person's income, savings or other assets but must leave the person with up to £144 per week available income</i></p> <p>No change to current policy.</p> <p>3) <i>The council is permitted to accept other forms of security</i></p> <p>No negative impact could be identified.</p> <p>4) <i>The council is permitted to charge compound interest on any amount deferred from the commencement of the agreement until the debt is repaid</i></p> <p>The introduction of a compound interest charge may deter some residents from applying for a deferred payment agreement.</p>	<p><b>Joint Strategic Needs Assessment</b></p> <ul style="list-style-type: none"> <li>• Data shows that Surrey has a higher proportion of people over eighty five years old and estimates that this population is set to double by 2033. This will lead to a greater demand on council services and a higher number of people who are able to fund their own care seeking advice and support.</li> <li>• In 2012 the estimated number of carers in Surrey was 106,700 or 10% of the population. An estimated 23,000 of these are thought to be over the age of 65.</li> <li>• There are an estimated 38,952 people over 65 in Surrey who are unable to manage at least one physical activity on their own. This includes going out of doors and walking down the road, getting up and down stairs, getting around the house, going to the toilet and getting in and out of bed. This number is predicted to rise to 46,883 in 2020.</li> </ul>

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
	<p>sustainable or increased for vulnerable groups with the protected characteristics.</p> <p>5) <i>The council is permitted to charge an administration charge to include any reasonable costs incurred by the council in relation the deferred payment agreement</i></p> <p>Charging an administrative fee will enable the council to cover the costs of setting up deferred payment agreements, so money does not have to be drawn from other support for residents with protected characteristics.</p>	<p>5) <i>The council is permitted to charge an administration charge to include any reasonable costs incurred by the council in relation the deferred payment agreement</i></p> <p>An administration charge may deter some residents from applying for a deferred payment agreement. The council already makes a charge to cover the legal cost of placing a charge on a property.</p>	
<b>Disability</b>	Same as above	Same as above	Same as above
<b>Gender reassignment</b>	No impact	No impact	No impact
<b>Pregnancy and maternity</b>	No impact	No impact	No impact
<b>Race</b>	No impact	No impact	No impact
<b>Religion and belief</b>	No impact	No impact	No impact
<b>Sex</b>	No impact	No impact	No impact

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
Sexual orientation	No impact	No impact	No impact
Marriage and civil partnerships	No impact	No impact	No impact
Carers	Same as above	Same as above	Same as above

### 7b. Impact of the proposals on staff with protected characteristics

Protected characteristic	Potential positive impacts	Potential negative impacts	Evidence
Age	These proposals do not impact on staff, unless they are in receipt of services in which case see above.	These proposals do not impact on staff, unless they are in receipt of services in which case see above.	These proposals do not impact on staff, unless they are in receipt of services in which case see above.
Disability	As above	As above	As above
Gender reassignment	As above	As above	As above
Pregnancy and maternity	As above	As above	As above
Race	As above	As above	As above



<b>Protected characteristic</b>	<b>Potential positive impacts</b>	<b>Potential negative impacts</b>	<b>Evidence</b>
<b>Religion and belief</b>	As above	As above	As above
<b>Sex</b>	As above	As above	As above
<b>Sexual orientation</b>	As above	As above	As above
<b>Marriage and civil partnerships</b>	As above	As above	As above
<b>Carers</b>	As above	As above	As above

## 8. Amendments to the proposals

Change	Reason for change
N/A	

## 9. Action plan

Potential impact (positive or negative)	Action needed to maximise positive impact or mitigate negative impact	By when	Owner
Residents who fund their own care and are planning to move into residential or supported living accommodation may benefit from the greater flexibility and choice offered by a deferred payment agreement.	<p>Ensure people who fund their own care are aware of deferred payments by:</p> <ul style="list-style-type: none"> <li>Updating our information and advice materials</li> <li>Ensuring staff are suitably trained and able to advise residents</li> </ul>	April 2015	Toni Carney
Residents may be deterred from applying for a deferred payment because of the administration charge and compound interest charge.	<p>The administration fee will be set at a reasonable level and will only cover the costs incurred by the council.</p> <p>Ensure people who fund their own care are aware of the benefits and potential costs of deferred payments by:</p> <ul style="list-style-type: none"> <li>Updating our information and advice materials</li> <li>Ensuring staff are suitably trained and able to advise residents</li> </ul>	April 2015	Toni Carney
	Take up of deferred payments under the new policy will be monitored. There will be a further opportunity to review the policy during the implementation of the 2016 funding reforms.	April 2016	Toni Carney

## 10. Potential negative impacts that cannot be mitigated

Potential negative impact	Protected characteristic(s) that could be affected
N/A	

## 11. Summary of key impacts and actions

<b>Information and engagement underpinning equalities analysis</b>	7 week public consultation from December 2014 to January 2015, including publication of proposals online and circulation through networks and newsletters.
<b>Key impacts (positive and/or negative) on people with protected characteristics</b>	<p>Residents who fund their own care and are planning to move into residential or supported living accommodation may benefit from the greater flexibility and choice offered by a deferred payment agreement.</p> <p>Residents may be deterred from applying for a deferred payment because of the administration charge and compound interest charge.</p>
<b>Changes you have made to the proposal as a result of the EIA</b>	None
<b>Key mitigating actions planned to address any outstanding negative impacts</b>	<p>Update our information and advice materials and ensure staff are suitably trained and able to advise residents on the revised deferred payments scheme</p> <p>Take up of deferred payments under the new policy will be monitored. There will be a further opportunity to review the policy during the implementation of the 2016 funding reforms.</p>
<b>Potential negative impacts that cannot be mitigated</b>	None

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