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**ADULT SOCIAL CARE CHARGING POLICIES**

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**Responsible Cabinet Member - Councillor Veronica Copeland,  
Adult Social Care and Housing Portfolio**

**Responsible Director - Suzanne Joyner,  
Director of Children and Adults Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To fully inform Members about the three proposed new charging policies for adult social care and invite Members to approve them. The proposals have been consulted upon with service users and members of the public in two rounds of consultation.
2. Members will find the following documents useful when considering the three policies:
  - (a) Briefing Paper (**Appendix A**)
  - (b) Equality Impact Assessment (**Appendix B**)
  - (c) MTFP Summary Report (**Appendix C**)

Members are reminded of the Public Sector Equality duty contained within s.149 of the Equality Act 2010 and are obliged to fully consider the impacts the proposed changes will have on current and future service users and should read the Equality Impact Assessment, before reaching decisions.

3. The report seeks Member's approval of the following proposed new charging policies for adult social care:
  - (a) Non-Residential Charging Policy (**Appendix D**)
  - (b) Residential Charging Policy (**Appendix E**)
  - (c) Deferred Payment Agreement Policy (**Appendix F**)

**Summary**

4. Where the Council arranges care and support to meet a person's assessed needs, a financial assessment is completed. This financial assessment considers a person's income, savings and expenditure. This determines if a person is required to pay towards their care and support needs. As part of the financial assessment

certain disregards must be applied when calculating how much, if anything, an individual is required to pay. Disregards are set amounts of an individual's income that must be ignored in the financial assessment as set out in the regulations and guidance given to local authorities.

5. As a result of the introduction of the Care Act 2014 ("The Act"), Councils have had to review and amend their charging policies for adult social care. Potential inequalities between current charging policies, guidelines, the Care Act Regulations and Statutory Guidance were identified. To ensure that the Council is compliant in regard to ensuring fairness and to negate any inequalities as well as being compliant with the relevant Care Act Regulations, officers prepared draft charging policies for consultation with the service users of Darlington.
6. The Act sets new Regulations and guidelines for charging for adult social care, and requires Councils to have different charging policies, depending on whether someone is receiving care in a care home, their own home or another setting. This is intended to make charging fairer and clearer.
7. The principles are that the approach to charging for care and support needs should:
  - (a) ensure that people are not charged more than it is reasonably practicable for them to pay;
  - (b) be comprehensive, to reduce variation in the way people are assessed and charged;
  - (c) be clear and transparent, so people know what they will be charged;
  - (d) promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
  - (e) support carers to look after their own health and wellbeing and to care effectively and safely;
  - (f) be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
  - (g) apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
  - (h) encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so;
  - (i) be sustainable for local authorities in the long-term.
8. The Council have undergone a full public consultation in respect of the updated and revised policies and to the proposed changes which have occurred as a result of the legislative change. This included individuals and their carers that are impacted on, all other adult social care users and the wider population of Darlington Borough.

9. The consultation process included:
- (a) Public Events
  - (b) Questionnaires
  - (c) Equality Impact Assessment Forms
10. In order for the Council to make fair and informed decisions on these proposals an Equality Impact Assessment was completed, and is attached at Appendix B, to understand the likely impacts of the proposals on individuals according to their protected characteristics.
11. The areas of change are:
- (a) Non-Residential Charging Policy Changes
    - (i) Current guidance (Fairer Contribution) stated that any assessed charges for non-residential services could not commence before a financial assessment had been completed. The new policy states that any assessed charges will be backdated to the commencement of the service. This will apply to any new service users but will not impact on existing service users.
    - (ii) An administration fee of £100 will be charged to cover the costs of arranging the care and support needs for those with capital in excess of the upper capital limit or those who have chosen not to disclose their financial information. This will only impact on any new service users with capital in excess of the upper capital limit or those who have chosen not to disclose their financial information
    - (iii) The Council is proposing to charge for adaptations and equipment for each single item costing £1000 or over to provide equality through the service as individuals applying for a Disabled Facilities Grant are currently means tested.
    - (iv) If an individual moves from their main residency into supported living or extra care housing they may be eligible to enter into a deferred payment agreement. This option will be available in future to any new residents entering extra care or supported living from their own home.
    - (v) Current guidance (Fairer Contribution) states that any person in receipt of the higher rate disability living allowance care component (DLA) who does not receive night time support arranged by the Council, has this part of their income disregarded as part of their financial assessment. This can be up to £27.20 per week. Under the new policy, individuals who are currently receiving chargeable services and transferring from higher rate Disability Living Allowance (DLA) care component to Personal Independence Payment (PIP) enhanced daily living component and who do not have night time care arranged by the Council, will no

longer receive the disregard as PIP does not recognise the difference between day time and night time needs. This means that an individual's contribution to the Council may increase by up to £27.20 per week once transferred to PIP. However, any night-time support an individual is paying for privately will be deducted as part of the Disability-Related Expenditure assessment which identifies an individual's additional costs associated with their illness, health condition or disability. There are 160 individuals identified as having to pay an average of £25.48 extra per week.

- (vi) Individuals living in an extra care scheme in receipt of the higher rate Disability Living Allowance/Attendance Allowance (AA) care currently receive a disregard of £27.20 per week if they do not receive night time support arranged by the Council. Extra care settings have an emergency overnight call facility it is proposed that the night-time care component of their DLA/AA is no longer disregarded in cases where overnight care is not provided by the Council. However, any night-time support a person is paying for privately will be deducted as part of the Disability-Related Expenditure assessment. There were 18 individuals identified as having to pay £27.20 extra per week.

(b) Residential Policy

The proposed residential policy is designed to comply with the Act and Regulations. There are no fundamental changes to this policy from the previous Charging for Residential Accommodation Guidance therefore, no individuals were identified as being impacted by the introduction of this policy.

(c) Deferred Payment Policy

- (i) The deferred payment scheme ensures that if a person is assessed as requiring residential care, extra care or supported living they will not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into care.
- (ii) To charge an admin fee of £500 to cover the costs for arranging a deferred payment, including legal costs, valuation fees, postages etc.
- (iii) To charge interest on deferred payments using the national interest rates as set out by government.
- (iv) Administration charges and interest will be added to the total amount deferred as they are accrued, although an individual can request to pay these separately.

- (v) At present there are no current individuals accessing adult social care that will be impacted by these proposals. This will only affect individuals accessing adult social care if and when the proposal is agreed.

10. Areas where no change is recommended are:

- (a) Rent payable net of housing benefit can continue to be disregarded as long as the individual's name is on the tenancy and they are deemed eligible under the housing benefit rules. However, if housing benefit is reduced for under occupation then the difference that an individual is required to pay will no longer be disregarded. The recommendation is that this proposal is not introduced.
- (b) The new charging policy proposes charging for services carers receive from adult social care. The Act is clear in indicating that this is an option Councils have, however, it does state this is at the Council's discretion. The recommendation is that this proposal is not introduced.

### **Recommendation**

11. It is recommended that:

- (a) The changes to the non-residential charging policy are agreed as set out in the summary and full report:
  - (i) To apply any potential charges from the start of the service.
  - (ii) To charge an administration fee for arranging care and support for those individuals with capital in excess of the upper capital limit (currently £23,250), or for those who choose not to disclose their financial information. This will be £100.
  - (iii) To financially assess and charge where applicable, all individuals identified as requiring adaptations and equipment costing over £1,000. The cost of their adaptations and equipment would be added to the overall cost of their support plan for Adult Social Care. Where an individual has been financially assessed and is required to make a contribution this would be against the overall cost of their support plan and they would not be required to pay more than their assessed maximum weekly contribution.
  - (iv) To offer deferred payments to those eligible individuals in an Extra Care or Supported Living setting.
  - (v) To remove the current disregard for sums paid for night-time care for those service users transferring from the higher rate Disability Living Allowance (DLA) care component to the Personal Independence Payment (PIP) daily living component who do not have night-time care arranged by the Council. At present the financial impact will range from £0.57 - £27.20. Each individual will require a new financial assessment

following implementation of the proposal to determine any changes to individual contribution for care and support.

- (vi) To remove the current disregard for the night-time element of higher rate DLA or Attendance Allowance for those in an Extra Care setting. At present the financial impact will range from £0.57 - £27.20. Each individual will require a new financial assessment following implementation of the proposal to determine any changes to individual contribution for care and support.
- (b) The following possible changes (about which there is a discretion) relating to the non-residential charging policy **are not** introduced:
  - (i) To remove the current disregard for the difference an individual pays if their housing benefit is reduced for under occupation in their financial assessment.
  - (ii) Charge for carers' services.
- (c) The residential charging policy is agreed.
- (d) The changes to the deferred payment policy are agreed, as set out in the summary and full report.

## **Reasons**

12. The recommendations are supported by the following reasons :-

- (a) To ensure that the Council's Charging Policies are compliant with Care Act Legislative requirements.
- (b) To provide clarity for service users and members of the public

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S17 Crime and Disorder	There are no crime and disorder implications in this report
Health and Well Being	This decision is likely to impact on the health and wellbeing of Darlington residents.
Carbon Impact	There are no carbon impact implications in this report
Diversity	The impact of this decision on Diversity has been comprehensively considered and is laid out in the main body of the report.
Wards Affected	There are no wards identified as being particularly impacted upon in this report
Groups Affected	Adult social care service users will be impacted by the proposals laid out in this report
Budget and Policy Framework	This decision does not represent a change to the budget and policy framework.
Key Decision	This is a key decision.
Urgent Decision	This is not an urgent decision.
One Darlington: Perfectly Placed	This decision will not contribute to the aim of One Darlington: Perfectly Placed.
Efficiency	This decision will not impact on the efficiency of the Council.

## MAIN REPORT

### Information and Analysis

13. In line with the Care Act 2014 ('the Act') new guidelines for charging were set, including a new requirement for Councils to have different charging policies depending on whether someone is receiving care in a care home, or their own home or another setting.
14. Prior to the implementation of the Act, Councils were governed by the Charging for Residential Accommodation Guidance (commonly known as CRAG) which was provided by the Department of Health. This guidance was replaced by the Act which instructed Councils to design their own residential charging policy to comply with the statutory provisions.
15. The current Fairer Contributions Policy for Non-Residential Services (Fairer Contribution) does not reflect recent changes to the welfare benefits system and the Regulations and Guidance under the Act. This therefore offers an opportunity to review and update the current policy.
16. The Act (sections 34 and 35) requires Councils to offer deferred payment agreements to service users to allow them to defer the sale of their home where it is needed to fund the cost of their care fees. The Care and Support (Deferred Payment) Regulations 2014 set out the legal framework and Councils' responsibilities in greater detail. The new policy has been designed to reflect the changes implemented in the Act.

## Proposed Changes:

### Non-Residential Charging Policy Changes

17. Where an assessed need has been identified services will commence regardless of whether a financial assessment has been completed and, once a financial assessment has taken place, any assessed charges will be backdated to the commencement of the service.
18. The previous guidance (Fairer Contribution) stated that any assessed charges for non-residential services could not commence before a financial assessment had been completed. This stipulation is not within the Act therefore the Council has made this amendment to be consistent with the charging policy for residential services therefore providing equality across all service provision.
19. An administration fee of £100 will be charged to cover the costs of arranging the care and support needs for those with capital in excess of the upper capital limit or those who have chosen not to disclose their financial information.
20. Paragraph 8.12 of the Care and Support Statutory Guidance (the Guidance) issued under the Act states '*When choosing to charge, a local authority **must not** charge more than the cost that it incurs in meeting the assessed needs of the person. It also cannot recover any administration fee relating to arranging that care and support. The only exception is in the case of a person with eligible needs and assets above the upper capital limit who has asked the local authority to arrange their care and support on their behalf. In such cases, the local authority may apply an administration fee to cover its costs*'.
21. If an individual is living in a property not deemed suitable because it has excess bedrooms the housing benefit they receive is reduced for under occupation of property (commonly known as the 'bedroom tax'). This means that they must pay an additional amount of rent for every additional spare room that they have.
22. Currently, when individuals have a financial assessment for their adult social care needs this rental expenditure is taken into account and their assessed maximum weekly contribution is reduced accordingly.
23. The Council is proposing that if the amount of housing benefit a person in receipt of social care services receives is reduced for under- occupation/Local Housing Allowance (bedroom tax) then the difference that an individual is required to pay will not be allowed as part of their financial assessment. This means that their contribution will increase for their adult social care services.
24. The Act does not prohibit Councils from including under occupation charges in financial assessments for adult social care services; therefore it is included in the proposals for the non-residential charging policy.
25. Charging for carers' services. The new charging policy includes charging for services carers receive from adult social care. The Act is clear in indicating that this is an option Councils have, however, it does state this is at the Council's discretion.



26. Paragraph 8.49 of the Guidance states, '*Where a local authority is meeting the needs of a carer by providing a service directly to a carer, for example a relaxation class or driving lessons, it has the power to charge the carer*'.
27. Paragraph 8.50 of the Guidance states, '*Local authorities are not required to charge a carer for support and indeed in many cases it would be a false economy to do so*'.
28. Paragraph 8.51 of the Guidance states '*While charging carers may be appropriate in some circumstances, it is very unlikely to be efficient to systematically charge carers for meeting their eligible needs. This is because excessive charges are likely to lead to carers refusing support, which in turn will lead to carer breakdown and local authorities having to meet more eligible needs of people currently cared for voluntarily*'.
29. Adaptations and equipment for each single item costing over £1,000 will be included within their care and support need costs.
30. Paragraph 8.14 of the Guidance states '*community equipment (aids and minor adaptations). Aids must be provided free of charge whether provided to meet or prevent/delay needs. A minor adaptation is one costing £1,000 or less*'.
31. The normal route for adaptations would be via the Disabled Facilities Grant (DFG), which is based on a joint household income means test. If the individual does not qualify for the means tested DFG, this would leave an unmet need which would be considered via the Care & Support Needs assessment. The cost of their adaptations and equipment would be added to the overall cost of their support plan for Adult Social Care. Where an individual has been financially assessed and is required to make a contribution this would be against the overall cost of their support plan and they would not be required to pay more than their assessed maximum weekly contribution.
32. If an individual moves from their main residency into supported living or extra care housing they may be eligible to enter into a deferred payment agreement.
33. Paragraph 9.9 of the Guidance states '*Local authorities may also at their discretion enter into deferred payment agreements with people whose care and support is provided in supported living accommodation. The local authority should not exercise this discretion unless the person intends to retain their former home and pay the associated care and accommodation rental costs from their deferred payment.*'
34. Any individuals who are currently receiving chargeable services and transferring from higher rate Disability Living Allowance (DLA) care component to Personal Independence Payment (PIP) enhanced daily living component and who do not have night time care arranged by the Council, will no longer receive the disregard (currently £27.20). This is because PIP does not recognise the difference between day time and night time needs. This means that an individual's contribution to the Council may increase by up to £27.20 per week once transferred to PIP. However,

any night-time support an individual is paying for privately will be deducted as part of the Disability-Related Expenditure assessment.

35. The Council is proposing this change owing to an identified inequality within the current policy: there are individuals within who have moved onto Personal Independent Payments (PIP) benefit and are not having the equivalent amount of money disregarded from their financial assessment as PIP does not distinguish between day time and night-time care.
36. Annex C of the Guidance states that, '*Any income from the...Personal Independent Payments (Daily Living Component)...must be taken into account when considering what a person can afford to pay from their income towards the cost of their care*'.
37. Individuals living in an extra care scheme in receipt of the higher rate Disability Living Allowance/Attendance Allowance (AA) care component will have the full benefit treated as income in their financial assessment.
38. Because extra care settings have an emergency overnight call facility it is proposed that the night-time care component of their DLA/AA is no longer disregarded in cases where overnight care is not provided by the Council. However, any night-time support a person is paying for privately will be deducted as part of the Disability-Related Expenditure assessment.

### **Residential Policy**

39. The new residential policy is designed to comply with the Act and Regulations. There are no fundamental changes to this policy from the previous Charging for Residential Accommodation Guidance.

### **Deferred Payment Policy**

40. It is proposed that the Council will recover the administrative costs associated with deferring fees, including legal and ongoing running costs, via interest and administration charges to the individual. Administration charges and interest will be added to the total amount deferred as they are accrued, although an individual can request to pay these separately.
41. The proposed administrative charge of £500 cannot exceed the actual costs incurred by the Council when providing the Universal Deferred Payment Scheme, as set out in regulations. Relevant costs may include (but are not limited to) the costs incurred by the Council whilst:
  - (a) registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required;
  - (b) undertaking relevant postage, printing and telecommunications;
  - (c) costs of time spent by those providing the service;

- (d) costs of having the property independently valued and re-valued;
  - (e) costs for removal of charges against the property;
  - (f) overheads, including where appropriate (shares of) payroll, audit, management costs, and legal service.
42. It is proposed that the Council will charge interest on any amount deferred, including any administration charge deferred, in line with the national maximum interest rate which will change every six months, on 1 January and 1 June. This is to cover the cost of lending and the risks to the Council associated with lending, for example the risk of default. The maximum interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report.
43. When an individual is approaching or reaches the point at which they have deferred 70% of the value of their chosen security, the Council is proposing to review the cost of the care with the individual, discuss when the person might be eligible for any means-tested support, discuss the implications for any top-up they might currently have, and consider jointly whether a deferred payment agreement continues to be the best way for the individual to meet these costs

## **Conclusion**

44. The Council needs to have in place suitable policies for charging for residential and non-residential adult social care services and also for deferred payments. It is envisaged that the date of implementation for the new charging policies and deferred payment policy will be 1 November 2016, following Cabinet approval.
45. It is proposed that all changes to the charging policies are implemented, with the exception of removing the disregard for under occupation charges and charging for carers' services.
46. It is proposed not to remove the current disregard for under occupation charges because:
- (a) Out of the predicted savings of £250,000, this proposal is only estimated to save £14,000.
  - (b) Consultation responses have argued this proposal is unfair in cases where:
    - (i) Individuals are trying to downgrade but can't because of a lack of Local Authority housing stock (there are currently 394 households on the waiting list for a one bed property and 10 one bed rental properties listed for rent on Rightmove where the monthly rent doesn't exceed the LHA rate)
    - (ii) Individuals need their spare room due to their disability i.e. to store equipment/to have family visit because their homes aren't accessible.

- (c) The Council gives Discretionary Housing Payments (DHPs) to individuals impacted by welfare reforms, including the bedroom tax. Central government has instructed the Council to prioritise individuals “whose homes have had significant disability adaptations and those adults with long-term medical conditions or disabilities that create difficulties in sharing a bedroom”. Offering individuals a DHP on the one hand, in order to fully mitigate the burden of the under occupation charge, and then taking the difference in adult social care charges seems counter-intuitive.
- (d) If this proposal led to individuals moving to smaller properties, this could lead to a degree of cost-shunting, from:
  - (i) Increased demand for community care grants – these are given to individuals with a support need who need support to move into the community in the form of household items including furniture, white goods and moving costs.
  - (ii) Adult social care – if individuals are unable to find a property close to their current home, there is a risk that informal care networks will be lost eg local friends/neighbours/family will be less able to visit and meet low level needs therefore the local authority will need to provide additional care and support.
- (e) There is currently an appeal with the Supreme Court to challenge the under occupation charge in the case of couples where they are unable to share a bedroom due to health reasons.

47. It is proposed not to charge for carers’ services because:

- (a) The Guidance makes it clear that it does not recommend Councils take this approach.
- (b) Feedback from the consultation highlighted the likely increased stress to individuals resulting from this proposal, and also the fact that carers save the Council costs by providing care and support to residents with disabilities.

48. Any savings to the Council are likely to be negligible.

### **Financial Implications**

49. The charging policies are required to make the Council compliant with current legislation (The Care Act 2014). Not being compliant with the legislation would mean the Council are not fulfilling their obligation and requirements and therefore open to any legal challenge i.e. judicial review, corporate complaints and Ombudsman requests.

50. It is envisaged that should the policies be adopted in the proposed format the Council will make an annual financial saving of £252,000 from those proposals that would impact on current service users, broken down as:

- (a) Removal of the disregard for those moving from the higher-rate DLA care component to PIP
  - (i) Number impacted: 160
  - (ii) Average weekly amount: £25.48
  - (iii) Range: £0.57 - £27.20
  - (iv) Total annual saving: £212,500
  
- (b) Removal of the disregard for under occupation charges
  - (i) Number impacted: 25
  - (ii) Average weekly amount: £13.98
  - (iii) Range: £10.13 - £29.24
  - (iv) Total annual saving: £14,000
  
- (c) Removal of the disregard for higher rate DLA/AA care component for individuals in extra care
  - (i) Number impacted: 18
  - (ii) Average weekly amount: £27.20
  - (iii) Range: n/a
  - (iv) Total annual saving: £25,500

51. In addition, there will be financial savings to the Council from the implementation of proposals due to impact on new service users eg charging from start of service, however, it has not been possible to calculate estimates of the likely financial savings from these.

## **Legal Implications**

52. The Care Act 2014 sets new guidelines for charging, and requires Local Authorities to have different charging policies depending on whether someone is receiving care in a care home, or their own home or another setting. Following requirements to review our policies for charging individuals for care and support, we now have an opportunity to review and consult on proposed changes to these policies.
53. One of the principles of the Care Act is to provide Local Authorities with a single legal framework for charging a person for their care and support. It allows local authorities to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.

## **Consultation**

54. An initial consultation was carried out with all 283 individuals identified as being likely to be directly impacted by the proposals, using adult social care and housing benefit data. This was commenced over 8 weeks ranging through March 2016 and April 2016. The 283 individuals were initially identified from data held within the Council's finance team and revenues and benefits section. A data task was undertaken identifying any individuals impacted as below:

- (a) Any non-residential adult social care service users whose housing benefit has been reduced for under occupancy.
  - (b) Any non-residential adult social care service users in receipt of higher rate DLA care component.
  - (c) Any non-residential adult social care service users in an extra care scheme in receipt of higher rate DLA or AA care component.
  - (d) Any individuals in receipt of carers' services.
55. Ten engagement events were arranged and advertised, via social media, the Council's website and local VCS organisations, for those identified individuals and the wider public to attend. Feedback forms were also sent to all individuals directly impacted as above, along with information about the proposals, of which 43 were returned. General comments were also received separate to the feedback forms.
56. Following the initial consultation period the decision was taken to re-open consultation for a further six weeks starting mid July 2016 in order to obtain more feedback and allow for further engagement. All individuals receiving non-residential care and all care homes in Darlington were sent letters to inform them of the proposals and consultation, request their feedback and invite them to attend another round of public engagement events. The letters included a new briefing paper to provide further clarity around proposed changes, a questionnaire and return envelope to enable feedback to the Council and ensure all potential impacts resulting from the proposed changes were captured. In total the number of letters sent was circa 1,300 and all individuals who receive non-residential adult social care services were invited to comment on the proposals. A further eight consultation events were held, covering extra care housing schemes, Rockcliffe Court and open events in the Dolphin Centre.
57. Other methods of informing individuals of the consultation in the community were also used. This included posters in many community establishments including Crown Street library, the Dolphin Centre, extra care housing schemes and voluntary sector organisations.
58. The consultation was further publicised widely using the Darlington Borough Council website and social media pages and individuals were encouraged to feedback directly online via the Survey Monkey website.
59. A copy of all the letters and briefing paper sent to service users regarding the consultation can be found in Appendix A which is attached to this report.

## **Outcome of Consultation**

60. We received 43 feedback forms from the initial consultation held during March 2016 and April 2016. From the second consultation, held during July 2016 and August 2016, a further 117 questionnaires were received from adult social care users, carers and the wider public.

## Non-residential charging policy

61. Charges will commence from the start of the service:

- (a) In the first round of consultation we received one response indicating concerns relating to resources within the financial assessment team which may result in increased stress, anxiety and financial hardship to individuals, owing to the delay in the identification of the assessed charge.
- (b) In the second round of consultation we received a further 21 responses:
  - (i) 3 positive comments, which all stated that this is a reasonable decision.
  - (ii) 18 negative comments, including concerns that individuals won't know the amount they need to contribute to their care and support needs and that the timing of the financial assessments may be an issue.
- (c) Mitigation
  - (i) It is planned to have light-touch financial assessment. This will allow a financial assessment to be completed without visiting each individual in their own home therefore reducing the delay in time taken to inform the individual.
  - (ii) It is planned for the financial assessment officers to have access to the DWP's customer information system, which will allow on-line instant access to individual's benefits information. This will allow a financial assessment to be completed prior to contacting the individual therefore reducing the delay in time taken.
  - (iii) It is planned to carry out telephone assessments. This will allow a financial assessment to be completed without visiting each individual in their own home therefore reducing the delay in time taken to inform the individual.

62. To charge an administration fee for arranging care and support for those individuals with capital in excess of the upper capital limit, or for those who chose not to disclose their financial information. This will be £100.

- (a) In the first round of consultation we did not receive any responses regarding this proposal.
- (b) In the second round of consultation we received a further 12 responses:
  - (i) Two positive comments, which both stated that they would pay if they could.
  - (ii) 10 negative comments, these included 'the £100 is a tax on vulnerable people and as a tax it is unacceptable', and the '£100 is ploy to deter people from asking the LA for support in arranging care'.

(c) Mitigation

- (i) This will be based on individual's financial circumstances, and will only apply to those that have been assessed as been able to afford it.

63. If housing benefit is reduced for under occupation then the difference that an individual is required to pay will not be disregarded from the financial assessment.

(a) In the first round of consultation we received one general comment regarding this proposal.

- (i) 'Under-occupation – are there suitable properties available to move into?'

(b) In the second round of consultation we received a further 12 responses:

- (i) 0 positive comments.
- (ii) 12 negative comments, these included 'I believe this is unfair as you can't help your living circumstances', 'this would increase my outgoing as under bedroom tax my rent increased by £55 per month', 'Once again money taken from the people who can least afford it', 'Due to the recent welfare changes and the 'bedroom tax' we would be at risk of losing our home, which has been extensively adapted to my specific needs...our family home is now deemed to be under occupied by present legislation, despite the fact that the bedrooms are used regularly by our family. As I am unable to access a 'normal' house, the only way I can keep contact with my family, is to offer room so they can stay in my home...if this was to be taken away it would increase my further isolation and inability to socialise with other human beings. Both my physical and mental health and wellbeing would be severely affected if I was to lose my home'.

(c) Mitigation

It is recommended that the Council disregard this proposal and continue to disregard this expenditure in the financial assessment.

64. To charge for carers' services:

(a) In the first round of consultation we received 13 individual responses to this proposal, of which there were 16 negative impacts identified:

- (i) 19% of the comments stated that they were providing care, therefore, shouldn't be charged. If the proposal goes ahead then they stated they will stop providing care to their family member.
- (ii) 6% of the comments stated that it could impact on their spouse.
- (iii) 19% of the comments state that this would cause financial limitation within their family budget.



- (iv) 6% of the comments stated this would impact in their ability to manage their budget for essential costs within the family home; these include energy, food and clothing.
  - (v) 13% of the comments indicated that this would result in deterioration to their own mental health.
  - (vi) 6% of the comments stated that this would impact on their own physical health and wellbeing
  - (vii) 6% of the comments indicated that the proposals would have a detrimental impact on the prevention agenda.
  - (viii) 6% of the comments indicated that these proposals would discourage people from coming to the Council for carers' services.
  - (ix) 6% of the comments indicated that there would be a detrimental Impact on the cared-for person who benefits from carers services.
  - (x) 6% of the comments felt that the proposals are penalising carers for being a carer.
  - (xi) 6% of the comments indicated that this would increase the level of stress on the carer.
- (b) There were also 11 general comments made about the proposal during the first round of consultation:
- (i) 'It will cause additional stress for people who are already under stress'
  - (ii) 'Shut the library down, shut the Dolphin Centre down, if this enables people to be supported'
  - (iii) 'This is not fair – then you get all the 'off shore' business'
  - (iv) 'In principle no one should be worse off who needs support'
  - (v) 'Horrendous to charge for carers services – carers are easy meat / easy target'
  - (vi) 'Time after time it is the middle income group that are clobbered'
  - (vii) 'I do not think we should charge for carers services'
  - (viii) 'Carers save the Council and the government hundreds of thousands pounds. Maybe they should calculate the cost of this.'
  - (ix) 'it is unlikely to be efficient to systematically charge carers for meeting their eligible needs'

- (x) Carers save services a lot of time and money
- (xi) Charging for carers services is a universal change in policy to how the Council choose to support 11,000 + carers in Darlington.
- (c) Paragraph 8.50 of the Guidance states that *'When deciding whether to charge, and in determining what an appropriate charge is, the local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make. Carers help to maintain the health and wellbeing of the person they care for, support this person's independence and enable them to stay in their own homes for longer. In many cases, carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. Local authorities should consider carefully the likely impact of charges on carers, particularly in terms of their willingness and ability to continue their caring responsibilities'*.
- (d) In the second round of consultation we received a further 20 responses:
  - (i) 1 positive comment, which stated that this proposal seems in line with the charging policy for adult social care.
  - (ii) 19 negative comments, these included 'mum just manages to live from day to day and can't survive if further costs are incurred', 'I'm not a carer but I live with my mum who is, and I feel it would be unfair', 'charging for carers is a disgrace', 'having a few hours to relax and having to pay for it is an awful support', 'If I am financially assessed for a service I want choice, quality and flexibility', 'if I'm paying my expectations would rise'
- (e) Mitigation
  - (i) It is recommended that the Council do not charge carers for their carers' service.

65. To charge for individual adaptations and equipment costing over £1,000.

- (a) In the first round of consultation we received 1 response to this proposal which stated that this may increase isolation to individuals.
- (b) There was also one general comment made regarding this proposal during the first round of consultation:
  - (i) The introduction of charging for equipment is not clear, in terms of what equipment this covers; as different types of equipment is funded by different agencies or funding streams. DAD feels, therefore, neither we nor people impacted have not had the information to enable to determine impacts.
- (c) In the second round of consultation we received a further 16 responses:

- (ii) 1 positive comment, which stated that ‘they would pay if they could’.
- (iii) 15 negative comments, these included ‘charging for adaptations and equipment could potentially impact hardest on the most physically vulnerable, leaving them very short of money’, ‘less money for food, essentials and cuts to heating costs’, ‘I would not be in a position to pay causing hardship’

(d) Mitigation

- (i) An individual will be financially assessed to determine if they are able to contribute towards their care and support needs and only those assessed as having enough income will be charged.

66. To offer deferred payments to those in an Extra Care or Supported Living Setting.

- (a) In the first round of consultation we received no responses regarding this proposal.
- (b) In the second round of consultation we received 13 responses:
  - (i) Five positive comments, which include ‘this is a good idea, reassuring for the family’, ‘it would provide an opportunity to obtain the best price for an owned property in a fluctuating housing market’.
  - (ii) Eight negative comments, these include ‘if my husband had to go into supported living then it would be dreadful to sell the family home’

(c) Mitigation

- (i) This is a choice for an individual to enter into.

67. Those transferring from higher rate Disability Living Allowance care component to Personal Independence Payment daily living component and who do not have night time care arranged by the Council will no longer receive the disregard for sums paid for night time care.

- (a) In the first round of consultation we received 18 responses to this proposal, which identified 74 negative impacts and two positive impacts:
  - (i) 14% of the responses indication that this would cause social isolation.
  - (ii) 11% of the comments indicated that this would impact on their own physical health and wellbeing.
  - (iii) 12% of the comments indicated that this would result in deterioration to their own mental health.

- (iv) 17% of the comments state that this would cause financial limitation within their family budget.
  - (v) 3% of the comments indicated that this would increase the level of stress on the carer.
  - (vi) 13% of the comments stated this would impact in their ability to manage their budget for essential costs within the family home; these include energy, food, transport and clothing.
  - (vii) 8% of the comments stated that this would impact in their ability to manage their budget for non-essential costs; these include holidays and horse riding.
  - (viii) 8% of the comments indicated that there may be a negative impact on their ability to attend leisure activities.
  - (ix) 12% of the comments indicated that this may impact on their carer, this was owing to the carer required to do more, as the household income may reduce.
  - (x) 1% of the comments stated that they may choose to pay for their support privately as this may be cheaper.
  - (xi) 1% of the comments state that this would promote everyone being treated equally for their needs.
- (b) There was also eight general comments made regarding this proposal during the first round of consultation:
- (i) 'The proposal to take into account the enhanced rate of PIP, for those people impacted will be disproportionate to the burden of the cuts on other groups of citizens. In practice it will mean an increase in charge of up to £27.20 per week. People will be unlikely to have this amount of money unaccounted for in their weekly budget, as if a person does not receive night time care from the local authority, they would have expected that the Council will not take this into account.'
  - (ii) 'I am already having an increased contribution due to the change from ILF, which is causing me a lot of problems. If it increases again, it will be even more difficult.'
  - (iii) 'I can't get away from the house or from Darlington, I won't be able to afford this'
  - (iv) 'If something breaks I won't be able to afford to replace it.'
  - (v) 'I am being hit by a double whammy by both national cuts (cuts in PIP) and local cuts (DBC). This is an unbelievably cruel act, it is taking the

most vulnerable in our society to the cuts, financially and morally'

(vi) 'Your actions take us back to the dark ages and give us little or no hope for the future'

(vii) 'Too much money being taken away, not enough to live'

(viii) 'If the costs increase I won't be able to afford transport and get food and therefore, not able to get essential living items, this would put extra pressure on other family members and significantly reduce my independence'.

(c) In the second round of consultation we received a further 29 responses:

(i) 0 positive comments.

(ii) 29 negative comments, these include 'I wouldn't have enough money to cope', 'individual would not be able to go on holiday', 'it would impact on my caring role', 'would greatly affect my physical and mental wellbeing', 'it is a lot of money to lose each week', 'this proposal would mean I would have to decide if I can eat or pay for my care', 'in my opinion disabled people may as well die, and you as a Council would not have to help them', 'removing this allowance is discrimination', '£27.20 is a lot to lose', 'His social life will suffer a lot', 'for the Council to rob her to each week of £27.20 is an outrage', 'nothing has changed for her going to bed on DLA to going to bed on PIP'.

68. For those in Extra Care setting to take into account the night time element of the DLA.

(a) In the first round of consultation we received 4 responses to this proposal, which identified eight negative impacts:

(i) 25% of the comments state that this would cause financial limitation within their family budget.

(ii) 25% of the responses indicated that this would cause social isolation

(iii) 13% of the comments indicated that there may be a negative impact on their ability to attend leisure activities

(iv) 13% of the comments stated that this would impact in their ability to manage their budget for non-essential costs, these include holidays and horse riding

(v) 25% of the comments indicated that this would result in a deterioration to their own mental health

(b) There were also 2 general comments made regarding this proposal during the first round of consultation:

- (i) 'The proposal for taking into account higher rate DLA or enhanced PIP for those people living in extra care is not fair to those people who live in extra care but do not require night support. Although the scheme does give access to a pull core; for a person not living in extra care they have telecare/lifeline which would be available at a lower cost. It is particularly concerning for those people who are already live in extra care, and did not enter their tenancy agreement knowing these charges would be applied. DAD is already aware of one person who feels her best option would be to move into residential care.'
  - (ii) 'Struggle to pay more, I would have to cut down on expenditure and I would have to cut down on luxuries and this would make me miserable affecting my nerves and I would have a mental health issue, which may be detrimental. I have all my money accounted for and I have nothing left.'
- (c) In the second round of consultation we received a further 9 responses:
- (i) 0 positive comments.
  - (ii) 9 negative comments, this includes 'worrying for the future', 'discourages people from asking DBC for the care', 'this is a shocking example for cooking the books and robbing vulnerable in our society', 'these proposals must and should be opposed not only by the people affected but by the Council as well'.

### **Residential charging policy**

69. To create a residential charging policy for Darlington Borough Council:

- (a) In the first round of consultation we did not receive any responses regarding this proposal.
- (b) In the second round of consultation we received three responses:
  - (i) 0 positive comments.
  - (ii) Three negative comments, this includes 'you will have a lot of peoples deaths on your hands', 'more worry and stress we can't cope with, disgusted'.
- (c) Mitigation
  - (i) As there are no changes to the charges for residential services or the way in which charges are made, there is no requirement for a mitigation to be put in place.

## Deferred Payment policy

70. To charge an admin fee of £500 to cover the costs for arranging a deferred payment, including legal costs, postages etc.
- (a) In the first round of consultation we did not receive any responses regarding this proposal.
  - (b) In the second round of consultation we received 6 responses:
    - (i) One positive comment, '£500 probably reasonable'
    - (ii) Five negative comments, this includes 'We pay our community charge, we have paid into National Insurance for 45 years and also Income Tax. Where has it all gone?', 'This is a DISCRIMINATORY action, you don't charge fees for providing a Council house to an able-bodied person!'
71. To charge interest on deferred payments using the national interest rates as set out by government.
- (a) In the first round of consultation we did not receive any responses regarding this proposal.
  - (b) In the second round of consultation we received 11 responses:
    - (i) 0 positive comments.
    - (ii) 11 negative comments, this includes 'Shocking!', 'this could be crippling and create poverty for the remaining spouse', 'it defeats the object for offering a deferred payment'
  - (c) Mitigation
    - (i) This is a choice for an individual to enter into.
72. General Comments received from *Darlington Association on Disability*:
- (a) *Darlington Association on Disability organisation (DAD) have concerns about these proposals, which potentially will massively impact on disabled people and carers and will also destabilise the informal caring arrangements and role of carers which the Council rely on to meet the demand on social care. It is of great concern that many carers will feel they will no longer feel able to continue caring at their current level, which will mean the local authority will then have a legal duty to meet any eligible needs and more crucially the wellbeing of the person they are caring for.*
  - (b) *Whilst DAD acknowledges that some of the proposals are due to changes in legislation, it is also the case that many of the proposals are discretionary and in practice are increases in social care charges. DAD would ask members of the Council, to consider such changes in light of the budget cuts also being proposed, alongside the previous year's increases in charging and budget cuts*

*which disabled people have already taken. The impact of the accumulation of these cannot be underestimated, both financially and on the person's wellbeing.*

- (c) *DAD feel the concerns they have highlighted would be particularly detrimental to the wellbeing of disabled people and carers, but also to the wider social care system.*

## **Alternative Options**

73. A number of responses to the consultation offered alternative proposals and these included suggestions on how to avoid, minimise or mitigate any negative impacts. These are outlined below along with the Council's responses:

### (a) Non Residential Policy

- (i) Setting maximum limits on both the time, between start of service and the financial assessment, and the amount that can be backdated, for the proposal to backdate charges to avoid service users accumulating significant debts.
- (ii) This has not been considered as appropriate owing to the inequality it would create. Under previous guidance and under the Care Act the Council charges for Residential Services from the start of service. Charging individuals for Non- residential Services from the start of service will bring both policies in line with each other.
- (iii) Doing the social services assessment and financial assessment at the same time to avoid debt accumulation.
- (iv) These assessments are undertaken by different teams therefore joint visits would be impractical and inappropriate as, for example in instances where the care assessment determines that an individual is not eligible for adult social care services.
- (v) Not including the bedroom tax in an individual's financial assessment if they are on the waiting list for a smaller property
- (vi) Having considered the feedback given on this proposal the recommendation is to remove this will mean individuals will still receive the disregard within their financial assessment.
- (vii) Not charging for adaptations and equipment costing over £1,000 if someone has tried to move to an accessible home but the Council has not had one available.
- (viii) The adaptations and equipment most commonly used to make homes accessible would not cost over £1,000, e.g. stair lifts / ramps / flat floor shower, and therefore this scenario is very unlikely. Furthermore individuals would only be charged for this equipment following a financial



assessment which has determined they are able to contribute towards this cost.

- (ix) Charge the government for their failure to no longer distinguish between day and night-time care needs with PIP, not claimants.

This is not feasible.

(b) Deferred Payment Policy

- (i) Only charging an administration fee for deferred payments for properties valued at above a certain value
- (ii) The costs incurred by the Council when administering a deferred payment are the same, regardless of to the value of the property in question, and therefore the administration fee is not variable.
- (iii) Allowing a grace period of two years before charging interest for deferred payment agreements
- (iv) The purpose of the policy is to ensure the Council no longer incurs costs when offering a deferred payment policy. Charging interest is to cover the cost of lending and the risks to the Council associated with lending, for example the risk of default. As the Council would lose any potential interest it could have accrued over any grace period this would mean it was effectively incurring costs and therefore a grace period is not being proposed.

## **Equality Impact Assessment**

76. An Equality Impact Assessment has been undertaken by officers, and is attached at Appendix B, to understand the likely impacts of the proposals on individuals according to their protected characteristics.

77. When making its decision, Members will be aware of the requirement to have 'due regard' to the Public Sector Equality Duty under section 149 Equality Act 2010. This duty requires the Council, when exercising its functions to have 'due regard' to the need to:

- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act;
- (b) advance equality of opportunity between those who share a 'protected characteristic' and those who do not share that protected characteristic, and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (this involves having due regard, in particular, to the need to (a) tackle prejudice, and (b) promote understanding).

78. Section 149 (3) of the Act states in general terms that having 'due regard' to advancing equality of opportunity involves having due regard to:
- (a) The need to remove or minimise disadvantages;
  - (b) Taking steps to meet the needs of people from protected groups;
  - (c) Encouraging people from protected groups to participate in public life or other activities where their participation is disproportionately low.
79. Members are required to read a copy of the Equality Impact Assessment carried out by Officers which can be found at Appendix B.
80. The Equality Impact Assessment found that the following protected characteristic groups were likely to be either disproportionately impacted by the proposals, or experience a higher level of impact:
- (a) Older People: Whilst the proposals affect all social care users over the age of 18, a third of ASC non-residential adult social care service users in Darlington are aged over 75, and over half are aged over 60, illustrating that older people are more likely to be accessing social care services. The impact will be a reduction in finances available for social activity or for other day to day expenses. Carers are also often older people and the impacts set out show the potential for the health and wellbeing of this group to be affected. This will be increase the issue if carers are charged for the support that they get as they may also decline the support.
  - (b) Physical and Mental Disability: The impact relating to the non-residential charging policy will be a reduction in finances available for social activity or for other day to day expenses. This could potentially lead to increased isolation and depression. In addition if carers become more tired this could again increase frustration and affect mental health of both service user and carer. It was identified that all recommended proposals will impact on this.
  - (c) Learning Disability: The impact relating to the non-residential charging policy on these service users will be similar for individuals with other disabilities. However the loss of day to day funding could mean they need to change the activities that they participate in. This could also impact on them because they tend to like routine and find change is upsetting to them. If carers decide not to continue to provide care it could be that new carers have to be found and continuity is lost. It was identified that all recommended proposals will impact on this.
  - (d) Women: Women are more likely to be accessing social care services and be affected by the proposed changes to charging policies. This information was identified by analysing the Councils data on adult social care users and financial assessment information. They are also more likely to be carers. Information was gained from Carers national statistics where it is evidenced that there are 58% of women are carers compared to 42% male. The impact will be a reduction in finances available for social expenses or for other day to day expenses. This could potentially lead to increased isolation and

depression.

- (e) Religion and Belief: Under Sharia Law, those following the Islamic faith are unable to enter into loans which accrue interest. The proposal to charge interest on deferred payment agreements may therefore limit the ability for this group to take up this option and the level of impact on those affected could be significant without mitigation.
81. The changes to the non-residential adult social care charging policy, with the exception of offering deferred payments to extra care and supported living tenants, all proposed to either charge individuals more for their care and support or impose a new charge on individuals for services. The most common impact identified, therefore, for the non-residential charging policy proposals was loss of income, meaning that individuals and their families are more likely to be:
- (a) Socially isolated which impacts adversely on individual mental health and well-being and also the opportunity for respite for carers. This could also impact on carers' health and wellbeing and could lead to breakdown in individuals' care and support.
  - (b) Less able to afford basic necessities, such as utilities, rent, food etc.
  - (c) Less able to afford goods and services that contribute to their quality of life, such as holidays, clothing and trips.
  - (d) Less likely to take up services if the costs increased any more as they were struggling to pay now.
82. Regarding the non-residential charging policy proposal to offer deferred payment policies to extra care and supported living tenants, there were no negative impacts identified as the proposal gives affected individuals a new opportunity to defer the cost of their care.
83. The new residential charging policy does not propose any changes to the way residential adult social care services are charged for or the level of charges, therefore there were no negative impacts identified from this policy.
84. The new deferred payment policy proposes to charge an interest and admin fee to people entering into a deferred payment agreement, as these charges can be deferred along with the cost of services this should not affect affected individuals' day to day living and budget and therefore they are not anticipated to have similar impacts to those identified for the non-residential proposals to increase or introduce new charges for services i.e. increased social isolation.
85. The Equality Impact Assessment also identified other recent, current and proposed activities that could potentially combine with these proposals to result in more severe impacts on people with protected characteristics through their cumulative effects. A significant number of these were MTFP proposals agreed in July, a report prepared at the time outlining the cumulative impact of all MTFP proposals of protected characteristic groups has therefore been attached to this report at Appendix C.

## Consultation Documents

### BRIEFING PAPER

## Consultation on proposals to change the charging policy for Adult Social Care Services

The Council is currently considering whether to change the way it charges residents who are provided with Adult Social Care Services following the introduction of 'The Care Act 2014' (Further information on the Care Act 2014 can be found at [\[insert link\]](#)). These services potentially affected are:

- Non- residential – This affects anyone living in the community (for example home care and day care services)
- Residential – This affects anyone receiving respite care or living in (or going into) a care home.

### Background

The Care Act 2014 sets new guidelines for charging, and required Local Authorities to have different charging policies depending on whether someone is receiving care in a care home, or their own home or another setting. Following requirements to review our policies for charging individuals for care and support, we now have an opportunity to review and consult on proposed changes to these policies.

One of the principles of the Care Act is to provide Local Authorities with a single legal framework for charging a person for their care and support. It allows local authorities to decide whether or not to charge a person when it is arranging to meet a person's care and support needs or a carer's support needs.

The new framework is intended to make charging fairer and more clearly understood by everyone. The overarching principle is that people should only be required to pay what they can afford. People will be entitled to financial support based on a means-test and some will be entitled to free care.

Where Darlington Borough Council arranges care and support to meet a person's needs, we will look a person's income, savings and expenditure to determine if a person is required to pay towards their care and support needs, this is called a financial assessment. When completing the financial assessment Darlington Borough Council will ensure that people are not charged more than it is reasonably practicable for them to pay.

Darlington Borough Council must ensure that a person is left with a minimum income guarantee plus an extra 25%; in addition to this we will take into account other allowable expenditure such as rent, Council tax, and disability related expenditure.

Darlington Borough Council will contact the person or their legal representative to collect this information; this may be done in a number of ways, for example a home visit or a telephone call.

Once a person's contribution has been established they will be notified in writing of this amount, if any.

## **What are the proposed changes to the way in which we charge for Non-Residential Services?**

The Non Residential policy is used to financially assess someone's ability to contribute towards their care and support needs that are provided through Darlington Borough Council, this covers personal care, domestic care, sitting services, direct payments, day care etc.

### **1) Paying for services**

Under the Council's current policy a person only starts to financially contribute towards their non-residential care once the Council has undertaken a financial assessment.

### **What are we proposing?**

The Council is proposing that where a person is assessed as being in need of non-residential care and support is provided it will charge people for that service from the day on which the service commences. This will be whether a financial assessment has been completed or not. A financial assessment will be carried out and charges will be based on this assessment. The Council will endeavour to carry out financial assessments in a reasonable period of time.

### **Who will be affected?**

Any person who is assessed as requiring a non-residential service who does not currently receive one and is financially assessed as having to contribute to their care.

**Ahmed started receiving personal care on 1<sup>st</sup> July 2016. Ahmed's financial assessment was carried out on 14<sup>th</sup> July 2016.**

**Under the current charging policy, if Ahmed was financially assessed as needing to make a financial contribution towards his care and support services he would only start making this contribution once his financial assessment has been carried out (i.e. from 14<sup>th</sup> July 2016.)**

**Under the proposed changes, if Ahmed is financially assessed as needing to make a financial contribution towards his care and support services he will be charged for these services from the point at which he starts to receive them, even if his financial assessment has not yet been carried out (i.e. 1<sup>st</sup> July 2016).**

### **2) Charging an administration fee to people who can afford to pay the full cost of their care and support**

If a person has more than £23,250 in savings or they do not disclose their financial information, they are required to pay the full cost of their care and support services. Currently the Council does not charge any administration fees for arranging care and support needs for people who have in excess of £23,250.

### **What are we proposing?**

The Council is proposing to charge an administration fee of £100 to cover the costs of arranging care and support needs for people with savings of more than £23,250 or those who have chosen not to disclose their financial information.

### **Who will be affected?**

Any person who has more than £23,250 and asks the Council to arrange care or support on their behalf.

**Danuta receives three homecare visits a day to help her remain independent at home. Danuta has had a financial assessment which found that she has capital in excess of £23,250. This means that Danuta is expected to pay the full costs of her care. Under its current policy, Danuta can ask the Council to arrange her home care visits on her behalf and is not charged anything by the Council for doing so.**

**Under the proposed changes, Danuta will still be able to ask the Council to make the arrangements for her home care visits but she will be charged an administration fee of £100 to cover the costs of this.**

### **3) Housing Benefits Allowable Expenditure**

Currently, if the amount of housing benefit a person receives is reduced for under occupation of a property (commonly known as the 'bedroom tax') then any financial assessment undertaken will allow for this as allowable expenditure when calculating the amount they pay towards their non-residential care.

#### **Proposed Change**

The Council is proposing that any rent payable net of housing benefit can be expenditure allowed in a financial assessment as long as the person who is in receipt of non-residential care services has his or her name on the tenancy agreement for the property and they are deemed eligible under the housing benefit rules. However, if the amount of housing benefit a person in receipt of social care services receives is reduced for under- occupation/Local Housing Allowance (bedroom tax) then the difference that an individual is required to pay will not be allowed as part of their financial assessment.

#### **Who will be affected?**

Any person who is assessed as requiring a non-residential service who is receiving an allowable expenditure in their financial assessment for rent net of housing benefit, if the housing benefit is reduced for under occupation/local housing allowance.

**Ida is a Council tenant who pays £100 per week in rent. £80 of this rent is paid for by Housing Benefit. Ida regularly attends day services. Ida had a financial assessment and, after her expenses and allowances are taken into account, Ida has been assessed as having £26.38 left over each week to contribute towards the costs of her care and support (which includes attending day services).**

**Ida previously has her housing benefit reduced by £10.18 a week due to under occupation of the property (“the bedroom tax”). This is because she currently lives in a 3 bedroom house when she could live in a two-bedroom house. Under the Council’s current policy, the difference between the amount Ida pays in rent (£100 per week) and the amount of housing benefit (£380 she receives is allowable expenditure in her financial assessment (i.e. £200 is allowed).**

**If the proposed changes are agreed, the under occupation charge of £10.18 will no longer be allowed in Ida’s financial assessment and so she will have to pay this towards her weekly care and support costs, making her total weekly contribution £36.56.**

#### **4) Charging for Carers Services**

Carers Service is a service that is provided directly to a carer to support them in their caring role. Currently the Council does not financially assess anyone in receipt of carers services.

#### **Proposed Changes**

The Council is proposing that where a person is assessed as being in the need of non-residential care for carers services they will be financially assessed to contribute towards and charged for this service.

#### **Who will be affected?**

Any person who has been assessed as requiring carer’s services (or any person in the future who is assessed as requiring a carer’s services) will be financially assessed to decide if they will financially contribute toward the service.

**Sue is an adult carer receiving carers’ services. Sue has a part time job and provides 35 hours of care a week for her disabled sister, Jenny.**

**The Council does not currently charge for carers’ services and therefore Susan does not have to pay a weekly fee for her services.**

**Under the proposed changes, Sue will have a financial assessment and if she is assessed as having enough income (not including her wages) or capital to pay a maximum weekly contribution, she will be charged each week for her carers’ services. How much she is charged will depend on the outcome of her financial assessment.**

#### **5) Charging for Adaptations and Equipment**

Currently a person does not have to financially contribute towards the cost of adaptations and equipment costing over £1,000, for example a stair lift.

### **Proposed Changes**

The Council is proposing that where a person is assessed as requiring Adaptations and Equipment costing over £1,000 per item, these items will be included in their financial assessment.

### **Who will be affected?**

Any person who receives adaptations and equipment, costing over £1,000 per item.

**John has been assessed as needing £2,000 worth of equipment with a lifespan of 10 years. John has had a financial assessment and, after allowing for all of his expenses and allowances, John has been assessed as having £79.15 left over each week. Under the current charging policy, we would not ask John to pay towards the cost of his equipment and therefore he would not be charged anything to have these done. If the proposed changes are agreed, John would be charged £3.84 a week for ten years, the estimated lifespan of the equipment. This is because John's maximum weekly contribution of £79.14 is higher than the weekly cost of the adaptation and therefore he would be assessed as being able to afford the full cost of the equipment over its lifespan.**

### **6) Disability Living Allowance/ Personal Independence Payment**

Currently, any person in receipt of the higher rate disability living allowance care component (DLA) who does not receive night time support arranged by the Council receives has this part of their income ignored as part of their financial assessment, which can be up to £27.20 per week. For any person who receives Personal Independence Payments (PIP), without transferring from DLA, will not be able to have this amount allowable expenditure as part of the financial assessment because PIP does not recognise the difference between day time and night time needs.

### **Proposed Changes**

The Council is proposing that any person currently receiving non-residential care and who transfers from higher rate Disability Living Allowance care component to Personal Independence Payment (PIP) enhanced daily living component and who do not have night time care arranged by the Council, will no longer receive the allowable expenditure currently of £27.20. This is because PIP does not recognise the difference between day time and night time needs. This means that a person's financial contribution to the Council may increase by up to £27.20 per week once transferred to PIP. However, any night-time support a person is paying for privately will be deducted as part of the Disability Related Expenditure assessment.

### **Who will be affected?**

Any person who is assessed as requiring a non-residential service in receipt of the higher rate disability living allowance care component and do not have night time care arranged by the Council.



**Sarah lives at home with her parents. She gets a direct payment and also attends day services.**

**Sarah receives the higher rate DLA Care Component which recognises her need for night time support. Because the Council do not provide this support, in Sarah's financial assessment this extra income of £27.20 is allowable expenditure and, after allowing for Sarah's expenses and allowances, she is assessed as having £19.21 left over each week which she pays towards her care and support costs.**

**If the proposed changes are agreed, when Sarah transfers from DLA to PIP she will no longer be entitled to the £27.30 allowable expenditure. This means that this will be added to her weekly maximum contribution and Sarah will be charged £46.21 per week for her care and support.**

## **7) People living in Extra Care in receipt of higher rate Disability Living Allowance**

Extra Care Housing is provided for people who do not need or want to move in to long term care, with suitable housing and support from a trained care team, These schemes provide self-contained flats for people to rent, which provides Assistance with personal care, meal preparation, 24 hour emergency assistance and social activities.

Currently, any person living in an extra care scheme has an emergency overnight call facility. Any person living in the extra care schemes who are in receipt of the higher rate attendance allowance/ disability living allowance care component who do not receive night time support arranged by the Council, receive allowable expenditure as part of their financial assessment, which can be up to £27.20 per week.

### **Proposed Changes**

The Council is proposing that any person, in receipt of the higher rate Attendance Allowance/ Disability Living Allowance care component will no longer have this part of their income ignored which is currently £27.20 when they are financially assessed by the Council.

This means that a person's contribution to the Council may increase by up to £27.20 per week. However, any night-time support a person is paying for privately will be deducted as part of the Disability Related Expenditure assessment.

### **Who will be affected?**

Any person who is assessed as requiring a non-residential service in receipt of the higher rate attendance allowance/disability living allowance care component and do not have night time care arranged by the Council living in an extra care setting.

**Joan lives in extra care and receives a commissioned package of home care. Joan receives the higher rate Attendance Allowance which recognises her need for night time support. Because the Council do not provide this support, in Joan's financial assessment this extra income of £27.20 is allowable expenditure and, after allowing for Joan's expenses and allowances, she is assessed as having £85.15 left over each week which she pays towards her care and support costs.**

**If the proposed changes are agreed, because the Council's extra care schemes have an emergency overnight call facility, under the new policy Joan will no longer be entitled to the allowable expenditure. Joan will therefore be charged an additional £27.20 each week for her care and support, a total of £112.35.**

### **Residential Policy**

The Residential policy is used to financially assess a person's ability to contribute towards their care and support needs in a residential/nursing care home.

This new policy incorporates the provisions, as set out in the previous Charging for Residential Accommodation Guidance (CRAG), which Darlington Borough Council have followed when charging for Residential Accommodation. There are no fundamental changes to how the Council will now charge for Residential Accommodation.

### **Deferred Payment Policy**

The deferred payment scheme ensures that if a person is assessed as requiring residential care, extra care or supported living they will not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into care.

A deferred payment agreement can provide additional flexibility for when and how an individual pays for their care and support. The payment for care and support is deferred and not 'written off' – the costs of provision of care and support will have to be repaid by the person (or a third party on their behalf) at a later date.

### **Current Process**

The Council currently offers deferred payments to people in residential/nursing homes, although we charge a fee for setting up the land registry charge we do not charge interest or any other administration fee. The Council does not currently offer deferred payments to people in Extra Care and Supporting Living schemes.

### **Proposed Process**

The Council is proposing to recover the administrative costs associated with deferring fees, including legal and ongoing running costs, via interest and administration charges to the individual. Administration charges and interest will be added to the total amount deferred as they are accrued, although a person can request to pay these separately

- The level of administrative charges will not exceed the actual costs incurred by the Council when providing the Universal Deferred Payment Scheme, as set out in regulations. Relevant costs may include (but are not limited to) the costs incurred by the Council whilst:
  - registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required;
  - undertaking relevant postage, printing and telecommunications;
  - costs of time spent by those providing the service;
  - cost of Independent valuation and re-valuation of the property;
  - costs for removal of charges against property;
  - overheads, including where appropriate (shares of) payroll, audit, management costs, and legal service.

The proposed administrative charge for this service is £500.

- The Council is proposing to charge interest on any amount deferred, including any administration charge deferred, in line with the national maximum interest rate which will change every six months, on 1st January and 1st June. This is to cover the cost of lending and the risks to the Council associated with lending, for example the risk of default. The maximum interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report
- When an individual is approaching or reaches the point at which they have deferred 70% of the value of their chosen security, the Council is proposing to review the cost of the care with the individual, discuss when the person might be eligible for any means tested support, discuss the implications for any top-up they might currently have, and consider jointly whether a deferred payment agreement continues to be the best way for a person to meet these costs

### **Who will be affected?**

Any person who is assessed as requiring residential service, extra care or supported living, who own a property and who does not want to sell their home straight away.

### **Different groups of people may be affected by these changes differently.**

We would like your views on these proposals as a service user, carer or representative,

We would also like your views on what impact these policies may have on you.

You can provide feedback in different ways:

- 1) Complete on line questionnaire:  
[https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe\\_2BPaguORV6KGa\\_2F9FzA5u\\_2BBSCtf88ahFFgpOoxyjhMZR9h7junhKjgLvkCGDOL5dxZxnpI9xt\\_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn](https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe_2BPaguORV6KGa_2F9FzA5u_2BBSCtf88ahFFgpOoxyjhMZR9h7junhKjgLvkCGDOL5dxZxnpI9xt_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn)
- 2) Complete paper questionnaire and return to: Steven Blows, Central House, Gladstone Street, Darlington, DL3 6JX.
- 3) Alternatively consultation events are to be held on the following dates:
  - a. 10<sup>th</sup> August 2016 from 14:00 to 17:00 at the Dolphin Centre

- b. 17<sup>th</sup> August 2016 from 12:30 to 17:00 at the Dolphin Centre
- c. 24<sup>th</sup> August 2016 from 12:30 to 17:00 at the Dolphin Centre
- d. Specific events will also be held for residents living within Extra Care Housing.

4) Feedback via telephone to Steven Blows on 01325 406738.

### **Equality Impact Assessment**

The Council is committed to ensuring involvement of all the people and communities that use our services. We need to do this when we consult too, so we can be sure that the way we consult is fair, transparent and promotes equality of opportunity. You can help us to do this by answering the questions within the questionnaire. We won't share any of the information you give us and you don't have to answer the questions if you don't want to.

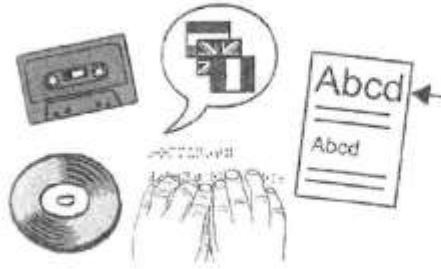
## Charging Policies (Residential and Non-Residential) and Deferred Payment Policy

Tell us how this would affect you?

Do you need this information in a different format?

If you need this paper in:

- Easy Read Version
- Braille
- Large print
- Audio
- Emailed
- Another language



Please contact:

People and Families Information Support  
2<sup>nd</sup> Floor  
Town Hall  
Darlington  
DL1 5QT

Telephone: 0800 9172121

E-mail: [PFIS@darlington.gov.uk](mailto:PFIS@darlington.gov.uk)

আপনি যদি এই পুস্তকের কপি ইংরেজি ছাড়া অন্য কোন ভাষার জন্য তাহলে সোশাল সার্ভিসেস বিভাগের সাথে 01325 346 200 নম্বরে যোগাযোগ করুন।

مگر آپ کو انگریزی کے علاوہ کسی دوسری زبان میں یہ معلومات درکار ہیں تو سوشل سروسز ڈیپارٹمنٹ میں اس ٹیلیفون نمبر 01325 346200 پر رابطہ قائم کیجئے۔

如您需要本出版物除英文以外的版本，请与社会服务部联系：01325 346200。

- Having read the briefing paper on The Charging Policies (Residential and Non-Residential) and Deferred Payment Policy, please complete the form below.

5

Date: 22/7/16  
Please ask for:  
Direct Line:  
E-mail address:  
Document Name:

**Dear Sir/Madam**

Consultation on proposals to change the charging policies for Adult Social Care services.

As you may be aware (either through previous correspondence, attendance at meetings or via the Council's website) the Council recently consulted with individuals of Darlington in respect of changes it proposes to make to the way it charges for Adult Social Care Services.

Following feedback received as part of that initial exercise, the Council has decided to re-open the consultation for a further 5 weeks starting on 25<sup>th</sup> July 2016 . The decision to re-open the consultation has been made to enable the Council to obtain more feedback from individuals receiving adult social care support and to further understand any impacts which may be experienced as part of the proposed changes.

Accompanying this letter is a briefing paper detailing the main proposed changes to the way we will charge for Adult Social Care services. It is proposed that the Council will have three separate 'charging policies' dealing with the following areas:

- Non-Residential Care (This affects anyone living in the community receiving Social Care Support from the Council)
- Residential Care (This affects anyone living in a care home receiving Social Care Support)
- Deferred Payment Arrangements (This affects individuals moving into residential care who own a property and will receive Social Care Support)

The full policies relating to the three areas mentioned above can be viewed on the Darlington website [www.darlington.gov.uk/consultations](http://www.darlington.gov.uk/consultations)

The Council is very keen to receive feedback relating to the proposed changes. You can provide feedback by:

- 5) Completing an on line questionnaire:  
[https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe\\_2BPaguORV6KGa\\_2F9FzA5u\\_2BBSctf88ahFFgpOoxyjhMZr9h7junhKjgLvkCGDOL5dxZxnpI9xt\\_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn](https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe_2BPaguORV6KGa_2F9FzA5u_2BBSctf88ahFFgpOoxyjhMZr9h7junhKjgLvkCGDOL5dxZxnpI9xt_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn)
- 6) Completing a paper questionnaire (Accompanied within this letter) and return to: Steven Blows, Central House, Gladstone Street, Darlington, DL3 6JX.
- 7) Attending a consultation event as detailed below:

**Wednesday 10 August 2016 from 14:00 – 16:30 in the Studio at the Dolphin Centre**

**Wednesday 17 August 2016 from 12:30 – 14:30 in the Studio at the Dolphin Centre**

**Wednesday 24 August 2016 from 14:30 – 16:30 in the Studio at the Dolphin Centre**

The events will focus on providing you with the opportunity to give feedback on the proposed changes and to identify any potential impacts which may arise from them. Please feel free to attend any event.

If you are unable to attend an event, would prefer to give your views by telephone or have any queries in respect of the contents of this letter or the accompanying briefing paper please contact Steven Blows on 01325 406738 **by Wednesday 31 August 2016**.

Should you wish to receive direct information relating to the outcome of the Consultation please provide your contact details when returning any feedback.

If you have any other queries, please do not hesitate to contact the authority on 01325 406738.

Yours faithfully



Kevin Kelly  
Acting Assistant Director, Adult Social Care

Date: 22/7/16  
Please ask for:  
Direct Line:  
E-mail address:  
Document Name:

**Dear Sir/Madam**

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[https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe\\_2BPaguORV6KGa\\_2F9FzA5u\\_2BBSCtf88ahFFgpOoxyjhMZr9h7junhKjgLvkCGDOL5dxZxnp19xt\\_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn](https://www.surveymonkey.net/r/Preview/?sm=g3UQG3psdliANbiXjPxOfe_2BPaguORV6KGa_2F9FzA5u_2BBSCtf88ahFFgpOoxyjhMZr9h7junhKjgLvkCGDOL5dxZxnp19xt_2BIHmpFXciCXMk31EHbdcpy9tAb1cAtnFaMn)
- Completing a paper questionnaire (Accompanied within this letter) and return to: Steven Blows, Central House, Gladstone Street, Darlington, DL3 6JX.
- Attending a consultation event as detailed below:

**Tuesday 9 August 2016 from 2:30 – 16:30 in Mayflower Court**

**Wednesday 10 August 2016 from 14:00 – 16:30 in the Studio at the Dolphin Centre**

**Monday 15 August 2016 from 9:00 – 10:30 in Rockcliffe Court**

**Monday 15 August 2016 from 11:00 – 13:00 in Rosemary Court**

**Wednesday 17 August 2016 from 12:30 – 14:30 in the Studio at the Dolphin Centre**

**Tuesday 23 August 2016 from 9:00 – 10:30 in Dalkeith**

**Tuesday 23 August 2016 from 11:00 – 12:30 in Oban Court**

**Wednesday 24 August 2016 from 14:30 – 16:30 in the Studio at the Dolphin Centre**

The events will focus on providing you with the opportunity to give feedback on the proposed changes and to identify any potential impacts which may arise from them. Please feel free to attend any event.

If you are unable to attend an event, would prefer to give your views by telephone or have any queries in respect of the contents of this letter or the accompanying briefing paper please contact Steven Blows on 01325 406738 **by Wednesday 31 August 2016.**

Should you wish to receive direct information relating to the outcome of the Consultation please provide your contact details when returning any feedback.

If you have any other queries, please do not hesitate to contact the authority on 01325 406738.

Yours faithfully



Kevin Kelly  
Acting Assistant Director, Adult Social Care

## Appendix B – Equality Impact Assessment



### Equality Impact Assessment Record Form 2012-16

This form is to be used for recording the Equality Impact Assessment (EIA) of Council activities. It should be used in conjunction with the guidance on carrying out EIA in **Annex 2** of the Equality Scheme. The activities that may be subject to EIA are set out in the guidance.

EIA is particularly important in supporting the Council to make fair decisions. The Public Sector Equality Duty requires the Council to have regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity and foster good relations.

Using this form will help Council officers to carry out EIA in an effective and transparent way and provide decision-makers with full information on the potential impact of their decisions. The purpose is to avoid inadvertent disadvantage or discrimination resulting from decisions.

EIA is not a fixed process – it will vary according to the scale and type of activity. The form and guidance are designed to cover all eventualities. Officers should not be discouraged by the form, but should use their discretion in using it flexibly according to the activity they are assessing.

EIA does not happen at a single point in time. It is an ongoing and integral part of the development of the activity or proposal. This EIA template should be kept open and live as a planning document, and updated as the activity or proposal progresses.

## Section 1 – Service Details and Summary of EIA Activity

<b>Title of activity:</b>	<b>IMPLEMENTATION OF NEW ADULT SOCIAL CARE CHARGING POLICIES comprising of :</b> Non-Residential Charging Policy Residential Policy Deferred Payments Policy
<b>Lead Officer responsible for this EIA:</b>	Philip Haselhurst and Heather McQuade
<b>Telephone:</b>	01325 406737 and 01325 405407
<b>Service Group:</b>	People
<b>Service or Team:</b>	People
<b>Assistant Director accountable for this EIA</b>	Kevin Kelly
<b>Who else will be involved in carrying out the EIA:</b>	Philip Haselhurst, Heather McQuade, Lisa Holdsworth, Natasha Telfer, Andrew Wilson

### What stage has the EIA reached?

This table provides a ‘cover note’ of progress to be maintained as the EIA is developed over time. Stage categories 1-3 listed below refer to the funnel model. Note the stage reached and any consultation or engagement carried out. Simple activities may not need all these stages. Provide details of population/individuals affected in Section 2

Stage	Date	Summary of position
<b>Stage 1: Initial Officer Assessment. Whole Population likely to be affected identified</b>	17/12/15	Whole population – any adult with social care need can access services and potentially any adult in the future who has a social care need
<b>Stage 2: Further Assessment. Target Population likely to be affected identified</b>	9/2/16	All current adult social care service users and carers.
<b>Stage 3: Further Assessment. Individuals likely to be affected identified</b>	2/3/16	There are 283 individuals currently receiving adult social care support and carers who have been identified as being directly impacted on

<b>Stage 4: Analysis of Findings</b>	6/5/16	<p>The outcomes of the equality impact assessment have been logged and these are attached for information and give evidence of impact on individuals. Key impacts raised were:</p> <p>Loss of income meaning that individuals and their families are more likely to be:</p> <ul style="list-style-type: none"> <li>• Socially isolated which impacts adversely on individual mental health and well-being and also the opportunity for respite for carers. This could also impact on carers' health and wellbeing and could lead to breakdown in individuals' care and support.</li> <li>• Less able to afford basic necessities, such as utilities, rent, food etc.</li> <li>• Less able to afford goods and services that contribute to their quality of life, such as holidays, clothing and trips.</li> </ul> <p>Some individuals stated that they may not use services if the costs increased any more as they were struggling to pay now.</p>
<b>Stage 5: Sign-Off</b>		
<b>Stage 6: Reporting and Action Planning</b>		

## Section 2 – The Activity and Supporting Information

### Details of the activity (including the main purpose and aims)

The Care Act 2014 (which was introduced in April 2015) set out new charging guidelines for adult social care services and required local authorities to have different charging policies depending on whether someone is receiving care in a care home, their own home or another setting. Due to this requirement to review our policies for charging individuals for adult social care services the Council has developed three separate policies to be consulted on with service users and residents of Darlington. These three policies are: 1) Non-residential Charging Policy, 2) Residential Charging Policy and 3) a Deferred Payment Policy.

The policies set out the Council's approach to charging for community and residential social care services. They are aligned to the Care Act 2014 (the Act) and replace the previous Fairer Contribution Policy and Charging for Residential Accommodation Guide (CRAG). The Council will subscribe to the Act Principles and will adopt a series of complementary principles to guide the process of charging for care and support services. The objective of the policies is to provide a framework for applying charges and fees under the Act and thereby ensuring a fair and consistent application of charges and fees.

Sections 14 and 17 of the Act and the supporting Statutory Guidance provide a single legal framework for charging for adult social care and support. The Act states that local authorities have the discretion to choose whether or not to charge under section 14 following a person's or carer's needs assessment. A local authority may charge the adult except where it is required to arrange care and support free of charge. Where a local authority decides to charge, it must follow the Care and Support (Charging and Assessment of Resources) regulations and have regard to the guidance. A local authority may only charge up to the costs they incur when contracting for care.

Further, the Act (sections 34 and 35) requires local authorities to offer deferred payment agreements to allow persons to defer the sale of their home where it is needed to fund care fees. The Care and Support (Deferred Payment) Regulations 2014 set out the legal framework and local authorities' responsibilities in greater detail.

Local authorities have a duty to arrange care and support for those with eligible needs, and a power to meet non-eligible needs.

The Act states that the local authority's approach to charging for care and support needs should:

- ensure that people are not charged more than it is reasonably practicable for them to pay;
- be comprehensive, to reduce variation in the way people are assessed and charged;
- be clear and transparent, so people know what they will be charged;
- promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
- support carers to look after their own health and wellbeing and to care effectively and safely;
- be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
- apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
- encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so; and
- be sustainable for local authorities in the long-term.

Details of the three proposed policies are set out below:

## **Non-Residential Policy**

The non-residential policy is used to financially assess someone's ability to contribute towards any care and support services that are provided to them by Darlington Borough Council; this covers personal care, domestic care, sitting services, direct payments, day care etc. Under the Council's current policy a person only starts to financially contribute towards their non-residential care once the Council has undertaken a financial assessment.

The proposed changes to the non-residential charging policy are:

- Where an assessed social care need has been identified services will start regardless of whether a financial assessment has been completed and, once an assessment has taken place, any assessed charges will be backdated to the start of the service.
- To charge an administration fee to cover the costs of arranging care and support needs for people with capital in excess of the upper capital limit (Currently £23,250) or those who have chosen not to disclose their financial information. The proposed administration charge is £100.
- That rent payable net of housing benefit can be disregarded as long as the individual's name is on the tenancy and they are deemed eligible under the housing benefit rules. However, if housing benefit is reduced for under occupation then the difference that an individual is required to pay will not be disregarded.
- Charging for carers' services. The new proposed charging policy includes charging for services provided directly to carers by adult social care (carers' services). The Care Act is clear in indicating that this is an option Councils have however, it does state this is the Council's choice.
- To charge for individual adaptations to properties and equipment costing over £1,000 such as specialist shower chairs, shower trolleys/change tables, stand aids and mobile hoists
- To allow individuals moving from their main residency that they own, into supported living or extra care housing to enter into a deferred payment agreement, subject to eligibility.
- Any individuals currently receiving chargeable adult social care services and transferring from the higher rate Disability Living Allowance care component to Personal Independence Payment (PIP) enhanced daily living component and who do not have night-time care arranged by the Council, will no longer receive the disregard currently of £27.20. This is because PIP does not recognise the difference between day time and night time needs. This means that an individual's contribution to the Council may increase by up to £27.20 per week once transferred to PIP. However, any night-time support an individual is paying for privately will be deducted as part of the Disability-Related Expenditure assessment.
- Individuals living in an extra care scheme have an emergency overnight call facility, if these individuals are in receipt of the higher rate Disability Living Allowance/Attendance Allowance care component it is proposed that the full benefit will be treated as income. This means that an individual's contribution to the Council may increase by up to £27.20 per week however, any night-time support an individual is paying for privately will be deducted as part of the Disability-Related Expenditure assessment.

## **Residential Policy**

Residential care provides personal care, meals and accommodation for people who can no longer manage to live independently with help and support in their own home. This care is provided in a 24hr residential or nursing accommodation.

Darlington Borough Council has designed a charging policy for residential services to comply with Care Act 2014 regulations. There are no changes to this policy from the previous Charging for Residential Accommodation Guidance.

## **Deferred Payment Policy**

The Act established a requirement for a Deferred Payment Scheme. The establishment of the Deferred Payment Policy will mean that people should not be forced to sell their home in their lifetime to pay for their care. By entering into a Deferred Payment Agreement (DPA), a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging or even a crisis point in their life as they make the transition into residential or nursing home care.

The new policy proposes that:

- The Council will recover the administrative costs associated with deferring fees, including legal and ongoing running costs, via interest and administration charges to the individual. Administration charges and interest will be added to the total amount deferred as they are accrued, although an individual can request to pay these separately. The proposed administration charge is £500.
- The level of administrative charges will not exceed the actual costs incurred by the Council when providing the Universal Deferred Payment Scheme, as set out in regulations. Relevant costs may include (but are not limited to) the costs incurred by the Council whilst:
  - o registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required;
  - o undertaking relevant postage, printing and telecommunications;
  - o costs of time spent by those providing the service;
  - o cost of Independent valuation and re-valuation of the property;
  - o costs for removal of charges against property;
  - o overheads, including where appropriate (shares of) payroll, audit, management costs, and legal service.
- The Council will charge interest on any amount deferred, including any administration charge deferred, in line with the national maximum interest rate which will change every six months, on 1st January and 1st June. This is to cover the cost of lending and the risks to the Council associated with lending, for example the risk of default. The maximum interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report
- When an individual is approaching or reaches the point at which they have deferred 70% of the

value of their chosen security, the Council will review the cost of the care with the individual, discuss when the person might be eligible for any means tested support, discuss the implications for any top-up they might currently have, and consider jointly whether a deferred payment agreement continues to be the best way for the individual to meet these costs.

### **Who will be affected by the activity?**

**See the guidance on carrying out equality impact assessment within the Equality Scheme 2012-16. Provide details of the groups and numbers of people affected below, updating the table as the EIA develops and the understanding of who will be affected emerges in more detail.**

### **Whole population**

Potentially this proposal could impact on every resident in Darlington at some point as it applies to individuals who will receive eligible services from social care or who care for someone during the period that this policy is in place.

### **Target population**

Any adult requiring social care within Darlington may potentially be impacted, together with their families and carers, either now or in the future. There is also the potential for any carer with eligible needs for a carers' service to be affected and for carers to be impacted in the future if they do not receive any support now

An initial consultation target identified 283 individuals known to adult social care who would be immediately impacted by the implementation of the proposals.

During the second round of consultation, information including a briefing paper was sent to 1,300 individuals known to adult social care. A questionnaire was also sent to enable feedback, including a paid stamped addressed envelope.

### **Individuals**

283 individuals have been identified as likely to be immediately impacted by the implementation of the new charging policies

What data, research and other evidence or information is available which is relevant to the EIA?

### **DOH Care Act Guidance 2014:**

**The Department of Health has produced an impact assessment on the Care Act regulations covering the provisions that give local authorities a duty to offer deferred payments incorporating an equality impact assessment.**

**The Department of Health equality impact assessment concluded that:**

- **Deferred payment agreements benefit people in residential care and their families. The population using care is almost exclusively disabled (physically or mentally) and is predominantly female and aged 75+**
- **Deferred payment agreements will predominantly benefit homeowners with low income and / or savings, who tend to belong to lower and middle socioeconomic groups.**
- **Deferred payment agreements will not differentiate on the basis of race, however ethnic minorities are less likely to use residential care and because of this may make fewer agreements.**
- **Deferred payments will not differentiate on the basis of faith, however charging of interest**



may pose a barrier to faith groups who have objections on religious grounds.

- There are no grounds for a differential impact on sexual orientation, marriage or civil partnership. Deferred payment agreements will not differentiate on this basis.

Specifically in relation to the proposal to charge carers for services they receive:

Research by Carers UK shows that carers save the economy £132 billion per year, an average of £19,336 per carer (Carers UK Facts and Figures 2015)

The Care Act 2014 Guidance states that -

‘Local authorities are not required to charge a carer for support and ... in many cases it would be false economy to do so. When deciding whether to charge, and in determining what an appropriate charge is, a local authority should consider how it wishes to express the way it values carers within its local community as partners in care, and recognise the significant contribution carers make. Carers help to maintain the health and wellbeing of the person they care for, support this person’s independence and enable them to stay in their own homes for longer. In many cases, carers voluntarily meet eligible needs that the local authority would otherwise be required to meet. Local authorities should consider carefully the likely impact of charges on carers, particularly in terms of their willingness and ability to continue their caring responsibilities.’

It also suggests that ‘it is unlikely to be efficient to systematically charge carers for meeting their eligible needs’.

**Check: before proceeding to the officer assessment, have you obtained all the data and information that is currently available?**

## Section 3: Officer Assessment

**Use this table to record your views on potential impact on Protected Characteristics. As the activity and the assessment develop your views may change – record them here. It is important to be searching and honest about this – many Council activities are planned to be of positive benefit to identified target groups but can often have the potential for inadvertent effects on other groups.**

Protected Characteristics	Potential Impact Positive/Negative/ Not Applicable			Potential level of impact				Summary of Impact
<b>Age</b>		N			M			<p>A third of non-residential adult social care (ASC) service users in Darlington are aged over 75, and over half are aged over 60. As these policy change will exclusively impact on ASC service users and carers, there is likely to be a disproportionate impact on older people.</p> <p>Of the 194 ASC service users identified as likely to be impacted, 20% are aged over 75, 43% are aged over 60, and 68% are aged over 45.</p> <p>Any person aged 18 or over is eligible to be considered to receive adult social care support.</p> <p>Whilst older people are more likely to be property owners and have been relatively well protected from welfare reforms to date, older people in rented accommodation are often more likely to be reliant upon state benefits that other groups (their pension) and less able to work to supplement their income, therefore any reduction in income will have a higher impact on average as they have less disposable income to begin with.</p>
<b>Race</b>		N				L		<p>Under 1.8% of ASC service users report being from a minority ethnic background, therefore there is no anticipated impact upon race as a protected characteristic group with regard for the new charging policies for ASC.</p>
<b>Sex</b>		N			H			<p>55% of Darlington non-residential ASC service users are female and 59% of the impacted group are female. Moreover, nationally 58% of carers are female.</p> <p>Women in general tend to have lower incomes, including pensions, and therefore any loss of income resulting from the non-residential charging policy proposals are likely to have a greater impact on females.</p>
<b>Gender</b>			N/A				nil	<p>There is no anticipated impact upon gender reassignment as a protected characteristic group</p>

<b>Reassignment</b>							with regard to the new charging policies for ASC.
<b>Disability (summary of detail on next page)</b>		N		H			<p>All of the proposals will impact on individuals with an identified social care need, including carers. The nature of this client group means that the vast majority of those impacted will have a disability, and the remainder will care for someone with a disability, therefore there will be a disproportionate impact on this group.</p> <p>The proposals contained within the non-residential charging policy, with the exception of offering deferred payments to extra care and sheltered housing tenants, all have the potential to reduce affected individuals' disposable income, either by increasing the amount they are required to contribute towards their care and support (via the removal of disregards) or by imposing a new charge for services that were previously free (including carers' services and arrangement of services for full-fee payers).</p> <p>People with long-term or lifelong disabilities are more likely to be on a low income and reliant on welfare, therefore any reduction in income is likely to, in general, have a higher impact than it would for people without disabilities because they have less disposable income to start with.</p> <p>Many service users have physical or mental health issues. The proposals for the non-residential charging policy, to remove disregards for the higher rate DLA/AA care component and the under occupation charge and to charge for aids and adaptations costing over £1,000, will reduce the disposable income of individuals. This could mean non-residential service users are less able to go out or participate in social activities which will risk either them not accessing support that they need or becoming more isolated. The reduction in income from the same proposals may also put extra strain on carers as affected individuals may also be unable to pay for opportunities for short term respite which could impact on the health and wellbeing of both service users and carers, and carers therefore may also become more isolated and depressed as a result.</p> <p>The proposal relating to under occupying tenants may have a disproportionate impact on disabled people, as they may have greater need of a spare room due to the nature of their disability e.g. to store equipment or have family/carers to stay. Moreover, moving to a smaller property may prove more difficult for individuals with disabilities, both physically and mentally, and also because they may risk losing their local care network.</p>

								Furthermore, the Council has been instructed by central government to prioritise individuals “ <i>whose homes have had significant disability adaptations and those adults with long-term medical conditions or disabilities that create difficulties in sharing a bedroom</i> ”, when distributing Discretionary Housing Payments which are intended to alleviate the impacts of welfare reforms on households.
<b>Religion or belief</b>			N/A				nil	<p>There is no breakdown of ASC service users by religion, however it is not anticipated that this protected characteristic group are likely to be disproportionately impacted upon by these proposals.</p> <p>However, under Sharia Law, those following the Islamic faith cannot enter into loans which accrue interest. The proposal to charge interest on deferred payment agreements may therefore limit the ability for this group to take up this option and, although the numbers likely to be affected are minimal, the level of impact on those affected could be significant without mitigation.</p>
<b>Sexual Orientation</b>			N/A				nil	There is no anticipated impact upon sexual orientation as a protected characteristic group with regard to the new charging policies for ASC.
<b>Pregnancy or maternity</b>			N/A				nil	There is no anticipated impact upon pregnancy or maternity as a protected characteristic group with regard to the new charging policies for ASC.
<b>Marriage/ Civil Partnership</b>			N/A				nil	There is no anticipated impact upon marriage or civil partnership as a protected characteristic group with regard to the new charging policies for ASC.

### Section 3: Officer Assessment – continued

**The Council must have due regard to disabled people’s impairments when making decisions about ‘activities’. This list is provided only as a starting point to assist officers with the assessment process. It is important to remember that people with similar impairments may in reality experience completely different impacts. Consider the potential impacts and summarise in the Disability section on the previous page. Officers should consider how the ‘activity’ may affect a disabled person.**

<p><b>Mobility Impairment</b></p>		<p>N</p>		<p>H</p>			<p>Residents with a physical disability often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council</li> <li>5. Remove the disregard for the higher rate of DLA care component from those individuals in an extra care setting.</li> </ol> <p>The proposal to charge for equipment and adaptations costing over £1,000 relates directly to individuals with a mobility impairment and therefore the likelihood of impact on this group will be even higher for this specific change.</p>
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<p><b>Visual impairment</b></p>		<p>N</p>		<p>M</p>			<p>Residents with a visual impairment often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council</li> <li>5. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.</li> </ol>
<p><b>Hearing impairment</b></p>		<p>N</p>		<p>H</p>			<p>Residents with a hearing impairment often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council. Remove the disregard for the higher rate of DLA care component/AA from those</li> </ol>

								individuals in an extra care setting.
<b>Learning Disability</b>		N		H				<p>Residents with a learning impairment often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. 4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.</li> </ol>
<b>Mental Health</b>		N		H				<p>Individuals with mental health issues are five times more likely to be in crisis debt than those without. Their condition may also mean they are less able to work to supplement their income. Any reduction in income resulting from the proposed changes to non-residential charging policy may therefore have a more significant negative impact on individuals with mental health conditions and may exacerbate their condition. The relevant proposals are:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have</li> </ol>

								night-time care provided by the Council. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.
<b>Long Term Limiting Illness</b>		N		H				<p>Residents with a long-term limiting illness often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.</li> </ol>
<b>Multiple Impairments</b>		N		H				<p>Residents with multiple impairments often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have</li> </ol>



								night-time care provided by the Council. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.
<b>Other – Specify</b>								<p>Residents with any kind of disability often have higher living costs – related to their condition – than those without and are less able to work to supplement their income therefore the impact will likely be higher of increased charges from the proposed changes to the non-residential policy, specifically to:</p> <ol style="list-style-type: none"> <li>1. Backdate charges to start of service</li> <li>2. Charges for individual pieces of equipment and adaptations costing over £1,000</li> <li>3. Remove the disregard for under occupation charges in financial assessments</li> <li>4. Remove the disregard for individuals transferring from the higher rate of DLA care component to PIP enhanced living component from those individuals who do not have night-time care provided by the Council</li> <li>5. Remove the disregard for the higher rate of DLA care component/AA from those individuals in an extra care setting.</li> </ol>

<b>Cumulative Impacts</b>	
<p><b>The officer responsible for this EIA should seek input from the Corporate Equalities Group on the potential for this activity to combine with other recent, current or proposed activities, both Council and in the external environment, to result in more severe impacts on people with Protected Characteristics through their cumulative effects. The Corporate Equalities Group will advise on the content for this section of the EIA.</b></p>	
<b>Change activities</b>	<p><b>Potential cumulative impacts</b></p> <p>A number of potential cumulative impacts have been identified from the recent MTFP proposals agreed in July 2016. The most directly relevant ones are included in the below table but the MTFP cumulative impacts report has been appended to the Cabinet report, this provides a comprehensive overview of all cumulative proposals by protected</p>

	characteristic group
Non-Residential Policy	<p>We have identified one individual who will face cumulative impacts should all the proposed changes to the non-residential policy be agreed. This individual will be impacted by the removal of disregards for:</p> <ul style="list-style-type: none"> <li>• the night-time care premium when transferring from higher-rate DLA to PIP;</li> <li>• the under occupancy charge for housing benefits.</li> </ul>
Changes to Concessionary fares and Changes to Blue Badge Parking as part of the MTFP	<p>As part of the recent MTFP, it was proposed to remove the discretionary elements of concessionary fares, including companion passes. It was also proposed to introduce charging in off-street car parks for blue-badge holders. These proposals are currently set to be agreed pending consultation, and therefore may well also impact upon adults affected by the charging policy proposals. The cumulative impact of these could mean some individuals face a reduction in income and funding available for use of transport or parking and so, for example, are not able to access key hospital appointments. The cumulative impacts of these proposals could result in social isolation, limited access to the community and peer support which in turn would have a negative impact upon self-esteem, mood, mental health and well-being.</p>
Changes to the Social Fund Budget (funding cuts to social fund including crisis and community support).	<p>As part of the recent MTFP, the amount of funding allocated for the Social Fund was reduced by over a half. This change may have a negative impact on disabled adults and carers affected by the charging policy changes as the amount of financial support available, particularly for community care goods, will be lower regardless of whether demand increases as a result.</p>
Cease funding to DAD Information Post.	<p>As part of the MTFP, funding for an information coordinator provided through DAD was cut. This may impact on individuals affected by the proposed changes to ASC charging policies as they will potentially be less able to access good quality information and advice to support them with these changes. Without this the impact upon the service user and/or carer's health and well-being could be significant and increase their needs later on. Maximising independence is vital and information and advice and preventative services are extremely important in being able to achieve this. If a service user and/or carer is unable to access the information and advice they need there may be significant detrimental impacts upon their mental health and well-being.</p>
Severe Disability Premium	<p>A decision was made in 2012 by the Council to take 100% of the severe disability premium into account in a financial assessment. There are 37 individuals who were impacted by this policy change and who may be affected by the proposed changes to the non-residential charging policy. These individuals were written to as part of the initial consultation held in March 2016 and April 2016, to notify them of the proposals and request their feedback.</p>

## Section 4: Engagement Decision

**The decision about who to engage with, and how and when to engage, is the key to effective EIA. Please see Annex 2 of the Equality Scheme for guidance on the engagement decision.**

<b>Is engagement with affected people with Protected Characteristics required, now or during the further development of the activity?</b>	<b>Yes</b>
<b>If YES, proceed to the next section. If NO, briefly summarise below the reasons why you have reached this conclusion.</b>	

**If you have come to the conclusion that engagement is not required, seek ratification from the Corporate Equalities Group through your service Equalities Co-ordinator.**

**If engagement is not required but the officer assessment has identified changes that should be made to the activity, please complete Sections 7 and 8. If not the assessment can be signed-off at Section 9.**

**Any reports to decision-makers during the development of the activity, for example feasibility or options appraisal reports, should include content on the latest thinking and findings of the EIA even though, like the activity, further development of the EIA may be required before final reporting.**

**The findings of the officer assessment should be included in any reports to decision-makers. These may be feasibility or options appraisal reports where the activity is at an early stage of development, but it is essential that any equality findings are taken into account in formal decisions at all stages of development of the activity.**

## Section 5 – Involvement and Engagement Planning

Has the assessment shown that the activity will treat any groups of people with Protected Characteristics differently from other people?
<p>If yes, please state which groups and how</p> <p><b>The impact of the changes contained within these proposals are likely to impact on people with a disability, either physical or mental or a learning disability, as they are the most likely to be receiving adult social care services. They are also, in general, more likely to be on low incomes and have higher costs of living than individuals without a disability and so the level of impact is higher.</b></p> <p><b>Women and older people were also identified as being more likely to be adversely affected, and women and certain groups of older people are also more likely to be on low incomes, relative to the general population. .</b></p>
Will the differential treatment advance equality for people with Protected Characteristics? No
<p>If yes, please state which groups and how</p>
Will the differential treatment cause or increase disadvantage for people with Protected Characteristics? n/a
<p>Older People: A third of ASC non-residential adult social care service users in Darlington are aged over 75, and over half are aged over 60, illustrating that older people are more likely to be accessing social care services. The impact will be a reduction in finances available for social activity or for other day to day expenses.</p> <p>Physical and Mental Disability: The impact will be a reduction in finances available for social activity or for other day to day expenses. This could potentially lead to increased isolation and depression. In addition if carers become more tired this could again increase frustration and affect mental health of both service user and carer.</p> <p>Learning Disability: The impact on these service users will be similar for individuals with other disabilities. However the loss of day to day funding could mean they need to change the activities that they participate in. This could also impact on them because they tend to like routine and find change upsetting. If carers decide not to continue to provide care it could be that new carers have to be found and continuity is lost.</p> <p>Women: Women are more likely to be accessing social care services and be affected by the proposed changes to charging policies. They are also more likely to be carers. The impact will be a reduction in finances available for social expenses or for other day to day expenses. This could potentially lead to increased isolation and depression.</p> <p>Religion or Belief: Under Sharia Law, Muslims cannot enter into loans which accrue interest. The proposal to charge interest on deferred payment agreements may therefore limit the ability for this group to take up this option and the level of impact on those affected could be significant without mitigation. However as part of the consultation none of those who responded identified themselves as following the Islamic faith.</p>

**From the above, prepare a simple plan using the template overleaf for involving and engaging with the organisations, groups and individuals likely to be affected by the activity.**

**There may be several stages of involvement and engagement, particularly for more complex activities. Initially it may be possible to identify and engage only with stakeholder and representative organisations for the people with Protected Characteristics who may be affected. Further development of the activity may be required before the individuals who will be affected can be identified.**

**The Involvement and Engagement Plan should evolve accordingly, with new engagement proposals added as they are identified.**

Involvement and Engagement Plan

**Which organisations, groups and individuals do you need to involve or engage and how?**

<b>Date of plan entry</b>	<b>Organisation, Group or Individuals</b>	<b>Date of event or activity</b>	<b>Type of activity – venue, channels, method and staffing</b>
February 2016	Individuals	25/02/16	Letters sent to all 283 individuals who have been identified as being immediately affected should the proposed policies be implemented.
March 2016	DAD and Healthwatch	08/03/16	Emails sent advising of the proposals made
	Carers' Strategy Steering Group (CSSG) members	08/03/16	Email sent advising of the proposals made. These were discussed as an agenda item at CSSG on 12 <sup>th</sup> April and written feedback taken
	All residents		Information added to website, including policies, consultation event details and contact information
	Individuals	08/03/16	Consultation Event
	Individuals	10/03/16	Consultation Event
	Individuals	14/03/16	Consultation Event
	Young Carers' Strategic Partnership (YCSP)	14/03/16	Discussion took place at the YCSP meeting
	Members of the Life Stages Carers Network (LSCN)	07/03/16	Discussion took place at the LCSN meeting and written feedback was taken.
	DAD, Healthwatch, Alzheimer's Society, Age UK Darlington, Darlington Mind, CAB, GOLD, CSSG members	15/03/16	Emails sent with amended information

	Talking Newspaper	15/03/16	Email sent advising them of the proposals and asking to include in the Talking Newspaper
	People's Parliament	16/03/16	Email sent
	DAD	14/03/16	Email sent with amended information
	Individuals	23/03/16	Consultation Event
	Members of DAWN	06/04/16	Discussion took place at the DAWN meeting and written feedback was taken
	DAD Carers Drop-In	06/04/16	Discussion took place at the LCSN meeting and written feedback was taken
	Individuals	19/04/16	Consultation Event
	Individuals	22/04/16	Consultation Event
	Individuals	07/04/16	Extra Care consultation event
	Individuals	15/04/16	Extra Care consultation event
	Individuals	18/04/16	Extra Care consultation event
	Individuals	27/04/16	Extra Care consultation event
July 2016	Residents, Service Users and Carers	5/07/2016	<p>Decision made to reopen consultation and engagement plan developed and agreed for implementation (see in EIA file) which highlighted the different types of engagement required and leads.</p> <p><b>TARGET AUDIENCE</b> (In order of priority)</p> <ul style="list-style-type: none"> <li>• Wider public who may be impacted in the future</li> <li>• Informal carers</li> <li>• Those in residential care</li> <li>• Transitions and Life Stages</li> <li>• Young carers</li> <li>• Those who have not had a financial assessment recently</li> </ul> <p><b>ENGAGEMENT TOOLS/ TACTICS</b></p> <ul style="list-style-type: none"> <li>• Easy Read and briefing for circulation with case studies to audiences who have capacity to understand these</li> </ul>

			<p>and to wider public i.e. carers, patient groups, supporting organisations and professionals</p> <ul style="list-style-type: none"> <li>• Further session to capture wider public views in Dolphin Centre publicised via flyer</li> <li>• Engagement with residential homes to ask them to ensure residents are aware of the changes and potential impact</li> <li>• Use existing forum including VCS Strategic Implementation Group (SIG)</li> <li>• Case studies with specific financial detail in that shows a spectrum of potential impacts</li> <li>• Survey Monkey to capture the views of the wider public</li> </ul>
	All residents	25/07/16	Information posted on website, including briefing paper, policies, link to online questionnaire, details of consultation events and contact details.
	ASC service users	25/07/16	Letters sent to all 1300 individuals currently accessing adult social care services, advising them that the consultation had been reopened and seeking responses
	Carers' Strategy Steering Group (CSSG) members	26/07/16	Email sent advising them that the consultation had been reopened. This will be an agenda item at the next CSSG meeting on 16 <sup>th</sup> August 2016
	Healthwatch	26/07/16	Email sent asking that the Healthwatch Networks be notified that the consultation had been reopened. Information will also be included in the e-bulletin.
	DISC Young Carers Service	26/07/16	Email sent to ask DISC to ensure that Young Carers were aware of the proposals and were able to comment on them/identify any impacts for themselves/the person they care for
	Talking Newspaper	26/07/16	Email sent advising them that the consultation had been re-opened and asking that the information be included in the



			Talking Newspaper
	CCG and individual patient groups at a surgery level and also Community Council	27/07/2016	GP surgeries and the CCG asked to display poster and policies circulated together with briefing paper. CCG also requested to put the consultation briefing and link to survey monkey on their website.
	VCS SIG	29/7/2016 and 23/08/2016	Discussed at meeting informally and also a follow up e-mail to SIG sent with link to consultation information and survey requesting onward circulation
August 2016	SP Providers	23/08/2016	Email containing link and request for ongoing circulation
	Library, Healthwatch and Dolphin Centre	27/07/2016	Briefing papers and posters to advertise the proposals taken to these venues for people who do not have access to computers at home. Computer access available at the library with supported access.
	Mayflower Court	9/08/2016	Consultation event held at Mayflower Court extra care setting 0 Attendance.
	Dolphin Centre	10/08/2016	Consultation event held. This enabled one to one discussion with about 10 attendees
	Rockcliffe Court	15/08/2016	Consultation event held. This enabled one to one discussion at Rockcliffe Court residential setting. 8 attendees
	Rosemary Court	15/08/2016	Consultation event held. This enabled one to one discussion at Rosemary Court extra care residential setting. 1 attendee.
	Dolphin Centre	17/08/2016	Consultation event held. This enabled one to one discussion with carers and service users with approximately 12 individuals attending
	Dalkeith House	23/08/2016	Consultation event held. This enabled one to one discussion at Dalkeith House extra care residential setting. 4 attendees
	Oban Court	23/08/2016	Consultation event held. This enabled one to one discussion at Oban Court extra care residential setting. 4 attendees

	Dolphin Centre	24/08/2016	Consultation event held. This enabled one to one discussion with carers and service users. 6 attendees.
	Residents		Survey Monkey questionnaire to highlight impacts
	Residents		Telephone access to information re the consultation and to leave impacts available throughout consultation

**Engagement to identify impacts works best in face-to-face and small group settings**

## Section 6: Engagement Findings

	<b>Date/summary of engagement carried out</b>	<b>Summary of impacts identified</b>
<b>Age</b>	As detailed above	<p>Over a third of survey respondents were aged over 75 and over half were aged over 60.</p> <p>There were 4 comments received from 117 respondents that mentioned old age specifically. One of these related to older people often only having a pension to rely on for income. Two were accusing the Council of directly attacking older and disabled people with the proposals. One comment stated that there was no point in people saving for old age as it gets taken in care costs anyway, which was a view stated several times at the consultation events.</p>
<b>Disability</b>	As detailed above	<p>93% of survey respondents reported having a disability.</p> <p>There were 6 comments received relating specifically to the impact of the proposals on those with a general disability. Of these:</p> <ul style="list-style-type: none"> <li>• Two highlighted that disabled people are more likely to be on a low income and reliant on benefits and therefore any reduction in income will be disproportionately high</li> <li>• Two argued that disabled people are more likely to be unfairly subject to the under occupation charge, because they use their spare room to store disability-related equipment etc., and therefore this proposal was a further negative impact</li> <li>• One respondent stated that aids and adaptations often have a very positive impact on the quality of life of disabled people and therefore if the proposal to charge for items costing over £1,000 was agreed and this led to people choosing not to get something this would have a particularly adverse impact on disabled people</li> <li>• One respondent argued that it was unfair to charge a disabled individual more if their needs and/or care and support had not changed, in the case of the proposal to no longer disregard the DLA premium</li> </ul>

<b>Mobility Impairment</b>	As detailed above	<p>69% of survey respondents reported having a mobility issue.</p> <p>There were no comments made specifically relating to particular impacts on people with mobility impairments, however there were a number of comments made regarding the proposal to charge for equipment and adaptations costing over £1000 which relate to individuals with mobility issues.</p> <p>Of these:  1 stated that the person they cared for only had a stairlift because there was no bungalow available.  1 stated that paying for a ramp or stairlift for an individual so they could stay at home saves the Council in care home fees and that people should not be penalised for the Council not having enough disabled access housing.</p> <p>1 individual stated that the adaptations they had so far they had paid for and were they to need any more in the future that cost over £1,000 they would expect their expenses to date to be deducted from the total.</p>
<b>Visual impairment</b>	As detailed above	<p>22% of survey respondents reported having a visual impairment.</p> <p>There were no comments made specifically relating to impacts for visually impaired individuals.</p>
<b>Hearing impairment</b>	As detailed above	<p>22% of survey respondents reported having a hearing impairment.</p> <p>There were no comments made specifically relating to impacts for hearing impaired individuals.</p>
<b>Learning Disability</b>	As detailed above	<p>27% of survey respondents reported having a learning impairment.</p> <p>There were no comments made specifically relating to impacts for individuals with a learning impairment.</p>

<b>Mental Health</b>	As detailed above	<p>30% of survey respondents reported having a mental health condition</p> <p>There were no comments made specifically relating to impacts for individuals with a mental health condition, however:</p> <p>1 comment stated that carers' services allowed carers to be mentally able to care, and without this support they may not be able to continue.</p> <p>5 comments related to the proposals causing additional stress to carers.</p> <p>2 comments from service users stated that the proposals were causing them to be worried.</p>
<b>Long Term Limiting Illness</b>	As detailed above	<p>37% of survey respondents reported having a long term limiting condition.</p> <p>1 comment stated that people with long-term conditions under the age of 60 often have to pay prescription charges and less money may affect their ability to afford these.</p>
<b>Multiple Impairments</b>	As detailed above	<p>Survey respondents reported having more than 2 disabilities, on average,</p> <p>There were no comments made relating to specific impacts for people with multiple impairments.</p>
<b>Other – Specify</b>	As detailed above	<p>14% of survey respondents reported having an “Other” disability-type, these most commonly included multiple sclerosis and dementia.</p>
<b>Race</b>	As detailed above	<p>Only 3% of survey respondents identified themselves as being from a minority ethnic background and there were no comments relating to specific impacts for individuals due to their race.</p>
<b>Sex</b>	As detailed above	<p>59% of survey respondents reported themselves as being female.</p> <p>There were no comments made specifically relating to impacts for women.</p>
<b>Gender Reassignment</b>	As detailed above	<p>There is no data available on whether any respondents have undergone gender reassignment and there were no comments made relating to this characteristic.</p>
<b>Religion or belief</b>	As detailed above	<p>There is no breakdown of respondents by religion and no comments were made relating to impacts for this protected characteristic.</p>

<b>Sexual Orientation</b>	As detailed above	There is no breakdown of respondents by sexual orientation and no comments were made relating to impacts for this protected characteristic.
<b>Pregnancy or maternity</b>	As detailed above	There is no data available on whether any respondents are pregnant or have young, dependent children and there were no comments made relating to this characteristic.
<b>Marriage / Civil Partnership</b>	As detailed above	There is no breakdown of respondents by marriage or civil partnership status and no comments were made relating to specific impacts for this protected characteristic.  4 comments stated that they were completing the form on behalf of their spouse.

## Section 6: Engagement Findings – Continued

**Drawing on the engagement findings and your understanding of the effects of the activity, indicate how it will contribute, if at all, to the three strands of the Public Sector Equality Duty.**

### **a) How will the proposal help to eliminate discrimination, harassment and victimisation?**

Nothing in the proposals has been identified as likely to cause conflict between different groups by protected characteristic, however this could be an indirect effect of increased social isolation and, therefore, this proposal will not help eliminate discrimination, harassment or victimisation.

### **b) How will the proposal help to advance equality of opportunity?**

These proposals will not help to advance equality of opportunity because the likely outcome is a reduction in income for individuals, many of whom will have disabilities. This is likely to reduce their equality of opportunity, if anything, as they may well be less able to participate in society as a result.

### **c) How will the proposal help to foster good relations?**

These proposals are likely to reduce impacted individuals' ability to participate in social activities, and therefore they will not help to foster good relations. Nothing in the proposals has been identified as likely to cause conflict between different groups by protected characteristic, however this could be an indirect effect of increased social isolation.

### **During the engagement process were there any suggestions on how to avoid, minimise or mitigate any negative impacts? If so, please give details.**

There were several suggestions offered, both via the questionnaires and verbally at consultation events. These included:

1. Setting maximum limits on both the time, between start of service and the financial assessment, and the amount that can be backdated, for the proposal to backdate charges to avoid service users accumulating significant debts.
2. Doing the social services assessment and financial assessment at the same time to avoid debt accumulation
3. Only charging an administration fee for deferred payments for properties valued at above a certain value
4. Allowing a grace period of two years before charging interest for deferred payment agreements
5. Not including the bedroom tax in an individual's financial assessment if they are on the waiting list for a smaller property
6. Not charging for adaptations and equipment costing over £1000 if someone has tried to move to an accessible home but the Council has not had one available
7. Charge the government for their failure to no longer distinguish between day and night-time care needs with PIP, not claimants.

**This completes the assessment, but there will be further work to do to contribute to the reporting and implementation stages of the activity. First though, it is important to draw a line under the assessment to maintain a separation between assessment of impacts and any proposals to manage those impacts. The assessment should therefore be signed-off at this stage.**



## Section 7 - Sign-off when assessment is completed

<b>Officer Completing the Form:</b>		
<b>Signed</b>	<b>Name:</b>	Philip Haselhurst and Heather McQuade
	<b>Date:</b>	02/9/16
	<b>Job Title:</b>	Operations Manager for Life Stages and Finance Manager (Housing & Adults)
<b>Assistant Director:</b>		
<b>Signed</b>	<b>Name:</b>	
	<b>Date:</b>	
	<b>Service:</b>	

## Section 8 – Reporting of Findings and Recommendations to Decision Makers

The findings of the EIA may be reported to decision-makers at several stages during the development of an activity. For example, the initial officer assessment findings may be included in a feasibility report or options appraisal to be considered by the Transformation Board or Chief Officers' Executive.

Any report for formal decisions by Cabinet or Council should include the latest findings of the EIA, even if these are at a relatively early stage. The report recommending final approval of the activity should await and include the findings of the completed EIA. The report should present clearly the impacts that have been identified through the engagement process, including potential cumulative impacts.

The report may include recommendations based on the findings of the EIA, but these should be separate from the reporting of impacts. Recommendations will be developed separately from the EIA and arise from considering equalities impacts combined with other aspects of the activity such as finance, the benefits of the activity, and so on.

Based on the EIA findings, the report may consider the options in the table below, but the report must contain a clear statement of the impacts so that decision-makers can understand the effects of the decision that is being recommended.

<b>What does the review of the information show?</b>	
a)	No negative impact on people because of their Protected Characteristics - continue with the activity and monitor progress on implementation
b)	Negative impact identified – recommend continuing with the activity; clearly specify the people affected and the impacts, and providing reasons and supporting evidence for the decision to continue
c)	Negative impact identified - adjust the activity in light of the identified impact to

avoid, minimise or mitigate the impact

Negative impacts have been identified in relation to age, sex and disability. As a result of this officers have made a recommendation to withdraw the proposal to charge for carers' services and identified a number of mitigations for the remaining non-residential charging policy proposals. These are outlined in the Cabinet report.

d) Negative impact identified - stop activity and provide an explanation why

## Section 9 – Action Plan and Performance Management

The report to decision-makers, and the decision made may require actions to be taken to avoid, minimise or mitigate the negative impacts of the activity. Option C in the table in Section 8, combined with mitigation measures that may have been highlighted during engagement and listed in Section 6 (if adopted) will require action planning to implement them.

Any actions to address equalities impacts should be listed below, with performance management review proposals, to complete the full EIA.

<b>What is the negative impact?</b>	<b>Actions required to reduce/eliminate the negative impact (if applicable)</b>	<b>Who will lead on action</b>	<b>Target completion date</b>
Social Isolation	Refer all identified impacted individuals to Good Friends and other local services that can help e.g. Age UK/DAD/Mind  Withdraw proposal to include under occupation charge in financial assessments	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
Reduction in Physical Health & Wellbeing	Refer all identified impacted individuals to local services that can help e.g. Age UK/DAD/Mind  Withdraw proposal to include under occupation charge in financial assessments	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
Detrimental to Mental Health	Refer all identified impacted individuals to local services that can help e.g. Age UK / DAD / Mind  Withdraw proposal to include under occupation charge in financial assessments	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
Financial Limitations	Signpost to financial advice and support providers e.g. CAB / Age UK / Step Change.  Withdraw proposal to include under occupation	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)

	charge in financial assessments		
Increase in Stress for Individuals	<p>Remove proposal to charge for carers' services, where this was a common impact identified</p> <p>Minimise time between start of service and financial assessment via mitigations identified in Cabinet report.</p> <p>Signpost to local support providers e.g. GPs / Mind.</p> <p>Withdraw proposal to include under occupation charge in financial assessments</p>	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
No money for Essential Costs, including heating, food, Council tax, clothing	<p>Signpost to financial advice and support providers e.g. CAB / Age UK / Step Change</p> <p>Withdraw proposal to include under occupation charge in financial assessments</p>	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
No money for Non-Essential Costs, holidays, horse riding, social events	<p>Signpost to financial advice and support providers e.g. CAB / Age UK / Step Change</p> <p>Withdraw proposal to include under occupation charge in financial assessments</p>	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)
Leisure Activities	<p>Refer all identified impacted individuals to Good Friends and other local services that can help e.g. Age UK/DAD/Mind</p> <p>Withdraw proposal to include under occupation charge in financial assessments</p>	All DBC frontline workers who come into contact with affected individuals	At implementation stage (communications to be circulated)

Additional stress for carers which may discourage take up of services, continuing to provide support.	Withdraw proposal to charge for carers' services.	N/a	N/a
Muslim residents unable to enter into a deferred payment agreement due to the proposal to charge interest	s.36 of the Care Act allows the Council to enter into repayment plans at its discretion, i.e. allow deferred payment plans without charging interest if this was to be a barrier.	Financial assessment team	From implementation date

<b>Performance Management</b>	
<b>Date of the next review of the EIA</b>	6 months after implementation
<b>How often will the EIA action plan be reviewed?</b>	Every 6 months
<b>Who will carry out this review?</b>	Service lead

## **Appendix A – Survey Monkey responses to proposals**

### Non-Residential Questions

#### **1. Charging from the start of services**

##### **Positive**

- Agree charge starts from start of service
- This is a reasonable decision
- I think charging from when a service starts is acceptable, you pay for services such as phone, sky/virgin from the start, so social care should be the same.

##### **Negative**

- Concerns that people won't know what charges are before care starts
- I only live on benefits – any deductions will impact my day to day living expenditure
- I could not afford to pay until I have an assessment due to having low income
- Having to fund charges with no available capital
- It would have affected me at the start of provision-it would have had a detrimental affect on my services
- Financial assessment needs to be completed asap to ensure bills are not too large
- I will not pay and I will stop my Council tax
- This would be extremely unfair and places a potentially very significant strain of financial resources
- It would place carers under additional pressure and stress when they are already stretched by providing caring support for the patient
- The charge should start once the assessment is complete & the person is informed of the outcome
- Where charges are backdated, when added to proposed increased charges for services the financial impact will be huge. The effects will be socially, emotionally very stressful on the whole family
- Just the thought of a financial assessment could cause a mental health breakdown as \*\*\*\*\* does not have any understanding at all of these kind of issues, so she would start having nightmares and have bad dreams
- If someone requires a lot of care it will be expensive. What if they do not have enough finances to contribute their care until the financial assessment has been carried out.

We all know the pressure that social services are under, staff shortages, sickness & holidays. What if a financial assessment is not carried out for 6 months? Is it flexible? Could you backdate the payment in some circumstances, paying incrementally?

- Would have to commit to receiving the service without knowing how much you would be charged. Clerical and informal commitment i.e. if it is not affordable I would need to stop the service but have a debt.
- It would not give the service user the option of exploring other options before being charged, if the service user found out that the contribution was too much
- It has a financial impact it will have also an impact on my daily living. E.g. shopping, paying bills, it will leave me with or less money to live.
- The following information and views have been written down by my wife with my full consent. I have suffered with multiple sclerosis for 29 years and am now unable to do anything independently. The proposal to charge for adult social care means, in essence, I will be asked to pay for the right to live. As I need assistance to get out of bed, wash, dress, eat, drink, go to the loo, and take essential medication, which most people take for granted and do not have to pay for, I cannot see how charging for this can be morally or legally acceptable. In addition, people who are able to work, are now entitled to a minimum wage, which does not equate to the benefits I receive. Due to my condition, which I do not want and I did not ask for, I am not even on a level playing field with the working population. The proposal would cause my wife and I to be pushed further into poverty. as a part-time worker, my wife is also limited to the income she can acquire and cannot be expected to work longer hours due to the fact she is my main carer.
- I would need to keep money aside to pay for my future bills, which would severely impact on my weekly finances and the uncertainty of any future amount could create extra stress

### **No impact**

- I don't have to contribute presently so how I would have afforded the service I don't know
- Financial assessment needs to be completed asap to ensure bills are not too large
- Would depend on how much the cost was as to how much it would impact me
- The person I care for is already in receipt of service
- Although I am not personally affected this could have a high impact on people in the future. If you know what it will be you can plan for it.

## **2. Charging an administration fee to individuals who can afford the full cost of their care**

### **Positive**

- I would pay if I could
- If you can afford to pay you should

### **Negative**

- Could not afford to pay because of low income
- I am willing to go to jail - you have had enough off us
- It seems that the £100 admin fee is a ploy to deter people from asking the LA for support in arranging home care.
- It is a tax on vulnerable people and as such is unacceptable
- Is this a one off fee? What if someone is in and out of hospital and care is cancelled and set up again - is it charged each time or a one off fee per person, per month, per year?
- £100 is a lot of money. the drain of paying for carers is huge and administration fees might prevent carer being involved
- You don't charge admin when you let out a Council house, so why are you discriminating against a disabled person, who would otherwise cost thousands if in a home! They are SAVING you money! Don't charge for that!
- This is discriminatory. If you have the ability to arrange self you do it. If you do not have the ability you are being charged and it is discriminatory
- A person who has been prudent and saved to support themselves is already being penalised by having to pay all their own costs. As opposed to people who spent their money. Why should they be further disadvantaged by having to pay an admin fee.
- It would discourage me from trying to save money as it would result in me losing money in the future. Having to pay an administration fee would severely impact on my money set aside for emergencies etc.

### **No impact**

- £100 for an assessment- how much for a reassessment upon a change of circumstances
- In whose view are individuals who can afford to pay the full cost of their care? The £23,250 savings - does this take into account the house value as it is not accessible



- As the person I care for has already passed this stage it would not impact. However my opinion of this proposed policy is that the fee is too high.

### **3. Not allowing under occupation charges as allowable expenditure**

#### **Positive**

#### **Negative**

- Disagree - no alternative available
- I believe this is unfair as you cannot help your living circumstances
- This would considerably increase my outgoings. Under the bedroom tax my rent increased by £55 per month
- We own our home so that does not apply however, it appears to penalise those who for whatever reason are renting a property that the LA deems oversized. They are losing housing benefit then losing again by not having this loss allowed for
- Rent should not be included in the assessment it should not be counted as disposable income
- Will cause financial difficulties
- I don't think this should be counted - in my mind an unfair regulation
- Once again money taken from people who can least afford it
- Some people spend years on the waiting list to move to a smaller home. The borough has a serious shortfall in the number of 2 bedroom properties on their list. You CAN NOT penalise someone because of YOUR shortcomings!
- Does not allow for family needs. Individual's circumstances should always be considered.
- Considering going to rented accommodation in the future and not happy about the bedroom. May cause a lot of hardship.
- Due to the recent welfare changes and the 'bedroom tax' we would be at risk of losing our home, which has been extensively adapted to my specific needs. As a couple, we decided not to increase the size of our family due to my deteriorating condition. Seventeen years on our family home is now deemed to be under occupied by present legislation, despite the fact that the bedrooms are used regularly by our family. As I am unable to access a 'normal' house, the only way I can keep contact with my family, is to offer room so they can stay in my home. As family are the only people I have regular contact with, if this was to be taken away it would increase my further isolation and inability to socialise with other human beings. Both my physical and mental health and wellbeing would be severely affected if I was to lose my home.

## **No impact**

- The person I care for is not in Council owned property or in receipt or housing benefit.

## **4. Charging for carers' services**

### **Positive**

- This seems to be in line with the charging policy for adult social care

### **Negative**

- No capital to pay charges - severely impact on available income
- This will negatively affect my care package, impacting on my carer & his ability to access the services & help he needs
- I don't get paid. If you take it away you will have my death and my wives on your hands
- I will stop my rates which I have always paid on time
- I am willing to go to jail and you will have to look after my wife 24 hours a day
- Reduce your pay - stop attacking the disabled & OAP's
- I am not a carer but I live with my mum who is and I feel it would be unfair as potentially the carer would be paying for care for the person the care for and under this policy would then be charged twice
- Mum just manages day to day to live so cannot survive if any additional costs incurred
- Charging for carers services is a disgrace. Having a few hours to relax and having to pay for it is an awful thought. Carers allowance is £62.10 - not enough, but it is not done for the money obviously. Carers have saved the government a fortune for doing what we do
- Perhaps this is what you want but I think some carers will reduce the amount of care they have been assessed as requiring because of the cost. I have always worked and never received benefits and in a financial assessment would be charged. To what degree would I be penalised for working hard and earning a good wage? In theory if I am financially assessed for a service I want choice, quality and flexibility, if I am paying my expectations would rise. Supporting carers must be more cost effective. Is your proposal that both cared for and carer would contribute towards the carers service

- It will depend upon how often a financial assessment can be arranged. Is it annual? The rising cost of living needs to be taken into account. Items such as the community charge, electricity costs especially for heating especially in hard winters. Regular assessments are required in my opinion
- If I stopped caring for my husband it would cost you thousands a month to take over his care. If carers get a break or get help with housework, so that they are physically and MENTALLY able to care for someone, they should not be charged as it saves you thousands each month they carry on caring!!!!
- As policy explained and have more than £23k I would be deemed to be self-funding. The nature of my social care support is as a direct payment of £160 per month. This policy would mean that in order to continue receiving £160 from the Council I would have to pay the Council £160 per month. My carer assessment has identified specific needs which will not be met if I have to pay for them from my own resources because there are many more calls on my income and it would mean using my savings which I will need in the future. I anticipate having to find the person I care for in the foreseeable future (Housing etc.) I see that funding as a higher priority than the respite which I currently use my direct payments for funding. The proposal is in fact a complete nonsense in this respect.
- As a carer, I got a part-time job because the job centre said it wouldn't affect my carers allowance, only income support. Since the job was slightly more than income support, it didn't bother me. So I got a part-time job. If that money is going to pay for me to have the carer break service so that I can work then what is the point in me working? And if it charges more than I make in my part time job, I won't be able to do it.
- The person I care for depends on the service and would be financially challenged by such an assessment
- If someone was worked all their lives then it's not fair that they should pay for services they provide as carers.
- I have two carers who care for me 24/7 and receive carers services - these are a huge support and being charged for this service would have a huge impact on our household finances and what we're able to do socially, having an emotional impact on our wellbeing and causing additional stress and pressure.
- As my wife has virtually no free income, all services would be inaccessible to her if there was a fee applied to them. She would also not see this as a priority, as she does not spend time looking after herself now, and is often 'forced' to take a break. She works hard and keeps us going as a couple, a little support I feel is essential and should not cause us financial hardship.
- My carer would not apply for help if this was brought in.

## **No impact**

- This would depend on assessment - currently contribute to carers service received
- If does access carers service elsewhere & not through the Council should be exempt anyway

## **5. Charging for individual adaptations and equipment costing over £1,000**

### **Positive**

- At the present time this does not affect me but if it did I would pay a contribution

### **Negative**

- I would have to send my equipment back
- May need to limit what we need to what we can afford
- How would you like to be in our shoes
- We have paid for our own adaptations so far as the LA process proved so slow and cumbersome. However, if any further adaptations are necessary in the future to maintain the patient in his home rather than risk long term hospitalisation & care it would seem unfair to charge unless the costs already personally & provable were deducted from the proposed capital sum to be expended by the LA
- Less money for food, essentials and cuts to heating costs
- I would not be in a position to pay causing hardship
- May have a big impact in the future
- Life is hard enough for us. If we need extra help and equipment we should have it. You don't understand or you would not be doing this
- Charging for adaptations and equipment over £1000 could potentially impact the hardest on the most physically vulnerable leaving them very short of money - watertight safeguards must be in place
- This may cause cessation of a necessary service. If the assessment is in accordance of the needs. I am made suspicious of the real reasons for the proposals.
- By paying a thousand pounds for a ramp or stairlift, that person gets to stay at home - this saves you thousands on care home fees. PLUS when you haven't got enough disabled accessible houses and flats that's YOUR fault not theirs. They shouldn't be penalised for your shortcomings.
- Nature of equipment needed by me is very often over £1,000.

- She has a stairlift. This charge isn't fair because she only has a stairlift because no bungalows were available.
- Losing adaptations and services to upkeep existing adaptations/equipment. Would be unable to buy such things, which would have a massive effect on my day-to-day living. The nature of this is that of deterioration. I may need more equipment/adaptations in the future. How would this be funded?
- As I rely on equipment and adaptations to live my life e.g. wheelchair to move, hoist to get to bed, bath to be clean, etc. how can it be acceptable to be charged for everyday essential living, again the things that most people take for granted?

### **No impact**

- Fully mobile & not in need of aids or adaptations at this time
- I already have some adaptation and equipment to my home which I was assessed and contribute towards.
- The person I care for does not need such expensive equipment

## **6. Not allowing the higher rate DLA in financial assessments if night-time care not arranged by the Council**

### **Positive**

### **Negative**

- We wouldn't have enough money to cope
- Individual would not be able to go on holiday
- It would impact on my carer role
- Uses money to pay for gardener, decorator & more assistance to go out and help with needs
- Would greatly affect my physical & mental wellbeing
- It's a lot of money to lose each week
- This proposal means I would have to decide whether to eat or pay for care
- In my opinion disabled people might well die then you, as a Council would not have to help them
- I hope in future whoever put these proposals on paper need to use care then they might take notice

- DLA is being phased out - transfer to PIP means that if this proposal gets cleared the money the state say is needed to live on is compromised.
- PIP has assessed that the person needs the £27.20 to live on regardless of the night time disruption - removing this from their allowable income is discrimination
- Have a high impact on me
- This penalise family carers who bear the strain and stress of full night and day care
- It will have some impact but uncertain of the extent. May have to make spending cuts elsewhere - uncertainty
- It's a cost cutting exercise by the Council and making vulnerable people pay more
- It's a very difficult time for them and us parents especially where finances are difficult
- Most of the changes seem fair but I do not agree that AA to PIP should be counted in the financial assessment. I question the legality as this type of benefit has never and wasn't intended to be counted in the financial assessment
- £27.20 is a lot to lose when on a disability benefit. As his carer I see to his night time needs for nothing. If I didn't that would be neglect. He needed night time on DLA so how come he doesn't on PIP? £27.20 plus £25 for transport plus £41 for services = £249 per month - disgraceful
- His social life will suffer a lot
- My daughter receives higher rate DLA care - for the Council to rob her of £27.20 each week just because the government has changed the policy from DLA to PIP is an outrage. The money is allocated for her care (under PIP) whether she is awake or asleep. She has been assessed and qualifies for the full amount of money she is entitled to. Nothing has changed for her from going to bed on DLA to going to bed the next night on PIP. She still is the same person requiring the same amount of care, and for somebody on the Council to number crunch and think they can claw back money from one of the most vulnerable groups in order to try and balance the books because of central government cut backs is a sad, sad state of events. These people don't ask to be like this, they face challenges every day of their lives that most likely the rest of us could not cope with and therefore deserve as much support (not just financially) as they can get. Councillors, please think again. You must know it is morally indefensible to take the money from the disabled people because of a name change
- PIP merely accepts that there are 24hrs in a day, everyone takes it as common practice that night time work cost more, look at factory workers, they get extra for night time shifts. This practice is the norm, there is no need to state the obvious, of course the government knows it costs more, they just haven't stated it! Don't charge us for their omission, if you want to charge anyone for it, charge the government

- Bookkeepers behind DWP and Council. Individual left in middle. Taking advantage.
- Her night time care is provided by an unpaid carer (me). Why are you trying to punish her for my sacrifice of caring for her unpaid?
- Husband self-employed but low income. Things are close at the moment and have already got loans. Would be very hard to budget for would have to look at where additional spending could be cut. Hitting people on the lowest income very difficult.
- This would greatly impact on my financial situation causing stress and worry. Resulting in health problems and physical wellbeing. Limiting choice unable to go to social events and becoming isolated.
- Currently receive non-residential care and higher rate DLA - would therefore have an impact on our household finances, and therefore impact on what we're able to do as a family. This would put more stress and pressure on my carers.
- Inability to pay may lead to suspension of services. Would then lose all personal assistants. Who would provide my essential care? Being pushed further into poverty by my wife being pressurised to provide more care leading to her inability to work. Total lack of control of my life/independence, which is already limited, would be totally impossible. It is extremely upsetting / depressing to have to rely on strangers making decisions, which could have devastating consequences for me and my family.
- For exactly the same reasons as outlined in the first question. If the proposal goes through I will be unable to pay, so that would result in services being suspended and my human right to live would be removed.
- A higher contribution would severely impact on my ability to pay for travel to hospital ( I am currently attending James Cook hospital in Middlesbrough as an outpatient) and accompany my father to his medical appointments, as bus services are not always available. Much of my present finance is spent on assisting my father.

### **No impact**

- I am currently not assessed as needing night time care but as my disability continues to deteriorate I may need this in the future.

## **7. Not allowing Attendance Allowance / higher rate DLA in financial assessments for extra care service users**

### **Positive**

### **Negative**

- Worrying for the future
- I am not currently an extra care resident but feel this is unfair
- £27.20 is a huge increase which I think is unreasonable
- It discourages people from asking DBC for this care and pushes them into the hands of private providers
- Will make him more vulnerable to his needs
- The fact that the Council are now purporting to move the goal posts suggests a long term strategy by the Council and this has a bad smell about it. Decept, moving the goal posts, call it what you will this is a shocking example of cooking the books and robbing vulnerable people in our society.
- These proposals must and really should be opposed not only by the people affected but by the Council as well
- PIP merely accepts that there are 24hrs in a day, everyone takes it as common practice that night time work cost more, look at factory workers, they get extra for night time shifts. This practice is the norm, there is no need to state the obvious, of course the government knows it costs more, they just haven't stated it! Don't charge us for their omission, if you want to charge anyone for it, charge the government!
- Don't think it's right. Hitting vulnerable people
- Night time care in extra care house is for emergencies only. Often people need help of a less urgent nature.

### **No impact**

- Not in receipt of these benefits.

### **Deferred Payments Questions**



## **8. Offering deferred payment arrangements to property owners entering extra care or supported living**

### **Positive**

- Good idea
- Reassuring for the family
- Would be a good option
- It provides an opportunity to obtain the best price for an owned property in a fluctuating property market
- Deferred payments are good they allow other family members the security of a roof over their heads.

### **Negative**

- I do everything - you come and do what I do with my disability
- If my husband had to go into supported living to be obliged to sell the family home would be dreadful. It would need to be made clear at what rate any deferred payment would be charged (i.e any interest chargeable on assessed fees, what admin charges would be levied and what pressure would be applied to sell our home in the medium term)
- Would there be an obligation to sell it within x months/years of admission
- I do not wish this to happen but who knows what the future holds
- If I go into residential care I will sell my apartment to pay for my care. However, I am concerned as I do not know how long I will live and I am insecure when I think about the many running costs.
- I would want my house to go to my child. Does not take into account an individual's dependent children. Specifically they could be homeless
- I can't see how deferring the sale of the person's home will help as the person would have to pay for the upkeep of the empty property and the property will be at risk of deterioration or potential devaluation.
- As I understand it in extra care housing a property is not taken into account. Are you proposing a major change or is this a misunderstanding on someone's part?

### **No impact**

- What happens to the surviving spouse.

## 9. Charging an administration fee for deferred payments

### Positive

- £500 - probably

### Negative

- Come and do what I do and get nothing for it
- Wow! Can't take this on board. We pay our community charge, we have paid into National Insurance for 45 years and also Income Tax. Where has it all gone?
- This is a DISCRIMINATORY action, you don't charge fees for providing a Council house to an able-bodied person!
- Charging is adding insult to injury.
- This smacks of profiteering from those least able to challenge such charges.

### No impact

- Would need to understand interest rate charges & admin charges.

## 10. Charging interest on deferred payments

### Positive

### Negative

- Shocking
- Forget it and leave things alone
- This could be crippling and create poverty for the remaining spouse
- Without figures it is not possible to make objective response
- I can appreciate the need for DBC to protect their resources but it seems the needs of surviving partner are of little concern
- It defeats the object of offering a deferred payment
- How do you ever expect people to be able to pay this
- I am now full of fears. These proposals are very worrying. I don't want to read anymore.
- At the end of the day, you get the money from the sale of the house. If you weren't paying high interest on loans for moving the library or paying for bowls clubs, you'd have more money - DO NOT penalise people because they're disabled or for your

mistakes. You DO NOT charge interested on unpaid rent so do not DISCRIMINATE!

- If rate goes negative you can pay us. Social care is not a loan it is a right.
- Again this is unethical and sounds like extortion of the elderly!

**No impact**

Residential Questions

### **11. New residential charging policy**

**Positive**

**Negative**

- You will have a lot of peoples deaths on your hands
- More worry and stress we can't cope with - disgusted
- I will not sleep tonight.

**No impact**

- You have a duty of care for disabled, elderly and vulnerable people. Charging for signposting them to a deferred payment is discriminatory! You do not charge for admin etc. to rent a dwelling to an able-bodied person you DO NOT charge interest on unpaid rent. Why are you discriminating against disabled people, for the equivalent situation? I'd appreciate an answer.

## Appendix B – General Feedback from Second Consultation

Email to Cllr Nutt – 23<sup>rd</sup> August 2016

*Dear Thomas Nutt*

*I am getting in touch once again to ask for your support and help in getting the charging policies stopped or cut back I am the main carer for a man of 47 with Down's Syndrome who is no way independent so I am responsible for his entire care, which I receive carers allowance.*

*The main point is Non-Residential Charging Proposals, not allowing the enhanced daily living component of £27.20 unless arranged by the Council, I see to his night time needs and any other needs he has ,if I didn't see to him and left would be seen as neglect.and to charge an extra £108.80 pm added to his other out goings which are £41.76 pm for day service and £25 ow for transport to and from his day service as he cannot travel independently total would be a whopping £250.56p pm who would like that out of a disability benefit every month.*

*The impact on his life would be huge his world is small enough without making it even smaller He enjoys the cinema going on trains and going to the pub,just like everyone else, the majority will have to stop which will affect his wellbeing and mental health greatly. It's seems to me that the vulnerable and helpless get targeted for cuts, I know it's a hard time for a lot of us but some don't deserve it.*

*I hope he can rely on your support to turn down said proposals  
regards  
XXXX*

DAD Response to Proposals – 31<sup>st</sup> August 2016

*Dear Sir / Madam*

*I am writing with regard to the current consultation and Equality Impact Assessment process, for the proposals to change Darlington Borough Council Adult Social Care Charging Policies.*

*Please find the following formal response from Darlington Association on Disability (DAD). We have also sent a response to the initial consultation which is also attached.*

*DAD has serious concerns about these proposals, several of which in reality present substantial increases to charges, which potentially will massively impact on disabled people over and above the budget cuts in the Medium Term Financial Plan which specifically impact on disabled people also. In reality some of the proposals potentially mean an increase of up to £27 per week. It is hard to argue this proposal will not impact on disabled people disproportionately.*

*DAD feel it is crucial for cabinet members to be aware that the changes to the Non Residential Charging Policy are discretionary and are not required by law or changes to law, and if implemented will lead to further multiple and accumulative impacts.*

*Disabled people will be unfairly and unequally impacted by cuts to services in Medium Term Financial Plan and these proposed increases to social care charges.*

*DAD have particular concern that Disability Related Expenditure is not assessed in an individualised way, which will mean that as the proposals take into account the whole of person's Disability Benefits this will mean people will find themselves in poverty.*

*Over and above the individual impacts on disabled people, the changes will potentially destabilise the local social care system which relies on informal carers to provide the majority of support. This is particularly relevant for people with a learning impairment living in their family home, and supported by mainly parents or family members. The financial cost to the Council would be very high, should even a small number of informal carers find themselves in a position where they can longer continue with their care commitments.*

*DAD staff and volunteers have spoken to several disabled people and carers about the proposals. Below are some of the impacts people have given.*

- A woman living in extra care says that if they take her higher rate disability living allowance care component into account, she will need to move into 24 hour care as she will be unable to afford both her rent and care fees. She is under 65 and says this would not be her choice, but maybe left with no choice.*
- A woman who carers for her daughter 24 hours day who is a wheelchair user, has learning, visual and speech impairments and a range of complex health needs. The family will be impacted by the change which will take into account enhanced PIP to such an extent that she would need to go out to work and be unable to care for her daughter to the same level. This would mean she would need substantially more support, including the possibility of her daughter needing to move into supported living.*
- A woman, who cares for her daughter with a learning impairment and mental health needs, would not be able to afford her contribution if the higher rate enhanced PIP is taken into account. She says that the thought of this and possibly getting into debt is impacting on her mental health. She would also be impacted by the proposal to charge for carers services, she feels that this proposal shows how little carers are valued.*
- A man living alone who has no night time support would be impacted, he says he would not be able to pay his fuel bills (even allowing for the disability related expenditure). He already pays a high contribution and would not be able to pay a higher amount.*

*In summary, we feel the changes highlighted above would be particularly detrimental to the wellbeing of disabled people and carers, but also to the wider social care system. If you are*

*unclear regarding any detail contained in this response please contact Lauren Robinson, Chief Executive [lauren.robinson@darlingtondisability.org](mailto:lauren.robinson@darlingtondisability.org)*

*Yours Sincerely*

*Tracy Roberts  
Senior Manager  
Darlington Association on Disability*

Comments received at consultation events – 10<sup>th</sup> to 24<sup>th</sup> August 2016

- *Regarding the proposal to charge £100 admin fee to arrange care and support for full fee payers – given that Council tax payers have already been charged an additional 2% levy this year it is unfair to charge an additional £100.*
- *Regarding proposal to charge from start of services – there should be a fixed limit on the amount of time between start of service and a financial assessment taking place, and a fixed limit on the amount that can be backdated.*
- *General comment – appalling how people who have worked all their lives and paid in are being treated. Unjust.*

## MTFP Summary Report

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### SUMMARY OF THE REPORT THAT WENT TO CABINET ON 22 6 2016 IN RELATION TO EQUALITY IMPACT ASSESSMENTS OF THE WHOLE MEDIUM TERM FINANCIAL PLAN

#### Purpose of the Report

1. To inform members of the impact of the Medium Term Financial Plan 2016-20 on services, particularly to vulnerable people and the cumulative impacts on protected characteristic groups. This report also makes recommendations about the proposals for mitigation set out in the Future Fund proposals.

#### Summary

2. In considering the budget proposals the Council needs to comply with the Public Sector Equality Duty. Under Section 149 of the Equalities Act 2010 'due regard' must be given to the need to:
  - (a) eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.'
3. To assist the process of taking 'due regard' in all areas where proposals are deemed to have a potentially negative impact or affect protected characteristic groups as part of the consultation exercise, the Council has undertaken equality impact assessments (EIAs).
4. **The individual equality impact assessment forms contained detailed analysis of the equality impacts of individual proposals and were read in full by Members.** There were other proposals that were considered, through an initial equalities impact assessment screening, to have no or negligible impacts on the protected characteristics and therefore a full EIA was not undertaken for these proposals.
5. Cabinet considered the whole of the Council's budget in developing the MTFP and the individual impacts and the cumulative impacts as described below. Where possible, mitigations will be put in place however the scale of budget reductions included in the main MTFP report in addition to those previously made, means that it is not possible to mitigate all impacts.
6. An overarching summary of the protected characteristics impacted by the proposals within the MTFP was presented

7. However, in order to show the cumulative or multiple impacts as simply as possible, a risk based approach was adopted. This plots the impacts against indices showing both the **likelihood** of an impact on a particular protected characteristic group and the **severity** of the impact if it occurs. These assessments were all provided (one for every protected characteristic) for Cabinet.
8. Based upon the information provided in the individual detailed the main impacts relating to each of the protected characteristics were set out in the body of the report below.
9. The protected characteristics have been considered in this report and are:-

<b>Protected Characteristics</b>
Sex
Age
Marriage & Civil Partnership
Race
Disability- broken down into: <ul style="list-style-type: none"> <li>- Mental Health</li> <li>- Learning Impairment</li> <li>- Mobility Impairment</li> <li>- Visual Impairment</li> <li>- Hearing Impairment</li> <li>- Multiple Impairments</li> <li>- Long Term Limiting Illnesses</li> </ul>
Religion & Belief
Sexual Orientation
Gender Reassignment
Pregnancy & Maternity

10. Due to the considerable cumulative impact across protected characteristic groups, a section dealing with 'Mitigations' (paras. 58-62) brings together the actions/investments that will help mitigate the worst impacts and can be found later in the main body of this report.
11. Impacts are to be found across all protected characteristics except 'Marriage & Civil Partnership' and to a very small degree on 'Religion & Belief'. The most significant protected characteristic impacts were found to be on women and children/young people (particularly in relation to domestic violence) and on disability: both physical and very significantly on mental health/learning impairment disabilities.
12. The results of the EIAs and the assessment of cumulative impacts across proposals gives further rationale and justification for the Futures Fund proposals in relation to support for vulnerable groups. There is also ongoing constructive dialogue with other public service partners to explore the scope to work together on mitigation as impacts become apparent.



13. Members considered the findings of the individual EIAs and the summary contained in this report and used this to inform decisions regarding the MTFP proposals and the deployment of the Futures Fund.

### **Equality impact Assessments – identified impacts on Protected Characteristics**

14. This report was informed by the detailed equality impact assessments (EIAs) that have been undertaken as part of the MTFP consultation process.
15. Each of the protected characteristics was considered in turn and reference should be made to both the likelihood that the characteristic is impacted and then the severity of that impact. In this way the relativity of impacts can be clearly seen.
16. Specific proposals that impact on individual characteristics are highlighted below (with the MTFP proposal reference number provided in brackets for ease of reference).

### **Sex**

17. There are some specific impacts on Gender. For example, there are a number of proposals that particularly affect those women who are victims of domestic violence and access support through the floating support housing related service. The same individuals make significant call upon the social fund due to their circumstances and they use children's centres as a safe engagement space, and will be directly impacted by the proposal to remove the target hardening scheme which improves property security thus allowing women (and their children) to stay in their own homes. It should be noted that 94% of cases seen via the MARAC (multi agency risk assessment conference in relation to domestic violence) are female. The tender process for social fund and work to look at target hardening approaches will mitigate these risks to some extent.
18. Females are more likely to be on a low income and in debt, particularly as lone parents, more likely to be earning the national minimum/living wage and be part time and therefore are more likely to access financial inclusion services which currently are provided by a range of services partly funded by strategic grants
19. Other proposals also impact more on the female population – for example: public health mental health - access to arts on prescription where 80% of service users are female, and access to obesity prevention, support and advice services due to a higher prevalence in the female population – just under 70% of service users are female; women and girls participation in exercise is generally lower. Also, 70% of service users of DAD are female so the proposal to cease funding for the DAD information co-ordinator may impact more on women.
20. However, there are some significant impacts on the male population also. Proposals that particularly impact on the male population are floating housing related support

for those with substance misuse issues although the service is available to both genders the service is predominantly accessed by men. Single men are also the biggest single demographic group accessing the social fund as they find little support elsewhere and men make up 80% of users of the key point of access services, albeit that access to housing support services will still exist post MTFP implementation with a 'virtual gateway' for individuals to have their needs assessed at point of presentation. It should also be noted that the majority of individuals diagnosed with HIV are men. Men in general are less likely to engage with formal services than women, meaning that the proposal to cease funding to GADD impacts more on the male protected characteristic, men are less likely to seek out and engage with alternative provision. About 80% of allotment holders are men so an increase in charges would impact more on this gender and proportionately more than their prevalence in the population as a whole.

## Age

21. There is a higher impact on children and younger adults as a result of the proposals – for example: whilst a range of proposals impact (as established above) on women affected by domestic violence – these women tend to be younger women and often with children (68% of the women responding to the domestic violence floating support EIA were aged 21-30), and a reduction in the target hardening service (S7) may lead to children being more likely to need to move house and school in order to remain secure, with the disruption this causes. Although the MARAC proposal is unlikely to lead to a reduction in service it should be noted that the average number of children living in every MARAC household since January 2016 has been 1.26 so any reductions in this area would impact on children. 37% of clients using the floating support for domestic violence victims met the MARAC threshold. The housing related proposal within the Futures Fund will mitigate the impacts to some degree with the re-scoped service still making provision for those presenting with greatest needs and able to offer a range of interventions.
22. Other proposed service reductions likewise impact more on children and young people/young adults e.g. removal of the early support service providing assistance to families with 0-3 year olds who have developmental needs linked to a disability ; reduction in housing related floating support for young people aged 16-25 on the 'Positive Support Pathway' which would see community based support reduce by a third; removal of the ASPIRE service providing support to school leavers with learning difficulties to move from education into employment aiming to support people to live independently - where all the service users are aged between 21 and 28; funding to support GADD for those newly diagnosed with HIV where the majority of service users are under aged 28 years and reduction in funding to Healthwatch which specifically focuses on engaging with young people through 'Youthwatch Darlington'. Young people tend to have less alternative support available and on average more than 1 out of every 2 social care grants go towards supporting a child.

23. It should be noted that proposals which specifically relate to children's services and are subject to further work to look at the future operating model for children's social care. Specific consultation will take place at a later date regarding the detail of these proposals once determined and therefore are not covered in this report.
24. The library services are used by a range of ages. The mobile library service is predominantly used by older people, young mothers with small children and school children. However, Approximately 43.5% of respondents to the library consultation were aged over 64 years. Older people are likely to incur a more significant impact as a result of the proposal to re-locate the central library as they are more likely to have limited mobility or physical disabilities which may make accessibility more difficult when crossing market square or negotiating Tubwell Row due to the sloping nature of the road and steps. For some with carer responsibilities or older people with mobility or visual problems, or those with the need for better disabled access, the out of town library options of Cockerton or mobile library service may make access easier, so the library proposals may negatively impact more on these groups. There will be an impact on primary school children from three local primary schools who attend by walking to Cockerton Library and there would be a reduction in opportunities for baby/young children activities that currently run out of this venue.
25. Older people and/or those with a mobility impairment may currently use the mobile service and gain access by a step lift to the van and may not be able to access a town centre location which may therefore increase their social isolation and lack of feeling of independence. As a single level building with a free car park, very good disabled access and with dedicated disabled spaces, the proposal to close Cockerton library would impact on those with mobility issues who may not be able to access/afford the town centre option, when combined with changes to blue badges and concessionary fares as outlined below. The Housebound service will be expanded and is delivered to the customer's home but this will reduce the opportunity to browse books and would not provide quite the same level of social interaction.
26. Other proposals that impact more on the general adult population or older people are: the reductions in the floating housing related support for vulnerable adults with the biggest user demographic being 50-59 year olds – there is no alternative community based service provision for this age group and there will be a significant reduction. Direct interventions or prevention programmes aimed at increasing healthier lifestyles, behaviours and reducing obesity will impact more on the older working population/early retired as residents aged 50-69 are almost twice as likely to be impacted by this proposal. Other impacts include the loss of strategic grants to some voluntary organisations that provide advice and support primarily to adults and for older people who may find it more difficult to access alternative sources of information 70% of blue badge holders are aged over 64 years so this proposal will have a disproportionate impact on the older population. Whereas the removal of concessionary bus passes will have a more negative impact on working age adults as almost 85% of pass holders who are granted a companion bus pass are aged

between 17 and 67.

27. Healthwatch provide administrative support for the Ageing Well network which could be impacted by proposal. 36% of DADs service users are aged over 64 years, with the removal of the information co-ordinator post older people may find it harder to access alternative resources such as on-line. The proposal to increase charges for allotments would impact more on older people who may be less able or willing to pay an increase – 45% of plot holders are aged over 65 years, 19% are aged 55-64 years.

### **Marriage and Civil Partnership**

28. This protected characteristic is not deemed to be impacted by the MTFP proposals.

### **Race**

29. There is a greater impact on minority ethnic groups as a result of some proposals. The vulnerable adults floating housing related support service sees a greater percentage of individuals from minority ethnic backgrounds than are represented in the Darlington population overall. Impacts cited are lack of alternative support to deal with correspondence and contact agencies. The futures fund will enable a level of service to be offered to those of greatest presenting need and a safety net of 'duty' support worker for quick interventions. There is likely to be a particular impact on BME groups if the Healthwatch funding is reduced as currently it provides volunteer Health Connectors to identify with and help represent under supported and isolated residents, overcoming cultural and language barriers. BME groups also tend to be lower income, live in deprived wards and be under claiming benefits, they could be impacted by availability of information and advice re financial inclusion. The proportion of service users of preventative programmes related to reducing Obesity is 6% and therefore higher than prevalence in the population. There are significant health inequalities related to obesity in BME populations with greater prevalence of obesity related diseases such as diabetes. The proportion of early support service users from an ethnic minority group is also greater than for Darlington as a whole. It should be noted that 7% of DADs service users are from a BME background which is twice the prevalence in the population and therefore may be impacted more by the removal of the Information Co-ordinator post.

## Disability

30. This term can cover a wide range of disabilities so the sections below aim to show the more specific impacts on particular disability groupings. The more detailed analysis was summarised for each group and presented to Cabinet.

## Mental Health

31. Significant proportions of the respondents to the EIA process identified themselves as having a mental health problem and were concerned about the detrimental impact on their mental health. This was the most common 'disability' characteristic identified through EIAs. These were reported at much higher levels than the general prevalence within the population so would disproportionately impact. Consistent themes are around: the ability of the services to provide support to improve the emotional and mental health well-being of individuals and thereby to increase their confidence and ability to undertake tasks of daily living, create a routine, support to attend appointments and engage with treatment services, having meaningful daily activities and be signposted to and supported to engage with education, training and employment. Support currently available also helps individuals maintain a tenancy successfully and prevent homelessness, learn independent living skills, manage self-harm and social isolation, take back control of their lives, know how to access support and advice, deal with debt and correspondence and access support to move to healthier lifestyles.
32. A significant or very high mental health impact can be seen in the following proposals with significant proportions of users of these services identifying themselves as having a mental health issue: Cease drug and alcohol floating housing related support, Cease vulnerable adults floating housing related support, reductions from Public Health mental health access to arts on prescription, Cease funding to Gay Advice Darlington, Social fund budget – individuals with a mental health issue are 5 times more likely to be in debt crisis; impact of Strategic Grants and availability of financial inclusion advice/support; Prevention proposal relating to obesity – where significant inequalities already exist regarding the impact of obesity on health outcomes for this group and where exercise is proven to have a significant positive effect on improving mental health.
33. Other significant impacts are noted for: Cease floating housing related support for domestic violence victims, Cease Key Point of Access where often individuals with more complex issues prefer to present and engage with a non-statutory provider and cease some elements of the young person's pathway. 14% of DADs service users have a mental health condition and therefore may be impacted more by the removal of the information co-ordinator post. Healthwatch provide administrative support for the Learning Impairment Network and the Mental Health network which could be impacted by the proposal to reduce funding.

34. The section on mitigation later in this report outlines the proposed investments in the futures fund to specifically address impacts relating to housing related support, social fund and financial inclusion.

## **Learning Impairment**

35. Another significant disability protected characteristic impacted by the proposals is people with a learning impairment. This is particularly the case in the area of to cease the funding of the Aspire service which supports school leavers with a learning impairment to move from education into paid employment. Some individuals accessing this service will also have chronic long term conditions or multiple impairments. There is some mitigation in that young people still have access to support services at Darlington College and Careers England and work is starting with Darlington Cares to explore potential support in this area too however, some employers have indicated they would not be able to continue the placements for these individuals without support from these services. This would have a detrimental impact upon their well-being.
36. Other areas with a high impact on people with a learning impairment are: removal of the early help support service, a large proportion of the children accessing the early help support service have developmental delay – some families may still receive some level of statutory support and the development of a first point of contact function elsewhere in the Council will provide some sign posting and advice and will assist in mitigating some of the impact on families, removal of concessionary bus passes for companions' impacts as just under a quarter of pass holders were granted a companion bus pass on the basis that they have a learning impairment. Should this proposal therefore mean that the individual is no longer able to travel - as neither they or their companion are able or willing to pay - then the potential impact on their quality of life would be significant.
37. Areas that significantly impact include: proposals cease vulnerable people floating housing related support where 15% of respondents to the EIA identified themselves as having a learning impairment and reduce some elements of the young people's pathway where 25% of respondents to the EIA identified themselves as having a learning impairment, gaining help to obtain and maintain accommodation, understand correspondence and paying utilities. Likewise, a higher proportion of people with a learning impairment have used the Social Fund compared to the make-up of the population as a whole. Individuals with a learning impairment often have higher costs of living than those without and can find it harder to manage their budgets, particularly if they do not have access to support with financial capability. The Futures Fund proposes a continued community based housing related support service based on the greatest presenting need albeit at reduced levels and similarly a proposal relating to the social fund and financial inclusion.

38. Proposal to reduce preventative support regarding obesity will directly impact on this group as currently information, advice and support is tailored to meet the needs of this group and there are already significant inequalities relating to obesity and health outcomes for people with a learning impairment. People with a learning impairment are more likely to access the Key Point of Access than would be expected given their prevalence in the population of Darlington however the mitigation plan involves the development of the virtual gateway to allow a range of organisations to undertake assessments at the point of presentation or for the initial assessment to be completed by a worker who is already involved with the individual.
39. Mount Pleasant Primary School maintains a local authority funded Resource Provision Unit for approximately 20 pupils with social and communication difficulties, including Autism, from across the authority. Consultation on the proposal to close Cockerton Library identified that these children will find it hard to adapt to a change in personnel and place. They visit the library regularly as part of class visits and were sad to hear that the library might close. Walking to the library provides a free, safe and interesting visit for the children and affords them the opportunity to choose their own books.

### **Mobility Impairment**

40. Residents with mobility issues would be disproportionately affected by proposals to introduce charging for off street parking for blue badge holders; the removal of concessionary bus passes for companions and removal of early help support service. In order to be eligible for a Blue Badge, individuals must either have a diagnosed mobility and/or visual impairment. There is no breakdown available but it is likely that over 58% of holders have mobility impairment. Likewise, just over half of concessionary pass holders were granted a companion bus pass on the basis that they have a long term disability/injury preventing ability to walk. In order to be eligible for a companion pass individuals must have been deemed unable to travel without the aid of a companion. Should this proposal therefore mean that the individual is no longer able to travel - as neither they or their companion are able or willing to pay - then the potential impact on their quality of life would be significant.
41. Lesser impacts may be felt by those with mobility impairment in relation to the Sanctuary proposal regarding the removal of target hardening, as people with mobility problems would find it particularly difficult to relocate to a similar property, if it was unable to be made secure. Individuals with mobility issues often have higher costs of living than those without, which makes it harder to manage their budgets. Welfare reform, other MTFP proposals, including changes to adult social care charging policies, may also put further pressure on this group's incomes – 18% of grant recipients of the social fund (S13) identified themselves as having a physical disability. Strategic grants for providers of money information/advice services (S14) are impacted and a considerable proportion of people accessing

these services will have a mobility problem or a long term limiting illness. Some mitigation will be possible via the financial inclusion crisis support and community care fund futures fund proposals, detailed in a later section of this report.

42. Based upon respondents to the EIAs there is also a higher usage of certain floating support housing related services by people with a mobility issue than would be expected based upon the prevalence of these disabilities within the population of Darlington as a whole i.e. drug and alcohol floating support. The application of the futures fund will allow a much reduced level of support for floating housing related support for those with drug and alcohol problems.

### **Visual Impairment**

43. There will be a significant impact on people with a visual impairment from proposals to cease floating support to vulnerable adults and introduction of charges to blue badge holders. 32% of respondents to the EIA regarding floating support identified themselves as having a visual impairment and specified the need for support in relation to correspondence and contact agencies. There is no breakdown available but it is likely that over 23.5% of blue badge holders have a visual impairment. There is a separate consultation ongoing currently regarding the re-location of the visual impairment service currently located at Vane House which although not part of the MTFP (and the service will continue) will impact on this group in terms of venue for the service. All options will be considered and the service will continue to work with service users on this issue.
44. Not as marked but still a considerable impact is noted in relation to Early support – where 13% of users have identified themselves as having a visual impairment; with respectively drug and alcohol floating support (18%) and concessionary passes (8%). It is not known what proportion of the Sanctuary target hardening scheme’s users have visual impairments but these individuals would find it particularly difficult to relocate to a similar property, if it was unable to be made secure, due to the reduction of the scheme.

### **Hearing Impairment**

45. The impact on hearing impaired residents is less marked in respect of (W15) - fewer than 2% of concessionary passes are issued to those with a hearing impairment and there is a low level impact in respect of proposal key point of access. The proposal to cease room hire funding for the Deaf Club has an impact on those with a hearing impairment attending meetings but a solution has been found to cover the cost of this via the club’s existing subscriptions so is of minimal impact.



## Multiple impairments

46. 60% of respondents to the EIA for the reduction of drug and alcohol floating support identified themselves as having multiple impairments (mainly due to the physiological and psychological impact of substance misuse) and half of the Aspire service users identified an additional impairment to their learning impairment, whilst a fifth of those responding to the young person's pathway EIA identified themselves as having more than one disability. There would continue to be community based support for young people based on the greatest presenting need and support through 'duty' support but this would be substantially less than present. Lesser levels of impact were identified in relation to the social fund – 6.5% of social fund grants went to households with multiple impairments; early support service – 5% of children have multiple impairments and the Key point of access (KPA) – 17% of respondents to the EIA identified themselves as having more than one disability. A mitigation plan is being proposed for the KPA – as per the mitigation section below and a proposal regarding the social fund is in the futures fund.

## Long term limiting illnesses

47. Almost a quarter of participants accessing the Arts on Prescription service (S5) have a long term limiting illness. Referrers will signpost individuals and families to resources provided by other agencies which will include web based information, telephone support or self-help groups, where they exist, but there is no similar service offered locally.
48. By the nature of the GADD information and advice support service for newly diagnosed HIV service users, 100% have a long term limiting illness; there is no similar provision in this area which offers intensive and extensive counselling for this vulnerable group living with this condition.
49. Other proposals that may impact on the availability of support for those with a long term limiting illness are concessionary passes; financial inclusion services provided by organisations partially funded by a strategic grant, floating support for vulnerable adults – 24% of respondents to the EIA identified themselves as an individual with a long term limiting illness and floating support for those with drug and alcohol problems – where the figure is 18%. The future fund will mitigate some of the impact in respect of the provision of a reduced level of outreach support and a proposal around financial inclusion crisis support.
50. Proposal to cease funding for the DAD information post will have a direct impact on the disabled population - 55% of DAD service users have a physical disability, 15% have a visual impairment, 8% have a hearing impairment, 8% have a learning impairment and 14% have a mental health condition. Removal of the Information Co-ordinator post would make it harder for individuals to find accessible information and advice specifically related to their disability. However, access to

information is far better now than when the service was originally commissioned - via the internet and the Darlington Advice Network (DAN). Adult social care will be looking to consolidate its first point of contact and develop its ability to deliver high quality information and advice. Work will also be taking place via the Better Care Fund to look at signposting to support /advice and work is to take place regarding the development of a community asset register to build on the support available to people within communities.

51. Proposal reductions in services for obesity, will potentially impact to a greater degree on people with a mobility/visual/hearing disability/multiple impairments as currently access to information, advice and interventions can be more specifically tailored to the needs of these groups through the Healthy Darlington Hub.

### **Religion and Belief**

52. The only impact identified for this group as a result of the proposals is the reduction of funding to Healthwatch, who have undertaken specific work through Health connectors in relation to religious beliefs and cultural customs in an attempt to reduce barriers to engagement and access to services, this type of work could be impacted by service reductions.

### **Sexual Orientation**

53. Specific impacts that have been identified for this protected characteristic are: a higher level than population prevalence would suggest in the number of presentations made to the social fund by the LGBT community and cease key point of access (KPA) - possibly higher numbers access the First Stop service as this group feels more comfortable accessing a non-statutory service. A mitigation proposal for both elements of the social fund and KPA is given in the mitigation section below.
54. The biggest impact however, on the LGBT population, is proposal (C9) cease funding to GADD. Whilst the funding specifically funds advice to those newly diagnosed with HIV (which is a very small number per annum) the funding in effect contributes overall to GADD being able to provide an advice and support service to the wider HIV population and those of a gay, lesbian, bisexual or transgender protected characteristic. The ceasing of this support would very significantly impact on this protected characteristic group and the impacts on the HIV population specifically would be a very adverse impact upon their mental health including management of suicidal feelings and self-harm; anxiety and relationship issues, feelings of social isolation, deteriorating mental health upon diagnosis, loss of control and worry about the impact on daily life/employment.

## **Gender Re-assignment**

55. The specific impact that has been identified for those with the protected characteristic of gender re-assignment is from proposal cease funding to GADD. This is the only service to represent and provide support to this protected characteristic group locally.

## **Pregnancy and Maternity**

56. The proposal cease floating support to victims of domestic abuse has been identified as impacting on this protected characteristic group – there is strong evidence to suggest that when women are pregnant this acts as a catalyst to increased occurrence of domestic abuse. 5.9% of sanctuary users over the last year were pregnant women so the impact of this proposal on this group is significant. A proposal to retain some funding for floating housing related support to victims of domestic abuse is contained within the futures fund.

## **Mitigations**

57. As indicated above, proposals are contained within the proposed Futures Fund for a range of support to help mitigate the worst of the impacts identified. The proposals include retaining £160,000 of the non-statutory spend to help support particularly vulnerable adults, domestic violence victims and those with substance misuse issues, albeit not to current levels of service. There are also separate proposals relating to the Community Care Fund (£150,000) and Financial Inclusion Crisis Fund (£100,000) – both of which are covered within a separate report. All of these will target the most vulnerable in the Darlington community and help to mitigate some of the risks identified for protected characteristic groups especially around mental health and disabilities. The mitigation plan for the ceasing of the Key Point of Access is the development of the Virtual Gateway which will provide the opportunity for a range of organisations to undertake assessments of needs at the point of presentation or for the initial assessment to be completed by a worker who is already supporting the individual. Also, it is proposed that the removal of the discretionary early support service is deferred until 1 April 2017 and is reconfigured as part of a new overall early help service.
58. A small community development and engagement resource (£50,000) is proposed to work with the third sector to develop a robust voluntary sector that can become more resilient and self-sufficient in funding terms and the Futures Fund also proposes some one-off investments: £50,000 for a Transformation Challenge Fund to assist the voluntary sector to collaborate and share resources and make the optimum use of funding and ability to bid for external funding to build on what is available locally. In recognition of a poorly developed children's voluntary sector £50,000 is proposed to support the pump priming/development of a stronger provision for vulnerable children and families in conjunction with the design of a new

early help offer.

59. The Council is committed to working with other partners on the development of a more flexible grant regime. £20,000 match funding for bids to CDCF is proposed and through working with other partners, the Council is committed to building a bigger fund for voluntary sector groups helping to cover some core running costs but building in incentives for collaboration across the sector and efficiency. The aim is to enhance the voluntary sector contribution to Darlington working alongside statutory services. The results of the impact assessment work undertaken will help to shape priorities for the use of this fund.
60. The Council will also continue to fund its contribution to the Darlington Strategic Partnership that vitally brings together the business, public sector, voluntary sector and the Council to collectively work together to develop and deliver solutions to Darlington's problems and opportunities (£13,000). It will continue to support the work of the Partnership and Darlington Cares and will seek to use the impact assessment work undertaken for the MTFP in influencing priorities for future work and in steering volunteering opportunities. Indeed, £50,000 has been allocated as a one off investment to increase the volunteering contribution within Darlington as part of a collective response to the difficult economic climate and to support a sense of ownership, investment and pride in the town, by the people of the town.
61. The proposed removal of the companion bus pass does have a negative impact across a number of groupings within the disability protected characteristic. A number of options were put forward from users as part of the process. In order to try and mitigate the impact it is recommended that further work be undertaken to investigate options to retain the Companion Bus Pass option on the principle of developing a sustainable scheme which is a combination of a more robust criterion and assessment for entitlement and an annual charge at a level to be determined.

## **Conclusion**

62. The multiple impacts identified through the detailed EIA work are considerable, with higher levels of impacts being identified particularly around women and children, mental health and disabilities. The proposed application of Future Funds to address the needs of vulnerable people has been borne out by the impacts identified through the EIA process and thereby validates these proposals as a key part of the mitigation plan.
63. It is expected that the Council's Scrutiny Committees will wish to build an analysis of the impacts of the MTFP as agreed, into their work programmes.

Darlington Borough Council  
 Services for People  
 Adult Social Care

The Care and Support (Charging and Assessment of Resources)  
 For Non-Residential Services and Carers Policy

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<b>Approval Dates:</b>		<b>Rev No</b>	1	
<b>Head of Adult Social Care</b>		<b>Issue Date</b>	Feb	2016
		<b>Review Date</b>		

## INDEX

	Page
Policy Statement	3
Support Needs	4
Short Break Stay	5
The Financial Assessment	5
Treatment of Income	7
Treatment of Capital	9
Allowances/Disregards	12
Charging for Support to Carers	12
Full Cost of Service	13
Arrangement Fees	13
Disability Related Expenditure (DRE)	13
The Welfare Rights Check	15
Review of Assessed Charges	16
Change in Financial Circumstances	16
Paying for Care and Support	16
Appeals	16
Waiving the Charges	17
Debt Management	17
Complaints	17
Non-attendance	19

## Policy Statement

1. This policy has been written in accordance with the Care Act 2014 [hereinafter referred to as the Act] and the Care and Support Statutory Guidance issued under the Care Act 2014 by the Department of Health. The Act provides a single legal framework for charging for care and support under sections 14 and 17. The Act is supported by the Care and Support (Charging and Assessment of Resources) Regulations 2014 which Local Authorities must follow when charging individuals for their care and support needs.
2. Should readers of this policy require clarification on any of the following, the Care and Support Statutory Guidance issued under the Care Act is accessible via the following link:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)
3. The Council will charge a person when it is arranging to meet a person's care and support needs or a carer's support needs, except where the Council is required to arrange care and support free of charge. The amount a person is charged will be determined by way of a financial assessment which will determine whether they are required to pay in full, a contribution or will receive care and/or support services free of charge.
4. The new framework is intended to make charging fairer and clearer. The overarching principle is that people should only be required to pay what they can afford. People will be entitled to financial support based on a means-test and some will be entitled to free care.
5. The framework is based on the following principles, as set out in the Care and Support Statutory Guidance issued under the Act  
[\[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf\]](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf), that the approach to charging for care and support needs should:
  - a) Ensure that people are not charged more than it is reasonably practicable for them to pay;
  - b) Be comprehensive, to reduce variation in the way people are assessed and charged;
  - c) Be clear and transparent, so people know what they will be charged;
  - d) Promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control ;
  - e) Support carers to look after their own health and wellbeing and to care effectively and safely;
  - f) Be person-focused, reflecting the variety of care and caring journeys and the variety of
  - g) Options available to meet their needs;
  - h) Apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
  - i) Encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs to do so; and

- j) Be sustainable for local authorities in the long-term.
6. The Council will also ensure there is sufficient information and advice available in a suitable format for the person's needs, in line with the Equality Act 2010 (in particular for those with a sensory impairment, with learning disabilities or for whom English is not their first language), to ensure that they or their representative are able to understand any contributions they are asked to make. The Council will also make the person or their representative aware of the availability of independent financial information and advice.

### **Support Needs**

7. The Council has a duty to arrange care and support for those with eligible needs, and a power to meet both eligible and non-eligible needs. The Council also has the discretion to choose whether or not to charge under section 14 of the Act following a person's needs assessment.
8. Where an individual is to be charged, the Council will follow the Care and Support (Charging and Assessment of Resources) Regulations 2014 and have regard to the guidance. The detail of how to charge is different depending on whether someone is receiving care in a care home, or their own home, or another setting. This policy sets out the Council's charging policy for individuals with non-residential care needs. There is a separate charging policy for individuals with residential care needs.
9. In Darlington, the types of non-residential support individuals may be required to contribute towards include the following, although this is not an exhaustive list:
- i. Personal Care
  - ii. Domestic Care
  - iii. Sitting Services
  - iv. Direct Payments and support to manage a direct payment
  - v. Sleepovers
  - vi. Day Care
  - vii. Transport as provided in conjunction with the provision of community care services
  - viii. Social Activities e.g. visiting a museum, bowling etc.
  - ix. Assistive Technology i.e. Telecare.
  - x. Carers Services
  - xi. Items purchased through a Personal Budget
  - xii. Adaptations and Equipment costing more than £1,000
10. Where an individual requires more than one carer to support them with any of the above, their contribution will be based on the cost of both carers.



11. Whether the service is commissioned by the Council or given as a Direct Payment the total cost of the package will be calculated and the individual will be financially assessed to determine the maximum contribution they need to pay towards the total cost of their package.
12. There are services which are not included within the Policy but are charged at a flat rate, and not part of the financial assessment, these include:
  - a. Pre-prepared meals;
  - b. Meals at Day Care (it is the expectation that where an individual is in a 24 hour residential or nursing placement, the provider would pay the charge of the meal or provide a suitable alternative);
  - c. Ineligible transport costs as defined in the Council's Transport Policy.

Please note this is not an exhaustive list and other services may be included.

13. The following types of care and support will be arranged free of charge by the Council:
  - a) Intermediate care, including reablement, which will be provided free of charge for up to six weeks.
  - b) Care and support provided to people with Creutzfeldt-Jacob Disease.
  - c) After-care services/support provided under section 117 of the Mental Health Act 1983.
  - d) Any service or part of service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
  - e) More broadly, any services which the Council is under a duty to provide through other legislation may not be charged for under the Act.
  - f) Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs".
  - g) Rehabilitation, training, employment or drop in services
  - h) Information and Advice (including Direct Payment Advice)
  - i) Assessments, including assessment of care needs

### **Short Break Stays**

14. Any assessed need for short break stays in a residential care home will be financially assessed in accordance with the Council's Care and Support (Charging and Assessment of Resources) for [Residential Services Policy](#). Under Direct Payment legislation direct payments cannot be made for purchasing more than four continuous weeks of residential care per year.

## The Financial Assessment

15. To ensure that everyone is treated fairly all individuals with non-residential care needs will undergo a financial assessment in order to calculate their ability to contribute towards the cost of these services and to enable individuals to maximize any benefits to which they may be entitled.
16. The financial assessment can be conducted using a number of different methods, including in-person - via a visit or a pre-arranged appointment at the customer services centre - or over the telephone.
17. The Council may choose to treat an individual as if a financial assessment has already been carried out. This is known as a “light-touch” financial assessment and the main circumstances in which the Council may consider carrying out a light-touch financial assessment are:
  - a. Where an individual has significant financial resources, and does not wish to undergo a full financial assessment for personal reasons, but wishes to access Council support in meeting their needs. In these situations the Council may accept other evidence in lieu of carrying out the financial assessment and consider the individual to have financial resources above the upper limit.
  - b. Where the Council charges a small or nominal amount for a service which an individual is clearly able to meet without falling below the minimum income threshold, and where carrying out a financial assessment would be disproportionate.
  - c. When an individual is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs.
18. Where a ‘light-touch’ assessment has been carried out the individual will be notified of this and also of their right to request a full financial assessment should they wish.
19. At the time of a care and support needs assessment, the Council will establish whether the individual in question has the capacity to take part in the financial assessment. If the person lacks capacity, the Council must find out if the person has any of the following as the appropriate person will need to be involved:
  - a) Enduring Power of Attorney (EPA);
  - b) Lasting Power of Attorney (LPA) for Property and Affairs;
  - c) Property and Affairs Deputyship under the Court of Protection; or
  - d) Any other person dealing with that person’s affairs (e.g. someone who has been given appointee-ship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).
20. Individuals who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a Property and Affairs Deputyship. Family members can apply for this to the Court of Protection or the Council can apply if there are no family involved in the care of the

person. While this takes some weeks, it then enables the person appointed to access information about bank accounts and financial affairs. A person with dementia for example should not be 'forced' to undertake a financial assessment, to sign documents they can no longer understand and should not be punished for any incomplete information that is elicited from them. Instead, the Council will work with the EPA, LPA or the Deputies.

21. If there is a delay in the completion of the financial assessment, due to an application being made to the Court of Protection for deputyship, then the payment schedule of the assessed charge from the point of services being provided will be considered on a case by case basis.
22. A financial assessment consists of a Visiting Financial Assessment Officer:
  - a. Calculating an individual's total income and capital;
  - b. Calculating disregards and allowances;
  - c. Completing a Disability Related Expenditure Assessment;
  - d. Undertaking a comprehensive welfare rights check;
  - e. Supporting the individual to identify their best options for paying any charges, this may include offering the person a deferred payment agreement.
23. If an individual chooses not to supply all of the information requested on the Financial Assessment form they will be asked to complete a Non-Disclosure of Financial Information Declaration and will be charged the full actual cost of the services. Should an individual not agree to the charges then a full financial assessment will be necessary.
24. An administration fee will be charged to cover the costs to arrange the care and support needs for those with capital in excess of the upper capital limit or those who have chosen not to disclose their financial information. Individuals will be provided with information on the right to request Council support to meet their needs – and how they will be charged – and the advice and support that is available to help people make arrangements to meet their own needs.
25. Following the financial assessment, where applicable, an estimated charge for care and support services will be given to the individual, along with an explanation of how the assessment has been carried out, what the charge will be and how often it will be made.
26. Where an assessed need has been identified services will commence regardless of whether a financial assessment has been completed. Once an assessment has taken place any assessed charges will be backdated to the commencement of the service. There is no charge for the financial assessment, needs assessment or the preparation of a care and support plan.
27. The Council will endeavour to carry out a financial assessment within 8 weeks of the commencement of services to ensure that the individual does not accumulate significant debts **before backdated fees are sought.**

## **Treatment of Income**

28. Income is assessed net of any tax and National Insurance contributions and net of any housing costs such as rent or mortgage and Council Tax.
29. Only the income of the individual being charged will be taken into account. Where this person receives income as part of a couple, the starting presumption is that they have an equal share of the income. In these circumstances, the Council will consider the implications for the individual's partner when making decisions about charging.
30. Because 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, the Council will ensure, when deciding what to charge, that the individual will be left with the minimum income guarantee (MIG), equivalent to Income Support plus a buffer of 25%, net of any housing costs net of any benefits to support these costs. In addition, where a person receives benefits to meet their disability needs that do not meet the eligibility criteria for care and support from the Council, the charging arrangements will ensure that they keep enough money to meet these disability-related costs.
31. The financial limit, known as the "upper capital limit", is set nationally and exists for the purposes of the financial assessment. This sets out at what point a person is entitled to access Council support to meet their eligible needs – below this level, a person can seek means-tested support from the Council. Capital below the "lower capital limit" is disregarded in the financial assessment, and where an individual's resources are below the lower capital limit they will not need to contribute to the cost of care and support from their capital.

## **Benefits**

32. Any income from the following benefits will be taken into account when considering what a person can afford to pay towards their care from their income:
  - a) Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
  - b) Bereavement Allowance
  - c) Carers Allowance
  - d) The Care component of Disability Living Allowance
  - e) Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
  - f) Income Support
  - g) Industrial Injuries Disablement Benefit or equivalent benefits
  - h) Jobseeker's Allowance
  - i) Maternity Allowance

- j) Pension Credit**
  - k) The Daily Living component of Personal Independence Payment**
  - l) State Pension**
  - m) Universal Credit (excluding any child, childcare and/or housing element)**
  - n) Working Tax Credit.**
33. Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.
  34. Attendance Allowance and Disability Living Allowance Care Component are paid at the higher rate if a person has day and night needs. If a person is not receiving night time care arranged by the Council then the Council cannot consider sums paid for night care as income. If night time care is arranged by the Council, the full benefit will be treated as income.
  35. Any individuals currently receiving chargeable services transferring from higher rate Disability Living Allowance care component to Personal Independence Payment, (PIP), enhanced daily living component and who do not have night time care arranged by the Council will no longer receive the disregard for sums paid for night care, this is because PIP does not recognise the difference between day time and night time needs.
  36. Individuals living in an extra care scheme have an emergency overnight call facility, if these individuals are in receipt of the higher rate Disability Living Allowance/Attendance Allowance care component the full benefit will be treated as income.
  37. Any income from the following sources will be fully disregarded:
    - a) Direct Payments;**
    - b) Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;**
    - c) The mobility component of Disability Living Allowance;**
    - d) The mobility component of Personal Independence Payments.**

## **Earnings**

38. Employed and self-employed earnings for both cared-for persons and carers are fully disregarded as per regulation 13 of the Care and Support Statutory Guidance issued under the Act 2014.
39. A full list of what is defined as earnings in the financial assessment can be found in "Appendix C: Treatment of Income" in the Care and Support Statutory Guidance issued under the Act.

## **Annuity and pension income**

40. An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity must be taken fully into account except where it is:
  - a. Purchased with a loan secured on the individual's main or only home; or
  - b. A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.
41. Occupational pensions are fully taken into account in the financial assessment unless an individual is paying half of their occupational pension, personal pension or retirement annuity to their spouse or civil partner in which case the Council will disregard 50% of its value if at least one of the annuitants is still occupying the property as their main or only home.
42. This is not an exhaustive list of income and further information can be found in the Care and Support Statutory Guidance issued under the Act.
43. Rental income will be taken into account, except where this income is treated as earned income.

## **Income disregarded**

44. Certain income will be either fully or partially disregarded in the financial assessment. For a full list please refer to the Care and Support Statutory Guidance issued under the Act.
45. Any income from the following sources will be fully disregarded, however this list is not exhaustive:
  - a) Child Support Maintenance Payments and Child Benefit
  - b) Child Tax Credit
  - c) Council Tax Reduction Schemes where this involves a payment to the person
  - d) Disability Living Allowance (Mobility Component) and Mobility Supplement
  - e) Income in kind
  - f) Personal Independence Payment (Mobility Component) and Mobility Supplement
  - g) Savings credit disregard
  - h) Regulated Social Fund payments (including winter fuel payments)
  - i) Any grants or loans paid for the purposes of education; and Payments made in relation to training for employment.
46. The following income is partially disregarded:
  - a) The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension, War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).
  - b) A savings disregard based on qualifying conditions.

## **Notional income**

47. In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the Council must satisfy itself that the income would or should have been available to the person.
48. Where notional income is included in a financial assessment, it will be treated the same way as actual income and will be calculated from the date it could be expected to be acquired is an application had been made.
49. The following sources of income will not be treated as notional income:
  - a. Income payable under a discretionary trust;
  - b. Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
  - c. Income from capital resulting from an award of damages for personal injury that is administered by a court;
  - d. Occupational pension which is not being paid because:
    - i. The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
    - ii. The trustees or managers of the scheme have insufficient resources available to them to meet the schemes liabilities in full.
  - e. Working Tax Credit.
50. This is not an exhaustive list of income and further information can be found in Care and Support Statutory Guidance issued under the Act.

## **Treatment of Capital**

51. In assessing what a person can afford to contribute the Council must apply the upper and lower capital limits as set by the Department of Health every year.
52. A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Any assets below the lower capital limit will be disregarded.
53. Where a person has assets between the lower and upper capital limits a tariff income will apply. This assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.
54. The following list gives examples of capital. This list is intended as a guide and is not exhaustive.
  - a) Buildings
  - b) Land
  - c) National Savings Certificates and Ulster Savings Certificates

- d) Premium Bonds
- e) Stocks and shares
- f) Capital held by the Court of Protection or a Deputy appointed by that Court
- g) Any savings held in:
  - i. Building society accounts.
  - ii. Bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.
  - iii. SAYE schemes.
  - iv. Unit Trusts.
  - v. Co-operatives share accounts.
- h) Cash
- i) Trust funds

55. Where ownership of capital is disputed, the Council will seek written evidence to prove where ownership lies. If a person states they are holding capital for somebody else, the Council will require evidence of this arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.
56. Where a person has joint beneficial ownership of capital, except where there is evidence that the person own an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.
57. Capital which is not immediately realisable due to notice periods, for example Premium Bonds, should be taken into account at face value at the time of assessment and may need to be confirmed and adjusted when the capital is realised.

### **Notional Capital**

58. In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital.
59. Notional capital may be capital which:
- a) would be available to the person if they applied for it;
  - b) is paid to a third party in respect of the person; and
  - c) the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care and support needs.



## **Capital Disregarded**

60. Certain types of capital may be disregarded in the financial assessment. For a full list refer to the Care and Support Statutory Guidance issued under the Act.

### Property Disregards

61. The person's main or only home will be disregarded in the following circumstances:

- a)** Where the person is receiving care in a setting that is not a care home;
- b)** If the person's stay in a care home is temporary and they:
  - i.** Intend to return to that property as their main or only home and it remains available to them; or
  - ii.** Have taken reasonable steps to dispose of the property in order to acquire one that is more suitable.
- c)** Where the person no longer occupies the property but it is occupied in part of whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home
  - i.** The person's partner, former partner or civil partner, except where they are estranged
  - ii.** A lone parent who is the person's estranged or divorced partner
  - iii.** A relative of the person or member of the person's family who is
    - 1.** Aged 60 or over, or
    - 2.** Is a child of the resident aged under 18, or
    - 3.** Is incapacitated.

62. Precise definitions for the terms used above can be found in the Care and Support Statutory Guidance issued under the Act.

63. In certain circumstances, as laid out in the Care and Support Statutory Guidance issued under the Act, if individual moves from their main residence into supported living or extra care housing the value of their property will be disregarded and they may be eligible to enter into a deferred payment agreement.

## Allowances/Disregards

### Housing Costs

64. Disregards are made for certain housing-related costs, as follows:

- a. Mortgage payments - Mortgage payable net of any housing benefit is disregarded. This is disregarded by the number of people named on the deeds and whether there is a specified percentage share.
- b. Rent Payments - Rent payable net of housing benefit can be disregarded as long as the individuals name is on the tenancy and they are deemed eligible under the housing benefit rules. However, if housing benefit is reduced for under occupation then the difference that an individual is required to pay will not be disregarded. If the assessment is for one member of a couple then no disregard is given for rent.
- c. Council Tax – No disregard unless exemption ceases
- d. Water rates – If a resident has a beneficial interest in a property that is vacant there is no disregard for water rates unless proof can be provided of essential expenditure to maintain the property.
- e. Utility bills - If a resident has a beneficial interest in a property that is vacant there is no disregard for utility bills unless proof can be provided of essential expenditure to maintain the property.
- f. Building Insurance - If a resident has a beneficial interest in a property a disregard is given according the number of people named on the deeds and whether there is a specified percentage share.

### Other allowances

65. Other disregards available include:

- a. A disregard will be made for non-dependants, but only if a non-dependant deduction has been made by Housing Benefits.
- b. Disability-Related Expenditure
- c. Pre-paid funeral policy

### The Deferred Payment Scheme

66. If an individual moves from their main residency into supported living or extra care housing they may be eligible to enter into a deferred payment agreement.
67. The deferred payment scheme is designed to help individuals who have been assessed as having to pay the full cost of their care, but who cannot afford to pay the full weekly charge because most of their capital is tied up in their home. Deferred payment agreements will be offered to anyone who meets the qualifying criteria and are able to provide adequate security as outlined in Darlington Borough Council's [Deferred Payment Policy](#).

68. Individuals will pay a weekly contribution towards their care that they have been assessed as being able to pay from their income and other savings. The Council pays the part of the weekly charge that they cannot afford until the value of their home is realised.
69. The Council will charge an administration fee for setting up a deferred payment agreement including legal and ongoing running costs.
70. The Council will charge interest on the deferred amount using the nationally-set maximum interest rate.

### **Charging for Support to Carers**

71. Where a carer has eligible support needs of their own, the Council has a duty, or in some cases a power, to arrange support to meet their needs. Where the Council is meeting the needs of a carer by providing them directly with a service it will charge the carer. In doing so, it will carry out a financial assessment to ensure that any charges are affordable, however it will not charge the carer for care and support provided directly to the person they care for.
72. When deciding whether to undertake a light-touch financial assessment, the Council will consider both the level of the charge it proposes to make as well as the evidence the carer is able to provide that they will be able to afford the charge.

### **Arrangement Fees**

73. If a person with eligible needs and assets above the upper capital limit asks the Council to arrange their care and support on their behalf, the Council has a duty to meet these eligible needs but will charge an arrangement fee.
74. The arrangement fee will only cover the costs the Council incurs in negotiating and/or managing the contract with a provider and any administration costs. This fee is currently £100 but will be subject to review on an annual basis.
75. When an individual assessed as being responsible for paying for their care and support requests the Council meets their needs, the Council will ensure the individual has sufficient assets for the arrangements that it puts in place to remain both affordable and sustainable.
76. The Council will secure the individual's, and any third parties that have agreed to contribute towards these costs, agreement in writing to pay the costs they are responsible for in meeting their needs, including payments to providers.

### **Disability-Related Expenditure (DRE)**

77. Where an individual is receiving disability-related benefits, the Council will make an assessment and allow the person to keep enough benefit to pay for necessary disability-related expenditure to meet any needs which are not being met by the Council.
78. Allowable Disability Related Expenditure will be for expenditure deemed necessary as a result of disability or condition or for health and safety reasons. The Social Worker or other professional may be required to assess the need for disability related expenditure.

79. In assessing disability-related expenditure, the Council will take account of any reasonable additional costs directly related to a person's disability, including but not limited to :
- a) Payment for any community alarm system.
  - b) Costs of any privately arranged care services required, including respite care.
  - c) Costs of any specialist items needed to meet the person's disability needs, for example:
    - i. Day or night care which is not being arranged by the Council;
    - ii. specialist washing powders or laundry;
    - iii. additional costs of special dietary needs due to illness or disability (the person may be asked for permission to approach their GP in cases of doubt);
    - iv. special clothing or footwear, for example, where this needs to be specially made; or additional wear and tear to clothing and footwear caused by disability;
    - v. additional costs of bedding, for example, because of incontinence;
    - vi. any heating costs, or metered costs of water, above the average levels for the area and housing type, occasioned by age, medical condition or disability;
    - vii. reasonable costs of basic garden maintenance, cleaning, or domestic help, if necessitated by the individual's disability and not met by social services;
    - viii. purchase, maintenance, and repair of disability-related equipment, including equipment or transport needed to enter or remain in work; this may include IT costs, where necessitated by the disability;
    - ix. reasonable hire costs of equipment may be included, if due to waiting for supply of equipment from the Council;
    - x. personal assistance costs, including any household or other necessary costs arising for the person;
    - xi. internet access for example for blind and partially sighted people
    - xii. other transport costs necessitated by illness or disability, including costs of transport to day centres, over and above the mobility component of DLA or PIP, if in payment and available for these costs. In some cases, it may be reasonable for the Council not to take account of claimed transport costs – if, for example, a suitable, cheaper form of transport, e.g. Council- provided transport to day centres is available, but has not been used;
    - xiii. in other cases, it may be reasonable for the Council not to allow for items where a reasonable alternative is available at lesser cost. For example, the Council might adopt a policy not to allow for the private purchase cost of continence pads, where these are available from the NHS

80. All individuals, whether in receipt of disability-related benefits or not, will be asked if they have any disability-related expenditure and the cost of this will be assessed and given as a disregard/allowance in line with Council policy. A checklist will be made available which will support individuals to identify disability-related expenditure
81. Where a disregard is relevant, evidence of actual expenditure will be requested. If receipts have not been kept the Council can request that this is done for future expenditure. It is legitimate that the Council can verify that items that have been claimed for have been purchased.
82. Generally, disregards should be given based on past expenditure; however in some cases estimates of annual expenditure based on available evidence can be made.
83. Allowances for disability-related expenditure can be set for a fixed period but the individual can request a review at any time if their disability-related expenditure changes. This will require supplementary evidence.
84. If the individual fails to keep future receipts and there is doubt as to whether the expenditure was actually incurred it is reasonable for the Council not to include this in the assessment.
85. If more than one person with eligible needs live in the same household, then additional costs relating to a disability or condition may be shared between the occupants whose needs contribute to the additional costs. The costs of providing domestic assistance or gardening, if allowed may be attributed to all of the adult occupants of the service user's home.
86. The disability-related expenditure assessment will be reviewed on an annual basis as part of the financial reassessment.

### **The Welfare Rights Check**

87. As part of the Financial Assessment the Visiting Financial Assessment Officer should ensure that appropriate benefits advice is given to all individuals. This should include advice about benefit eligibility; help with the completion of benefit claims and the follow up of claims with the benefit provider where the Individual wishes this. As most decisions about benefit entitlement carry the right of appeal, then the Visiting Financial Assessment Officer may also suggest that expert advice be sought as early as possible to avoid loss of benefit and lengthy appeal processes.
88. Advice will not be limited to benefits directly affecting charges. It will include Housing Benefit, Council Tax Benefit, and Council Tax Discounts and reductions as well as the core benefits of Income Support and Pension Credits, disability benefits (AA/DLA) and Tax Credits.
89. The individual will also be notified whether charges are likely to increase if a benefit application is successful.
90. Some individuals may prefer to obtain independent Welfare Rights advice from agencies such as Age Concern, Citizens Advice Bureau and should be offered this choice. Where the Individual has given permission, information regarding the financial assessment will be exchanged with the relevant agency.

91. Individuals can choose not to take the advice offered by the Visiting Financial Assessment Officer. Where the individual fails to make a claim for a benefit that they will be entitled to, this may result in this amount being treated as notional i.e. as if it is still there.

### **Review of Assessed Charges**

92. An income and expenditure uplift will be applied in line with benefit increases annually.
93. The Council will undertake regular reviews of financial assessments. This will usually be on an annual basis.
94. A financial reassessment will be completed as a result of any changes in financial circumstances. This includes being awarded new benefits and the payments of new income.

### **Change in Financial Circumstances**

95. It is the responsibility of the individual or their representative to inform the Council of any relevant change of financial circumstances, as failure to do so may lead to backdated charges. Examples of changes in circumstances include reductions and increases in income or capital.
96. An individual or their authorised representative can request a review of their financial assessment at any time and this should be undertaken to consider any changes in their resources. If it comes to the attention of the Council that an individual's circumstances may have changed then a referral should be made to the financial assessment team for the financial assessment to be reviewed accordingly. When undertaking a review of the financial assessment, individuals will be expected to provide the requested updated information to the Council within 15 working days. If the individual refuses to provide updated information then they will be deemed to afford the full actual cost of the services they receive.
97. The individual will be notified in writing of any alteration to their weekly contribution, as a result of any changes. Any change to the individual's weekly contribution may be from the date of such change.

### **Paying for Care and Support**

98. All individuals will be invoiced on a 4 weekly basis, in arrears for their assessed charge.
99. Direct Payments may be paid net of the client contribution; this will be assessed on an individual basis and notified in advance.
100. Details on how to pay assessed contributions will be provided on invoices.

### **Non-attendance at Services Commissioned by Adult Social Care**

101. Where an individual does not require their non-residential social care for whatever reason [such as a period of ill health, going on holiday], then providing they give at least 48 hours' notice they will not be charged for those services. Notice should be given in writing wherever possible however it may be acceptable for verbal notification to be received in particularly in the case of ill health which has occurred suddenly. Where notice has not been given, charges may only be waived at the discretion of the appropriate Operations

Manager, e.g. emergency admission to hospital. The Council will notify the service provider of such planned non-attendance at services to ensure no charge is made

## **Appeals**

102. If the client disagrees with the initial assessment a different Visiting Financial Assessment Officer will verify the assessment. This will be completed within 10 working days and a written reply made setting out the reasons for maintaining or amending the present charge.
103. If the individual or their authorised representative still disputes the charge, then a further review will be completed by the Visiting Financial Assessment Officers' line manager. Again, a written reply will be sent out within 10 working days confirming the reasons for maintaining or amending the current charge.
104. If the individual still remains dissatisfied regarding the outcome of their appeal then the Director of Services for People or a nominated officer will hear appeals against decisions made by the Financial Assessment Section.
105. At any time during this process the individual or their representative can make a complaint under the Council's Complaints Procedure. Details regarding the Council's complaints procedure are detailed at the end of this policy.

## **Waiving the Charges**

106. In exceptional cases, the charges for care and support may be waived. Cases will be considered on an individual basis taking into account the effect upon the individual.
107. In such cases, the Assessing officer and their Team Manager will submit a report outlining the client's circumstances and the reasons why they believe that the charges should be waived to the Assistant Director Adult Social Care for approval. Approval may be given retrospectively and the individual would be reimbursed for contributions paid back to the date that approval was effective. It can also be given for a specified period of time to give the individual the opportunity to reassess their own position on paying for their care.
108. The Council has a responsibility to provide care and support to people assessed as needing it through a Care and Support Needs Assessment regardless of the individual's ability or willingness to pay. Services that are essential to support someone safely in the community should not be withdrawn because the person refuses to pay. Where the person withdraws themselves from services, further enquiries and alternative advice and assistance will be offered.

## **Debt Management**

109. Where an individual has accrued a debt, the Council may use its powers under the Act to recover that debt. In deciding how to proceed, the Council will consider the circumstances of the case before deciding a course of action.
110. Ultimately, the Council may institute County Court proceedings to recover the debt due to the Council. However, the Council will only use this power once other reasonable alternatives for recovery have been exhausted.

## Complaints

111. Darlington Adult Social Care welcomes and responds positively to all comments, compliments and complaints as a means of demonstrating its commitment to working in partnership with individuals and carers and improving services.
112. The Adult Social Care Complaints Procedure comprises of one stage after which the complainant should be advised to discuss the matter with the Complaints Manager or refer the matter to the Local Government Ombudsman.
113. Although complainants can refer their complaint from the outset to the Local Government Ombudsman, they will not normally investigate the matter until the Council has conducted its own investigation and made a response.
114. More information is available from:  
  
Complaints and Information Governance Team  
Town Hall  
Darlington  
DL1 5QT  
  
Tel: 01325 388043  
  
[www.darlington.gov.uk/complaints](http://www.darlington.gov.uk/complaints)  
  
E-mail: [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk)
115. Complaints concerning the conduct of Officers of the Council will be dealt with under the Council's employment policy and procedures.



**Appendix 1**

**EXAMPLES OF DISABILITY RELATED EXPENDITURE 2015-2016**

This is a non-exhaustive list however all DRE will be looked at on a case by case basis.

Disability Related Expense	Evidence Required
<b>Alarm Line</b> (Community Alarm System)	Check Lifeline services/bills from provider/Direct Debit on bank statements
<b>Foot care</b> Not normally allowed unless special circumstances as should be provided under NHS	Bill/receipt /bank statement Confirmation of need from assessing officer or doctor/health professional
<b>Domestic help – Private</b> (e.g. housework and shopping), Where service user is unable to do this as a result of disability and there is no-one else in the household who could reasonably be expected to assist)	Bill/receipt/bank statement/contract/ letter Confirmation of need from assessing officer
<b>Clothing and footwear</b> May include specialised clothing or footwear, or frequent replacement, e.g. for people with physical disabilities, mental health problems or learning disabilities	Bills/receipts/bank statement
<b>Bedding and Towelling</b> May include sheets, quilts towels etc.	Bills/receipts/bank statement
<b>Dietary</b> Additional costs of special dietary needs due to illness or disability	Details required Receipts required
<b>Assistance Dogs</b> (e.g. blind, deaf or epileptic) Unless provided free from relevant organisation (including training & vets bills).	Details required Receipts required
<b>Gardening</b> Basic garden maintenance (where client is unable to maintain due to disability and no-one else in household can reasonably be expected to assist) Check if local gardening scheme available	Confirmation of need from assessing officer Receipts/ bank statements/ bill/invoice.
<b>Heating Exceptional</b> Any heating costs or metred costs of water above the average levels for the area and housing type required by age, medical condition or disability)	Confirmation of need from assessing officer 12 months of bills/ receipts.
<b>Laundry</b> Includes: additional costs of washing powder, cleaning materials, wear & tear on washing machine, washing clothing & bedding, if necessitated by age, medical condition or disability	Confirmation of need from assessing officer Bills/Receipts required

<b>Disability Related Expense</b>	<b>Evidence Required</b>
<b>Health Needs</b> Non prescribed items e.g. incontinence creams, wipes etc. where not provided by the NHS)	Bills/Receipts required
<b>Personal Care – Private</b> Includes bathing, washing feeding and dressing	Bills/receipts/bank statement/service agreement/letter from carer Confirmation of need from assessing officer
<b>Prescriptions</b> Where the individual has to pay	Receipts required
<b>Holidays</b> Additional reasonable costs for disability related adaptations plus cost of accommodation for Personal Assistant, if applicable	Receipts /invoices required
<b>Special equipment</b> Purchase, maintenance, and repair rent of disability related equipment	Evidence of purchase Confirmation of need from assessing officer or Occupational Therapy worker.
<b>Transport Costs</b> Other transport costs necessitated by illness or disability	Bills/receipts required Evidence of need from assessing officer
<b>Other Disability Related Expenditure</b>	Bills/receipts required Evidence of need from assessing officer

Darlington Borough Council

Services for People

Adult Social Care

The Care and Support (Charging and Assessment of Resources)

For Residential Services Policy

<b>Author</b>		<b>Ref No</b>	
<b>Approval Dates:</b>		<b>Rev No</b>	
<b>Head of Adult Social Care</b>		<b>Issue Date</b>	July 2016
		<b>Review Date</b>	

## INDEX

	Page
Policy Statement	4
Support Needs	5
The Financial Assessment	6
Treatment of Income	7
Treatment of Capital	11
Property	12
12 Week Property Disregard	13
Allowances/Disregards	14
Deferred Payment Scheme	14
Top Up Payments	15
Temporary and Short Break Stays	15
The Welfare Rights Check	17
Review of Assessed Charges	17
Change in Financial Circumstances	17
Paying for Care and Support	18
Appeals	18
Waiving the Charges	18

## Policy Statement

1. This policy has been written in accordance with the Care Act 2014 [hereinafter referred to as the Act] and the Care and Support Statutory Guidance issued under the Care Act 2014 by the Department of Health. The Act provides a single legal framework for charging for care and support under sections 14 and 17. The Act is supported by the Care and Support (Charging and Assessment of Resources) Regulations 2014 which Local Authorities must follow when charging individuals for their care and support needs.
2. Should readers of this policy require clarification on any of the following, the Care and Support Statutory Guidance issued under the Care Act is accessible via the following link: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)
3. The Council will charge a person when it is arranging to meet a person's care and support needs, except where the Council is required to arrange care and support free of charge. The amount a person is charged will be determined by way of a financial assessment which will determine whether they are required to pay in full, a contribution or will receive care and/or support services free of charge.
4. The new framework is intended to make charging fairer and clearer. The overarching principle is that people should only be required to pay what they can afford. People will be entitled to financial support based on a means-test and some will be entitled to free care.
5. The framework is based on the following principles, as set out in the Care and Support Statutory Guidance issued under the Act [[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf)], that the approach to charging for care and support needs should:
  - a) Ensure that people are not charged more than it is reasonably practicable for them to pay;
  - b) Be comprehensive, to reduce variation in the way people are assessed and charged;
  - c) Be clear and transparent, so people know what they will be charged;
  - d) Promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control ;
  - e) Support carers to look after their own health and wellbeing and to care effectively and safely;
  - f) Be person-focused, reflecting the variety of care and caring journeys and the variety of
  - g) Options available to meet their needs;
  - h) Apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
  - i) Encourage and enable those who wish to stay in or take up employment, education or training, or plan for the future costs of meeting their needs to do so; and
  - j) Be sustainable for local authorities in the long-term.

6. The Council will also ensure there is sufficient information and advice available in a suitable format for the person's needs, in line with the Equality Act 2010 (in particular for those with a sensory impairment, with learning disabilities or for whom English is not their first language), to ensure that they or their representative are able to understand any contributions they are asked to make. The Council will also make the person or their representative aware of the availability of independent financial information and advice.

## **Support Needs**

7. The Council has a duty to arrange care and support for those with eligible needs, and a power to meet both eligible and non-eligible needs. The Council has the discretion to choose whether or not to charge under section 14 of the Act following a person's needs assessment.
8. Where an individual is to be charged, the Council will follow the Care and Support (Charging and Assessment of Resources) Regulations 2014 and have regard to the guidance. The detail of how to charge is different depending on whether someone is receiving care in a care home, or their own home, or another setting. This policy sets out the Council's charging policy for individuals with residential care needs. There is a separate charging policy for individuals with non-residential care needs.
9. As set out at paragraph 3 above, the Council will normally charge individuals for the care and support needs unless they fall within an exemption as set out within this policy or if the Council considers the circumstances of an individual's case would warrant a departure from this policy when making a charging decision following a financial assessment.
10. The following types of care and support must be arranged free of charge by the Council, as per the Statutory Guidance [\[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/366104/43380\\_23902777\\_Care\\_Act\\_Book.pdf\]](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf):
  - a) Intermediate care, including reablement, which will be provided free of charge for up to six weeks.
  - b) Care and support provided to people with Creutzfeldt-Jacob Disease.
  - c) After-care services/support provided under section 117 of the Mental Health Act 1983.
  - d) Any service or part of service which the NHS is under a duty to provide. This includes
  - e) Continuing Healthcare and the NHS contribution to Registered Nursing Care.
  - f) More broadly, any services which the Council is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
  - g) Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs".

## **The Financial Assessment**

11. To ensure that everyone is treated fairly all individuals with residential care needs will undergo a financial assessment in order to calculate their ability to contribute towards the cost of these services and to enable individuals to maximize any benefits to which they may be entitled.

12. The financial assessment can be conducted using a number of different methods, including in-person - via a visit or a pre-arranged appointment at the customer services centre - or over the telephone.
13. The Council may choose to treat an individual as if a financial assessment has already been carried out. This is known as a “light-touch” financial assessment and the main circumstances in which the Council may consider carrying out a light-touch financial assessment are:
  - a. Where an individual has significant financial resources, and does not wish to undergo a full financial assessment for personal reasons, but wishes to access Council support in meeting their needs. In these situations the Council may accept other evidence in lieu of carrying out the financial assessment and consider the individual to have financial resources above the upper limit.
  - b. Where the Council charges a small or nominal amount for a service which an individual is clearly able to meet and would clearly have the relevant minimum income left, and carrying out a financial assessment would be disproportionate.
  - c. When an individual is in receipt of benefits which demonstrate that they would not be able to contribute towards their care and support costs
14. Where a ‘light-touch’ assessment has been carried the individual will be notified of this and also of their right to request a full financial assessment should they wish.
15. At the time of a care and support needs assessment, the Council will establish whether the individual in question has the capacity to take part in the financial assessment. If the person lacks capacity, the Council must find out if the person has any of the following as the appropriate person will need to be involved:
  - a) Enduring Power of Attorney (EPA);
  - b) Lasting Power of Attorney (LPA) for Property and Affairs;
  - c) Property and Affairs Deputyship under the Court of Protection; or
  - d) Any other person dealing with that person’s affairs (e.g. someone who has been given appointee-ship by the Department for Work and Pensions (DWP) for the purpose of benefits payments).
16. Individuals who lack capacity to give consent to a financial assessment and who do not have any of the above people with authority to be involved in their affairs, may require the appointment of a Property and Affairs Deputyship. Family members can apply for this to the Court of Protection or the Council can apply if there are no family involved in the care of the person. While this takes some weeks, it then enables the person appointed to access information about bank accounts and financial affairs. A person with dementia for example should not be ‘forced’ to undertake a financial assessment, to sign documents they can no longer understand and should not be punished for any incomplete information that is elicited from them. Instead, the Council will work with the EPA, LPA or the Deputies.
17. If there is a delay in the completion of the financial assessment, due to an application being made to the Court of Protection for deputyship, then the payment schedule of the assessed charge from the point of services being provided will be considered on a case by case basis

18. If an individual with eligible needs and financial assets above the upper capital limit ask the Council to meet their needs the Council will not make the arrangements unless we have a duty to do so, e.g. if the individual lacks capacity and if there are no legal representative to make the arrangements.
19. A financial assessment consists of a Visiting Financial Assessment Officer:
  - a. Calculating an individual's total income and capital;
  - b. Calculating disregards and allowances;
  - c. Completing a Disability Related Expenditure Assessment;
  - d. Undertaking a comprehensive welfare rights check;
  - e. Supporting the individual to identify their best options for paying any charges, this may include offering the person a deferred payment agreement.
20. If an individual chooses not to supply all of the information requested on the Financial Assessment form they will be asked to complete a Non-Disclosure of Financial Information Declaration and will be charged the full actual cost of the services. Should an individual not agree to the charges then a full financial assessment will be necessary.
21. Following the financial assessment, where applicable, an estimated charge will be left with the individual, along with an easy-to-understand written record of the assessment explaining how the assessment has been carried out, what the charge will be and how often it will be made.
22. Where an assessed need has been identified services will commence regardless of whether a financial assessment has been completed. Once an assessment has taken place any assessed charges will be backdated to the commencement of the service. There is no charge for the financial assessment, needs assessment or the preparation of a care and support plan.
23. The Council will endeavour to carry out a financial assessment within 8 weeks of the commencement of services to ensure that the individual does not accumulate significant debts before backdated fees are sought.
24. Once completed, individuals will be provided with a copy of their financial assessment.

### **Treatment of Income**

25. Income is assessed net of any tax and National Insurance contributions and net of any housing costs such as rent or mortgage and Council Tax.
26. Only the income of the individual being charged will be taken into account. Where this person receives income as part of a couple, the starting presumption is that they have an equal share of the income. In these circumstances, the Council will consider the implications for the individual's partner when making decisions about charging.
27. The financial limit, known as the "upper capital limit", is set nationally and exists for the purposes of the financial assessment. This sets out at what point a person is entitled to access Council support to meet their eligible needs – below this level, a person can seek means-tested support from the Council. Capital below the "lower capital limit" is disregarded in the financial assessment, and where an individual's resources are below the



lower capital limit they will not need to contribute to the cost of care and support from their capital.

## **Benefits**

28. Any income from the following benefits will be taken into account when considering what a person can afford to pay towards their care from their income:

- a)** Attendance Allowance, including Constant Attendance Allowance and Exceptionally Severe Disablement Allowance
- b)** Bereavement Allowance
- c)** Carers Allowance
- d)** The Care component of Disability Living Allowance
- e)** Employment and Support Allowance or the benefits this replaces such as Severe Disablement Allowance and Incapacity Benefit
- f)** Income Support
- g)** Industrial Injuries Disablement Benefit or equivalent benefits
- h)** Jobseeker's Allowance
- i)** Maternity Allowance
- j)** Pension Credit
- k)** The Daily Living component of Personal Independence Payment
- l)** State Pension
- m)** Universal Credit
- n)** Working Tax Credit.

29. Where any Social Security benefit payment has been reduced (other than a reduction because of voluntary unemployment), for example because of an earlier overpayment, the amount taken into account will be the gross amount of the benefit before reduction.

30. Any income from the following sources will be fully disregarded:

- a)** Direct Payments;
- b)** Guaranteed Income Payments made to Veterans under the Armed Forces Compensation Scheme;
- c)** The mobility component of Disability Living Allowance
- d)** The mobility component of Personal Independence Payments

31. Attendance Allowance, the care component of Disability Living Allowance and the daily living component of Personal Independence will be treated in the following manner:

- a) Where a person is in a long term placement where the Council assists with the funding, they will lose their entitlement after 28 days
- b) Where a person is paying for the whole cost of their placement, they will continue to keep their entitlement
- c) Where a person is receiving a 12 week property disregard they will lose their entitlement after 28 days. Entitlement will re-commence from the beginning of the 13<sup>th</sup> week.
- d) If a person is in hospital or receiving a period of intermediate care, including reablement, in a residential home prior to the start of their placement the number of days they were there will count towards their entitlement.

## **Earnings**

- 32. Earnings from current employment will be disregarded in the financial assessment to help encourage individuals to remain in or take up employment.
- 33. A full list of what is defined as earnings in the financial assessment can be found in "Appendix C: Treatment of Income" in the Care and Support Statutory Guidance issued under the Act.

## **Annuity and Pension Income**

- 34. An annuity is a type of pension product that provides a regular income for a number of years in return for an investment. Such products are usually purchased at retirement in order to provide a regular income. While the capital is disregarded, any income from an annuity must be taken fully into account except where it is:
  - a. Purchased with a loan secured on the individual's main or only home; or
  - b. A gallantry award such as the Victoria Cross Annuity or George Cross Annuity.
- 35. Occupational pensions are fully taken into account in the financial assessment unless an individual is paying half of their occupational pension, personal pension or retirement annuity to their spouse or civil partner in which case the Council will disregard 50% of its value if one of the annuitants is still occupying the property as their main or only home.
- 36. For a comprehensive overview of what disregards can be applied to annuity and pension income and qualifying conditions, please see Appendix C of the Care and Support Statutory Guidance issued under the Act.

## **Income disregarded**

- 37. Certain income will be either fully or partially disregarded in the financial assessment. For a full list please refer to the Care and Support Statutory Guidance issued under the Act.
- 38. Any income from the following sources will be fully disregarded, however this list is not exhaustive:
  - a) Child Support Maintenance Payments and Child Benefit
  - b) Child Tax Credit
  - c) Council Tax Reduction Schemes where this involves a payment to the person
  - d) Disability Living Allowance (Mobility Component) and Mobility Supplement
  - e) Income in kind

- f) Personal Independence Payment (Mobility Component) and Mobility Supplement
- g) Savings credit disregard
- h) Social Fund payments (including winter fuel payments)
- i) Any grants or loans paid for the purposes of education; and Payments made in relation to training for employment.

39. The following income is partially disregarded:

- a) The first £10 per week of War Widows and War Widowers pension, survivors Guaranteed Income Payments from the Armed Forces Compensation Scheme, Civilian War Injury pension, War Disablement pension and payments to victims of National Socialist persecution (paid under German or Austrian law).
- b) A savings disregard based on qualifying conditions.

### **Notional income**

40. In some circumstances a person may be treated as having income that they do not actually have. This is known as notional income. This might include for example income that would be available on application but has not been applied for, income that is due but has not been received or income that the person has deliberately deprived themselves of for the purpose of reducing the amount they are liable to pay for their care. In all cases the Council will satisfy itself that the income would or should have been available to the person.

41. Where notional income is included in a financial assessment, it will be treated the same way as actual income and will be calculated from the date it could be expected to be acquired is an application had been made.

42. The following sources of income will not be treated as notional income:

- a. Income payable under a discretionary trust;
- b. Income payable under a trust derived from a payment made as a result of a personal injury where the income would be available but has not yet been applied for;
- c. Income from capital resulting from an award of damages for personal injury that is administered by a court;
- d. Occupational pension which is not being paid because:
  - i. The trustees or managers of the scheme have suspended or ceased payments due to an insufficiency of resources; or
  - ii. The trustees or managers of the scheme have insufficient resources available to them to meet the schemes liabilities in full.
- e. Working Tax Credit.

43. This is not an exhaustive list of income and further information can be found in Care and Support Statutory Guidance issued under the Care Act 2014.

## **Personal Expense Allowance**

44. The Council must leave care home residents with a minimum amount of income. This is known as the Personal Expenses Allowance (PEA) and the amount is set out in regulations and updates sent via a Council circular. Anything above this may be taken into account in determining charges.

## **Treatment of Capital**

45. In assessing what a person can afford to contribute the Council will apply the upper and lower capital limits as set by the Department of Health every year.
46. A person with assets above the upper capital limit will be deemed to be able to afford the full cost of their care. Any assets below the lower capital limit will be disregarded.
47. Where a person has assets between the lower and upper capital limits a tariff income will apply. This assumes that for every £250 of capital, or part thereof, a person is able to afford to contribute £1 per week towards the cost of their eligible care needs.
48. The following list gives examples of capital. This list is intended as a guide and is not exhaustive.
- a)** Buildings
  - b)** Land
  - c)** National Savings Certificates and Ulster Savings Certificates
  - d)** Premium Bonds
  - e)** Stocks and shares
  - f)** Capital held by the Court of Protection or a Deputy appointed by that Court
  - g)** Any savings held in:
    - i.** Building society accounts.
    - ii.** Bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.
    - iii.** SAYE schemes.
    - iv.** Unit Trusts.
    - v.** Co-operatives share accounts.
  - h)** Cash.
  - i)** Trust funds
49. Where ownership of capital is disputed, the Council will seek written evidence to prove where ownership lies. If a person states they are holding capital for somebody else, the Council will require evidence of this arrangement, the origin of the capital and intentions for its future use and return to its rightful owner.

50. Where a person has joint beneficial ownership of capital, except where there is evidence that the person owns an unequal share, the total value should be divided equally between the joint owners and the person should be treated as owning an equal share. Once the person is in sole possession of their actual share, they can be treated as owning that actual amount.
51. Capital which is not immediately realisable due to notice periods, for example Premium Bonds, should be taken into account at face value at the time of assessment and may need to be confirmed and adjusted when the capital is realised.

### **Notional Capital**

52. In some circumstances a person may be treated as possessing a capital asset even where they do not actually possess it. This is called notional capital.
53. Notional capital may be capital which:
  - a) would be available to the person if they applied for it;
  - b) is paid to a third party in respect of the person;
  - c) the person has deprived themselves of in order to reduce the amount of charge they have to pay for their care.
54. Where a person has been assessed as having notional capital, the value of this will be reduced over time. The rule, as laid out in Care and Support Statutory Guidance issued under the Care Act, is that the value of notional capital must be reduced weekly by the difference between the weekly rate the person is paying for their care and the weekly rate they would have paid if notional capital did not apply.

### **Capital Disregarded**

55. Certain types of capital may be disregarded in the financial assessment. For a full list please refer to the Care and Support Statutory Guidance issued under the Act.

### **Property disregards**

56. The person's main or only home must be disregarded in the following circumstances:
  - a) Where the person is receiving care in a setting that is not a care home;
  - b) If the person's stay in a care home is temporary and they:
    - i. Intend to return to that property as their main or only home and it remains available to them; or
    - ii. Have taken reasonable steps to dispose of the property in order to acquire one that is more suitable and intend to return to that property.
  - c) Where the person no longer occupies the property but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home
    - i. The person's partner, former partner or civil partner, except where they are estranged

- ii. A lone parent who is the person's estranged or divorced partner
- iii. A relative of the person or member of the person's family who is
  - 1. Aged 60 or over, or
  - 2. Is a child of the resident aged under 18, or
  - 3. Is incapacitated.

57. Precise definitions for the terms used above can be found in the Care and Support Statutory Guidance issued under the Act.

### **12 week property disregard**

58. If the value of an individual's non-housing assets is below the upper capital limit then the value of their *main or only* home must be disregarded for the first 12 weeks in the following circumstances:
- a. when they first enter a care home as a permanent resident; or
  - b. when a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

### **Allowances/Disregards**

#### **Housing Costs**

59. Disregards are made for certain housing-related costs, as follows:
- a. Mortgage payments - Mortgage payable net of any housing benefit is disregarded. This is disregarded by the number of people named on the deeds and whether there is a specified percentage share.
  - b. Rent Payments - Rent payable net of housing benefit can be disregarded as long as the individual's name is on the tenancy and they are deemed eligible under the housing benefit rules. However, if housing benefit is reduced for under occupation then the difference that an individual is required to pay will not be disregarded. If the assessment is for one member of a couple then no disregard is given for rent.
  - c. Council Tax – No disregard unless exemption ceases
  - d. Water rates – If a resident has a beneficial interest in a property that is vacant there is no disregard for water rates unless proof can be provided of essential expenditure to maintain the property.
  - e. Utility bills - If a resident has a beneficial interest in a property that is vacant there is no disregard for utility bills unless proof can be provided of essential expenditure to maintain the property.
  - f. Building Insurance - If a resident has a beneficial interest in a property a disregard is given according to the number of people named on the deeds and whether there is a specified percentage share.

## **Other allowances**

60. Other disregards available include:

- a. A disregard will be made for non-dependants, but only if a non-dependant deduction has been made by Housing Benefits.
- b. Disability-Related Expenditure
- c. Pre-paid funeral policy

## **The Deferred Payment Scheme**

61. The deferred payment scheme is designed to help individuals who have been assessed as having to pay the full cost of their care, but who cannot afford to pay the full weekly charge because most of their capital is tied up in their home. Deferred payment agreements will be offered to anyone who meets the qualifying criteria and are able to provide adequate security as outlined in the Council's [Deferred Payment Policy](#).
62. Individuals will pay a weekly contribution towards their care that they have been assessed as being able to pay from their income and other savings. The Council pays the part of the weekly charge that they cannot afford until the value of their home is realised.
63. The Council will charge an administration fee for setting up a deferred payment agreement including legal and ongoing running costs.
64. The Council will charge interest on the deferred amount using the nationally-set maximum interest rate.
65. Individuals who refuse or are not eligible to enter into a deferred payment agreement will be charged the full cost of their placement after the 12 week property disregard.

## **Top-Up Payments**

66. Where a person chooses a placement that is more expensive than the amount identified to meet their accommodation needs in their personal budget - provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost - arrangements will need to be made to make this 'top-up' payment.
67. Before entering into the agreement, the Council will provide the individual paying the 'top-up' with information and advice to ensure they understand the full implications of their choice, and the terms and conditions, including actively considering the provision of independent financial information and advice. Further detail is available in Care and Support Statutory Guidance issued under the Act.
68. Before entering into the agreement, the Council will undertake a financial assessment with the person/persons undertaking the third party top up to ensure that affordability and sustainability of this amount is maintainable.
69. If the arrangements for a 'top-up' were to fail for any reason, the Council may have to make alternative arrangements, subject to a care and support needs assessment.
70. The person paying the 'top-up' must enter into a written agreement with the Council, agreeing to meet the additional top-up cost. That agreement must, as a minimum, include:
  - a. The additional amount to be paid;

- b. The amount specified for the accommodation in the person's personal budget;
- c. The frequency of the payments;
- d. To whom the payments are to be met;
- e. Provisions for reviewing the agreement;
- f. A statement on the consequences of ceasing to make payments;
- g. A statement on the effect of any increases in charges that a provider may make;
- h. A statement on the effect of any changes in the financial circumstances of the person paying the 'top-up'.

71. The 'top-up' agreements will be reviewed by the Council on an annual basis.

72. Following on from the financial assessment the Council may decline the third party top up arrangement if the above criteria is not met or the financial assessment is refused or the financial assessment shows that this payment was not affordable or sustainable.

### **Temporary and short-term residents in care homes (Short Break Stay)**

#### **Who is a temporary resident?**

73. A temporary resident is defined as a person whose need to stay in a care home is *intended* to last for a limited period of time and where there is a plan to return home. The person's stay should be unlikely to exceed 52 weeks, or in exceptional circumstances, unlikely to substantially exceed 52 weeks.

74. In some cases a person may enter a care home with the intention of a permanent stay but a change in circumstances could result in it being temporary. In such cases the Council will treat the individual as temporary from the date of admission for the purposes of charging.

75. Similarly a stay which was initially intended to be temporary could become permanent. In such cases, the financial assessment of the person as a permanent resident will be from the date that the care plan is amended and agreed with the person and/or their Representative where the individual lacks capacity.

76. The financial assessment will be based on the individual resources of the person. However the Council will give regard to any partner or spouse remaining at home and ensure they are left with a basic level of income support or pension credit to which they may be entitled in their own right.

#### **Capital**

77. Where the Council charges a temporary resident, the individual's main or only home will be disregarded where the person:

- a. Intends to return to the property as their main or only home and it remains available to them; or
- b. Has taken steps to dispose of the home in order to acquire one that is more suitable and intends to return to that property.

78. Any other capital assets will be treated in the same way as for permanent residents



## **Income and earnings**

79. Both income and earnings will be treated in the same way as for permanent residents; however any additional amounts the individual may need to maintain their home during their temporary stay will be disregarded. Such expenses may include ground rent, service charges, water rates or insurance premiums.
80. Where Attendance Allowance, Disability Living Allowance or Personal Independence Payments are being received, these will be completely disregarded, however eligibility for both of these benefits ceases after 4 weeks of Council support so the Council will consider the impact of this on the person's ability to maintain their home.
81. Any Housing Benefit paid to the person will be disregarded as they will still be responsible for meeting any costs associated with their main or only home.
82. Any payments the individual receives to support the costs of housing and/or independent living will also be disregarded, for example payments to provide warden support, emergency alarms or the meeting of cleaning costs.
83. Where a person is sub-letting their main or only home, this income will be disregarded.
84. Where a person has income from a boarder, the first £20 of the income should be ignored plus half of any balance over £20.

## **The Welfare Rights Check**

85. As part of the Financial Assessment the Visiting Financial Assessment Officer will ensure that appropriate benefits advice is given to all individuals. This will include advice about benefit eligibility; help with the completion of benefit claims and the follow up of claims with the benefit provider where the Individual wishes this. As most decisions about benefit entitlement carry the right of appeal, then the Visiting Financial Assessment Officer will suggest that expert advice be sought as early as possible to avoid loss of benefit and avoid lengthy appeal processes.
86. Advice will not be limited to benefits directly affecting charges. It will therefore include Housing Benefit, Council Tax Benefit, and Council Tax Discounts and reductions as well as the core benefits of Income Support and Pension Credits, disability benefits (AA/DLA) and Tax Credits.
87. The individual will also be notified whether charges are likely to increase if the benefit application is successful.
88. Some individuals may prefer to obtain independent Welfare Rights advice from agencies such as Age UK or Citizens Advice Bureau and will be offered this choice. Where the Individual has given permission, information regarding the financial assessment will be exchanged with the relevant agency.
89. Individuals can choose not to take the advice offered by the Visiting Financial Assessment Officer. Where the individual fails to make a claim for a benefit that they will be entitled to, this may result in this amount being treated as notional i.e. as if it is still there.

## **Review of Assessed Charges**

90. An income and expenditure uplift will be applied in line with benefit increases annually.

91. The Council will undertake regular reviews of financial assessments. This will usually be on an annual basis.
92. A financial reassessment will be completed as a result of any changes in financial circumstances. This includes being awarded new benefits and the payments of new income.

### **Change in Financial Circumstances**

93. It is the responsibility of the individual or their representative to inform the Council of any relevant change of financial circumstances, as failure to do so may lead to backdated charges. Examples of changes in circumstances include reductions and increases in income or capital.
94. An individual or their authorised representative can request a review of their financial assessment at any time and this should be undertaken to consider any changes in their resources. If it comes to the attention of the Council that an individual's circumstances may have changed then a referral should be made to the financial assessment team for the financial assessment to be reviewed accordingly. When undertaking a review of the financial assessment, individuals will be expected to provide the requested updated information to the Council within 15 working days. If the individual refuses to provide updated information then they will be deemed to afford the full actual cost of the services they receive.
95. The individual will be notified in writing of any alteration to their weekly contribution, as a result of any changes. Any change to the individual's weekly contribution may be from the date of such change.

### **Paying for Care and Support**

96. Individuals will normally be invoiced on a 4 weekly basis, in arrears for their assessed charge, however, alternative payment arrangement may be available upon request.
97. Details on how to pay assessed contributions will be provided on invoices.

### **Appeals**

98. If the client disagrees with the initial financial assessment then a different Visiting Financial Assessment Officer will verify the assessment. This will be completed within 10 working days and a written reply made setting out the reasons for maintaining or amending the present charge.
99. If the individual or their authorised representative still disputes the charge, then a further review will be completed by the Visiting Financial Assessment Officers' line manager. Again, a written reply will be sent out within 10 working days confirming the reasons for maintaining or amending the current charge.
100. If the individual still remains dissatisfied regarding the outcome of their appeal then the Director of Services for People or a nominated officer will hear appeals against decisions made by the Financial Assessment Section.
101. At any time during this process the individual or their representative can make a complaint under the Darlington Borough Council Complaints Procedure. Details regarding the Council's complaints procedure are detailed at the end of this policy.

## Waiving the Charges

102. In exceptional cases, the charges for care and support may be waived. Cases will be considered on an individual basis taking into account the effect upon the individual.
103. In such cases, the Assessing Officer and their Team Manager will submit a report outlining the client's circumstances and the reasons why they believe that the charges should be waived to the Assistant Director Adult Social Care for approval. Approval may be given retrospectively and the individual would be reimbursed for contributions paid back to the date that approval was effective. It can also be given for a specified period of time to give the individual the opportunity to reassess their own position on paying for their care.
104. The Council has a responsibility to provide care and support to people assessed as needing it through a Care and Support Needs Assessment regardless of the individual's ability or willingness to pay. Services that are essential to support someone safely in the community should not be withdrawn because the person refuses to pay. Where the person withdraws themselves from services, further enquiries and alternative advice and assistance will be offered.

## Debt Management

105. Where an individual has accrued a debt, the Council may use its powers under the Act to recover that debt. In deciding how to proceed, the Council will consider the circumstances of the case before deciding a course of action.
106. Ultimately, the Council may institute County Court proceedings to recover the debt due to the Council. However, the Council will only use this power once other reasonable alternatives for recovery have been exhausted.

## Complaints

107. Darlington Adult Social Care welcomes and responds positively to all comments, compliments and complaints as a means of demonstrating its commitment to working in partnership with individuals and carers and improving services.
108. The Adult Social Care Complaints Procedure comprises of one stage after which the complainant should be advised to discuss the matter with the Complaints Manager or refer the matter to the Local Government Ombudsman.
109. Although complainants can refer their complaint from the outset to the Local Government Ombudsman, they will not normally investigate the matter until the Council has conducted its own investigation and made a response.
110. More information is available from:

Complaints and Information Governance Team  
Darlington Borough Council  
Town Hall  
Feethams  
Darlington  
DL1 5QT  
Tel: 01325 406777  
[www.darlington.gov.uk/complaints](http://www.darlington.gov.uk/complaints)  
E-mail: [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk)

111. Complaints concerning the conduct of Officers of the Council will be dealt with under the Council's employment policy and procedures.

Darlington Borough Council  
 Services for People  
 Adult Social Care

The Care and Support (Charging and Assessment of Resources)  
 Deferred Payment Policy

<b>Author</b>		<b>Ref No</b>	
<b>Approval Dates:</b>		<b>Rev No</b>	2
<b>Head of Adult Social Care</b>		<b>Issue Date</b>	July 2016
		<b>Review Date</b>	

## INDEX

	Page
Policy Statement	3
Eligibility Criteria	3
Permission to Refuse	3
Stopping a DEFERRED PAYMENT AGREEMENT	4
Information and Advice	5
How Much Can Be Deferred	5
Equity Limits	6
Contributing from Other Sources	6
Retaining Income	7
Obtaining Security	7
Interest and Administration Charges	8
The Council's Responsibilities	9
The Individual's Responsibilities	9
Termination of Agreement	9
Debt Management	11
Complaints Procedure	11

## **Policy Statement**

1. The deferred payment scheme ensures that if an individual is assessed as requiring residential care, extra care or supported living they will not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, an individual can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging (or even a crisis point) for them and their loved ones as they make the transition into care.
2. A deferred payment agreement can provide additional flexibility for when and how an individual pays for their care and support. The payment for care and support is deferred and not 'written off' – the costs of provision of care and support will have to be repaid by the individual (or a third party on their behalf) at a later date.
3. A deferral can last until death, however individuals may choose to use a deferred payment agreement as a 'bridging loan' to give them time and flexibility to sell their home when they choose to do so.

## **Eligibility criteria**

4. The Council will offer deferred payment agreements to people who meet certain criteria governing eligibility for the scheme providing adequate security is in place to ensure that the amount deferred will be repaid in the future. The Council may, at their own discretion, choose to offer the scheme more widely to anyone they feel would benefit who does not fully meet the criteria. This discretion will be exercised on a case by case basis dependent on individual circumstances.
5. In order to be eligible for the deferred payment scheme individuals' care and support must be arranged by either the Council or themselves, if paying for their own care.
6. The regulations specify that someone is eligible for a deferred payment agreement if they meet all the following criteria:
  - (a) they are assessed as having eligible needs which the Council determines should be met through a care home, supported living or extra care placement;
  - (b) their assets, excluding the value of their home (i.e. in savings and other non-housing assets), do not exceed the upper capital threshold; and
  - (c) their home is not disregarded, as defined in regulations on charging for care and support (i.e. someone whose home is taken into account in the Council's financial assessment and so might need to be sold).

## **Permission to refuse a deferred payment agreement**

7. The Council may refuse a deferred payment agreement despite someone meeting the eligibility criteria where:
  - (a) the Council is unable to secure a first charge on the person's property;
  - (b) an individual is seeking a top up; and/or

- (c) an individual does not agree to the terms and conditions of the agreement, for example a requirement to insure and maintain the property.
- (d) Where a person lacks mental capacity or does not have a legal representative appointed to make the application on their behalf. Where these are disagreements in relation to mental capacity the Local Authority will undertake any necessary capacity assessments.

### **Where the person lacks capacity to enter into a Deferred Payment**

- 8. Where a person may lack capacity to request a deferred payment, a deputy or attorney may request a deferred payment on their behalf. If a family member or alternative representative requests a deferred payment and they do not have the legal power to act on behalf of the person, then they will be provided with advice about the necessary application they need to make to provide them with the legal authority to act. Where the local authority is the deputy for a person, then the local authority deputy may apply for deferred payments where this is in the best interest of the person.
- 9. This situation might arise where a person is unable to enter into a deferred payment agreement, due to lack of capacity; and there is no one with legal authority to enter into an agreement. As a last resort Darlington Borough Council should make application to obtain a Deputyship order, if it is in the individuals best interests to do so.
- 10. Whilst an application for deputyship is being obtained by a family member or other representative, Darlington Borough Council will pay the provider and send regular invoices detailing the charges to be paid to the person applying for deputyship. If the deputyship is obtained and the responsible party has not paid, Darlington Borough Council may need to obtain a court order for the debt outstanding.

### **Enduring Powers of Attorney (EPA)**

- 11. These only cover property and affairs, and remain valid as long as they were drawn up before 1st October 2007. No new EPAs can be created since October 2007 when Lasting Powers of Attorney were introduced.

### **Lasting Powers of Attorney**

- 12. People over the age of 18 can formally appoint one or more people as Lasting Powers of Attorney (LPAs) to look after their personal welfare, and/or their property affairs. This allows persons to plan ahead for a time when they may not have capacity to make certain decisions. The person making the LPA is known in legal terms as the donor, and the power they are giving to another person is the Lasting Power of Attorney. The person appointed is then called an attorney. The LPA gives the attorney the authority to make decisions on the donor's behalf. Attorneys acting under an LPA have a legal duty to have regard to the guidance in the Mental Health Act Code of Practice and act in the person's best interests.
- 13. An LPA must be registered with the Office of the Public Guardian (OPG) before it can be used. An unregistered LPA does not give the attorney any legal powers to make a decision for the donor. The donor can register the LPA while they still have capacity, or the attorney can apply to register the LPA at any time. Staff can check the register if they are unsure about the validity of an LPA. Contact details for the OPG can be found on their website.



## Deputyship

14. A Deputy may be appointed by the Court of Protection when there is no one else who could act on behalf of the person lacking capacity to manage their financial affairs and/ or personal welfare decisions. A deputy can be a representative for the person or the local authority or a solicitor.
15. The local authority will need to satisfy itself that there is no conflict of interest in exercising the duties of deputy. Financial management of a person's monies through the local authority deputy is usually under the Finance section, and should be audited

## Circumstances in which local authorities may stop deferring care costs

16. The Council also has the discretion to refuse to defer any more charges for individuals who have already had an active deferred payment agreement, under certain circumstances. In these situations the Council will not demand repayment and repayment is subject to the terms of termination.
17. In these situations the Council will provide a minimum of 30 days advance notice that further deferrals will cease and an indication of how their care costs will need to be met in future.
18. Circumstances in which the Council may refuse to defer any more charges include:
  - (a) when an individual's total assets fall below the level of the means-test, and the person becomes eligible for Council support in paying for their care;
  - (b) where an individual no longer has need for care in a care home (or where appropriate supported living accommodation);
  - (c) if an individual breaches certain predefined terms of their contract and the Council's attempts to resolve the breach are unsuccessful; or
  - (d) if the property becomes disregarded for any reason and the person consequently qualifies for Council support in paying for their care, including but not limited to:
    - i. where a spouse or dependent relative has moved into the property after the agreement has been made, where this means the person is eligible for Council support in paying for care and no longer requires a deferred payment agreement; and
    - ii. where a relative who was living in the property at the time of the agreement subsequently becomes a dependent relative (as defined in charging regulations).
19. The Council will also cease deferring further amounts when an individual has reached the 'equity limit' that they are allowed to defer or when a person is no longer receiving care and support in either a care home setting, extra care or in supported living accommodation. This also applies when the value of the security has dropped and so the equity limit has been reached earlier than expected.

## Information and advice

20. The Council will provide easy-to-read information about how the scheme works to individuals, their carer's and their families.
21. The Council will provide information and advice in formats that ensure compliance with the requirements of the Equality Act 2010.

## How much can be deferred?

22. When offering a deferred payment agreement the Council will consider whether a person can provide adequate security for the deferred payment agreement. If the person is considering a top-up, the Council will also consider whether the amount or size of the deferral requested is sustainable given the equity available from their chosen form of security.
23. Three elements will dictate how much a person will defer:
  - (a) The amount of *equity* an individual has available in their chosen form of security (usually their property);
  - (b) The amount an individual is *contributing to their care costs from other sources*, including income and (where they choose to) any contribution from savings, a financial product or a third-party; and
  - (c) The total *care costs* an individual will face, including any top-ups the person might be seeking.

## Equity Limit

24. If an individual intends to secure their deferred payment agreement with a property, the Council will obtain a valuation of the property. An individual may request an independent assessment of the property's value. If an independent assessment finds a substantially differing value to the Council's valuation, the Council and the individual will agree an appropriate valuation prior to proceeding with the agreement.
25. When considering the equity available, the Council will be guided by an 'equity limit' for the total amount that can be deferred and will ensure that the amount deferred does not rise above this limit. When calculating progress towards this limit, the Council will also include any interest or fees to be deferred.
26. Where a property is used as security to offer a deferred payment agreement, the equity limit will be calculated as the value of the property minus ten percent, minus the lower capital limit and the amount of encumbrance secured on it.
27. When an individual is approaching or reaches the point at which they have deferred 70% of the value of their chosen security, the Council will review the cost of the care with the individual, discuss when the person might be eligible for any means tested support, discuss the implications for any top-up they might currently have, and consider jointly whether a deferred payment agreement continues to be the best way for the individual to meet these costs.

## **Contributing to care costs from other sources**

28. An individual may meet the costs of their care and support from a combination of any of the following primary sources:
- (a) income, including pension income;
  - (b) savings or other assets they might have access to, including any contributions from a third party;
  - (c) a financial product designed to pay for long-term care; or
  - (d) a deferred payment agreement which enables them to pay for their care at a later date out of assets (usually their home)
29. The share of care costs that an individual defers will depend on the amount they will be paying from the other sources listed above.

## **Retention of income**

30. When an individual has been assessed to pay a contribution towards care costs from their income, they have a right to retain a proportion of their income (the 'disposable income allowance'). The disposable income allowance is up to a maximum amount, as set out in the Care Act 2014, which is currently £144 per week, of their income.
31. An individual may choose to keep less of their income than the disposable income allowance. This would reduce the amount they are deferring (and accrue less debt to the Council overall).
32. A discussion will take place between the Visiting Financial Assessment Officer and the individual (or their representative) to agree this amount however the actual decision about keeping less of their income is entirely the individual's to make.
33. If a person decides to rent out their property during the course of their deferred payment agreement, the individual will be able to retain a percentage of any rental income they possess. A discussion will take place between the Visiting Financial Assessment Officer and the individual (or their representative) to agree this amount however the decision about the actual percentage is entirely the individual's to make.

## **Obtaining security**

34. The Council will accept a first legal mortgage charge against a property on the Land Register as adequate security.
35. In cases where an agreement is to be secured with a jointly-owned property, the Council will require both owners' consent (and agreement) to a charge being placed on the property. Both owners will need to be signatories to the charge agreement, and the co-owner will need to agree not to object to the sale of the property for the purpose of repaying the debt due to the Council.
36. The Council will also request consent to a charge being created against the property from any other person who has a beneficial interest in the property.

37. The Council has discretion to decide what else may constitute 'adequate security' for a deferred payment agreement, in cases where a first charge cannot be secured. Other forms of security that the Council may choose to consider include (but are not limited to):
- (a) a third-party guarantor – subject to the guarantor having / offering an appropriate form of security;
  - (b) a solicitor's undertaking letter;
  - (c) a valuable object such as a painting or other piece of art; or
  - (d) an agreement to repay the amount deferred from the proceeds of a life assurance policy.
38. The Council has full discretion in individual cases to refuse a deferred payment agreement if it is not satisfied that adequate security is in place.

### **Sustainability**

39. When deciding on the amount to be deferred in a discretionary deferred payment agreement (particularly when considering top-ups), both parties should consider a range of factors to satisfy themselves that the arrangement is sustainable (further information is included within the Care Act Guidance) including:
- (a) The likely period the person would want a DPA for (if they intend to use it as a 'bridging loan')
  - (b) The equity available
  - (c) The sustainability of a person's contributions from their savings (if they are making one)
  - (d) The flexibility to meet future care needs
  - (e) The period of time a person would be able to defer their care costs for.

### **Interest rate and administration charge**

40. The Council will recover the administrative costs associated with deferring fees, including legal and ongoing running costs, via interest and administration charges to the individual. The is currently £500.
41. Administration charges and interest will be added to the total amount deferred as they are accrued, although an individual can request to pay these separately.
42. The Council will notify individuals in writing if they are liable for an administration charge.
43. The level of administrative charges will not exceed the actual costs incurred by the Council when providing the Universal Deferred Payment Scheme, as set out in regulations. Relevant costs may include (but are not limited to) the costs incurred by the Council whilst:

- (a) registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required;
  - (b) undertaking relevant postage, printing and telecommunications;
  - (c) costs of time spent by those providing the service;
  - (d) cost of independent valuation and re-valuation of the property;
  - (e) costs for removal of charges against property;
  - (f) overheads, including where appropriate (shares of) payroll, audit, management costs, and legal service.
44. The Council will charge interest on any amount deferred, including any administration charge deferred, in line with the national maximum interest rate which will change every six months, on 1<sup>st</sup> January and 1<sup>st</sup> June. This is to cover the cost of lending and the risks to the Council associated with lending, for example the risk of default.
45. The maximum interest rate for deferred payments is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report. This is the weighted average interest rate on conventional gilts as published in table 4.1 of Economic and Fiscal outlook, preceding 1<sup>st</sup> January and 1<sup>st</sup> June each year.
46. The final interest rate is derived by adding the gilt yield rate for the year as described above, in which the period starts to the default component (0.15%).
47. On the basis of the current gilt rates at the time of publishing (as set out in the document linked-to above, for financial year 2014/15, this is 2.0%), the interest rate will be 2.15% (when the default component is added in).
48. The Council will inform individuals prior to setting up a deferred payment agreement if interest will be charged, what interest rates are currently set at, and when interest rates are likely to change.
49. Interest will accrue on a compound basis on the amount deferred even once an individual has reached the 'equity limit'. It will also accrue after an individual has died, up until the point at which the deferred amount is repaid to the Council.
50. The individual will be notified every six months by way of a statement confirming the amount the individual owes and the total cost to them of repaying the debt.

### **The Council's responsibilities whilst the agreement is in place**

51. The Council will provide individuals 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. The Council will provide the individual with a statement on request within 28 days.
52. The Council will reassess the value of the chosen form of security once the amount deferred exceeds 50% of the security (and periodically thereafter), and adjust the equity limit and review the amount deferred if the value has changed.

## **The individual's responsibility whilst the agreement is in place**

53. The individual must notify the Council of any changes in their income or outgoings.
54. The individual must notify the Council of any changes in their need for care and support, if those changes are ones which will mean that the Council must or is entitled to stop making further instalments under the agreement or to alter the amount of the instalments.
55. The individual must notify the Council of changes which mean that their property may be disregarded if the agreement has been entered into on the basis that the adult's property has not been disregarded for the purposes of the financial assessment.
56. The individual must have appropriate arrangements in place to maintain their home whilst they are in care. In particular, the contract will require that their home is maintained adequately, and require an individual to have arrangements in place for regular maintenance to take place.
57. The individual must also have adequate insurance for their property. If their home is to be left empty for an extended period of time, the person will need to ensure their insurance covers this adequately and that any terms required by the insurer are met. Proof of insurance must be provided to Darlington Borough Council.
58. The individual must have the Council's consent before allowing someone to move into the property after the agreement has been made.

## **Termination of agreement**

59. 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 deferred payment agreement holder's death);
  - (b) when the property (or form of security) is sold and the authority is repaid; or
  - (c) when the person dies and the amount is repaid to the Council from their estate.
60. Upon termination of the agreement, the full amount due (including care costs, any interest accrued and any administrative or legal fees charged) must be paid to the Council.
61. If the individual decides sell their home, they should notify the 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 their property.
62. If the individual decides to repay the amount due to the Council from another source, or a third party may elects to repay the amount due on behalf of the individual, the Council should be notified of the person's/the third party's intention in writing, and the Council must relinquish the charge on the property on receipt of the full amount due.
63. If the deferred payment agreement is terminated due to the person's death, the amount due to the Council must be either paid out of the estate or paid by a third party. A person's family or a third party may wish to settle the debt to the Council by other means of repayment (as may be the case if the family wanted to avoid having to sell the property or means of security), and the Council must accept an alternative means of payment in this case, provided this payment covers the full amount due to the Council.

64. The executor of the will or Administrator of the Estate can decide how the amount due is to be paid; either from the person's estate (usually via the sale of the house or potentially via a life assurance policy) or from a third party source.
65. The Council will wait at least two weeks following the individual's death before approaching the executor with a full breakdown of the total amount deferred (but a family member or the executor can approach the Council to resolve the outstanding amount due prior to this point).
66. Responsibility for arranging for repayment of the amount due (in the case of payment from the estate) falls to the executor of the will.
67. Interest will continue to accrue on the amount owed to the Council after the individual's death and until the amount due to the Council is repaid in full.
68. If terminated due to an individual's death, the amount owed to the Council under a deferred payment agreement is due 90 days after the person has died. After this 90 day period, if the Council concludes that active steps to repay the debt are not being taken, for example if the sale is not progressing and a Council has actively sought to resolve the situation (or if the Council believes the executor is wilfully obstructing sale of the property), the Council may enter into legal proceedings to reclaim the amount owed.
69. In whichever circumstance an agreement is terminated, the full amount due to the Council must be repaid to cover all costs accrued under the agreement, and the person (and/or the third party where appropriate) will be provided with a full breakdown of how the amount due has been calculated. Once the amount has been paid, the Council will provide the relevant person(s) with confirmation that the agreement has been concluded, and confirm (where appropriate) that the charge against the property has been removed.

## **Debt Management**

70. Where an individual has accrued a debt, the Darlington Borough Council may use its powers under the Act to recover that debt. In deciding how to proceed, we will consider the circumstances of the case before deciding a course of action.
71. Ultimately, Darlington Borough Council may institute County Court proceedings to recover the debt due to us. However, we will only use this power once other reasonable alternatives for recovery have been exhausted.

## **Complaints Procedure**

72. Darlington Adult Social Care welcomes and responds positively to all comments, compliments and complaints as a means of demonstrating its commitment to working in partnership with individuals and carers and improving services.
73. The Adult Social Care Complaints Procedure comprises of one stage after which the complainant should be advised to discuss the matter with the Complaints Manager or refer the matter to the Local Government Ombudsman.

74. Although complainants can refer their complaint from the outset to the Local Government Ombudsman, they will not normally investigate the matter until the Council has conducted its own investigation and made a response.

75. More information is available from:

Complaints and Information Governance Team  
Darlington Borough Council  
Town Hall, Feethams  
Darlington DL1 5QT  
Tel: 01325 406777

[www.darlington.gov.uk/complaints](http://www.darlington.gov.uk/complaints)

E-mail: [complaints@darlington.gov.uk](mailto:complaints@darlington.gov.uk)

76. Complaints concerning the conduct of Officers of the Council will be dealt with under the Council's employment policy and procedures.