

**TITLE OF REPORT:** Adult Social Care Deferred Payments Policy

**REPORT OF:** Alison Elliott, Interim Strategic Director, Care, Wellbeing and Learning

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### **Purpose of the Report**

1. This report explains the proposed changes to the Deferred Payments Policy brought about by the Care Act 2014, and requests Cabinet to recommend the Council to approve the proposed Deferred Payment Policy, charging of interest and administration costs.

### **Background**

2. Under section 34 – 36 of the Care Act 2014, and the Care and Support (Deferred Payments) Regulations of 2014, the Council is required to offer deferred payments agreements to people who meet certain criteria governing eligibility.

### **Proposal**

3. It is proposed that Cabinet recommends the Council to agree the Deferred Payments Policy as set out in appendix 2 of the report and also the option for the charging of interest, as set out in appendices 3 and 4 of the report.

### **Recommendations**

4. Cabinet is asked to recommend the Council to:
  - (i) Approve the Deferred Payments Policy as set out in appendix 2.
  - (ii) Agree to charging of interest at the lower of 1.15% or the amount specified in regulation and administration costs based on actual costs on the deferred payments amounts.
  - (ii) Delegate authority to the Director of Adult Social Care to amend the scheme in line with changes made by statutory provisions (such as, for example, any change in the upper capital threshold limit)

For the following reason:

To meet the requirements of the Care Act 2014.

## APPENDIX 1

### Policy Context

1. The proposed changes to the Deferred Payments Policy are consistent with and support our aspirations set out in Vision 2030 and the direction of travel set out in the Council Plan and, in particular, our shared outcomes for Live Well Gateshead.
2. The Care Act 2014 established a universal deferred payments scheme which means that people will not be forced to sell their home in their lifetime to pay for their care and support.

### Background

3. The Care Act 2014 provides for a deferred payment agreement (DPA) to be made to meet the cost of care, where the adult's needs for care and support are being met / would be met, by provision of accommodation in a care home or supported living accommodation. The Care and Support (Deferred Payment) Regulations 2014 provide the statutory framework for the Council's deferred payments scheme and form the basis of the Deferred Payment Policy.
4. The regulations provide for interest to be charged on any amount 'loaned' for care and support and section 9 of the regulations provide a local authority may charge interest on a deferred amount and any amounts which are treated in the same way as the deferred amount.
5. The regulations also provide that the interest rate must not exceed the maximum amount specified in regulations. The national maximum interest rate will change every six months on 1<sup>st</sup> January and 1<sup>st</sup> June to track the market gilts rate specified by the Office of Budget Responsibility in the Economic and Fiscal Outlook.
6. The regulations further provide for administration costs to be charged: These costs must not exceed the total costs actually incurred in relation to the deferred payment agreement.

### Current Position

7. The Council currently operates a deferred payments scheme, however the Care Act puts the scheme on a firm legislative footing.
8. The deferred payment scheme from April 2015 requires the Council to consider charging interest and administration charges (and interest on those administration charges if rolled up into the amount deferred) and the regulations are incorporated into the Council's deferred payment policy.
9. When deciding whether to charge interest and/or administration costs to the client, the Council must consider the following:
  - The affordability and therefore attractiveness of the scheme to the client
  - The interest and costs foregone by the Council in the amount loaned for the deferred payment arrangement

- The alternative options available for recovery of care fees.
  - The regulations governing the scheme.
10. The current maximum rate specified in regulation is 2.15% but taking account of the above in paragraph 8 it is proposed that the rate of interest charged is set at 1.15%. At this level it is sufficient to cover the interest foregone on investments for the Council.
  11. Appendix 4 Includes details of the estimated average administration costs associated with deferred payments. It is proposed that administration costs are based on actual cost recovery and therefore may differ from the average cost.
  12. The new regulations also allow for a deferred payment agreement to be made with an adult whose needs we are not meeting (because they are financially ineligible) but who asks us for a loan to meet the cost of care home accommodation or supported living accommodation.

### **Consultation**

13. In preparing the report, consultations have taken place with the Cabinet Members for Adult Social Care and Health. Public consultation on deferred payments (DPA's) commenced on 20/11/2015 and ended 15/01/2016 and details are set out in appendix 5. The consultation responses would not change the proposed policy. No consultees raised Equality or Human Rights issues as a result of the proposals.

### **Alternative Options**

14. The Care Act 2014 established a universal deferred payments scheme and therefore the Council is legally required to offer a scheme. The policy underpins that scheme.
15. The Council has discretion whether or not to charge interest and for administration costs within their deferred payments schemes but in not charging, the cost of the scheme would be borne by the Council
16. The Council could charge the maximum interest specified in regulation however at 1.15% it is considered the scheme is financially attractive for service users, whilst still allowing the Council to recover its basic costs. It is for these reasons that it is beneficial to keep the interest rate to a level that allows recovery of the interest foregone on the loan amount at least, leaving the Council with no overall financial loss. Appendix 3 to this report sets detailed examples of the impact of different rates.
17. If the cost to clients of interest and administration fees is so high that they are deterred from entering into DPAs, the Council's financial position will be undermined. Although clients will still have to pay their assessed contribution to the cost of their care, the Council will have no security for those payments. If they fail to pay, the Council would have to sue them in the County Court to recover the monies owed as an unsecured debt. It is probable that the process of suing in the County Court would have to be repeated several times as unpaid assessed contribution continued to accrue. The process would certainly be costly and time consuming and unlikely to result in the successful recovery of 100% of unpaid assessed contributions.

## Implications of Recommended Option

### 18. Resources:

- a) **Financial Implications** – The Strategic Director, Corporate Resources confirms that the costs associated with implementing the deferred payment policy will be recovered via charging of interest on the loan amount and charging for administration costs. The charges will be reviewed in line with the Council's Fees and Charges process.
- b) **Human Resources Implications** – No implications
- c) **Property Implications** - there are no property implications relating to this cabinet report

19. **Risk Management Implication** - Regulations enable a legal mortgage to be placed on the property to provide adequate security for the debt. Administration of the scheme will include review, at least annually, of the loan to equity position to ensure the legal mortgage continues to provide adequate security. The interest rate will be reviewed at least annually to ensure it continues to cover at least the interest foregone on the deferred amount.

20. **Equality and Diversity Implications** - The Deferred payment scheme is open to all residents regardless of any potential characteristics which they may have. Due to the nature of residential care and supported living accommodation following publication of the scheme any effects will most likely be upon those who are disabled and elderly and within that group proposals are likely to affect women disproportionately to men mirroring the gender disparity in over 65s residential care and supported living accommodation.

21. The Equality Impact Assessment is set out in appendix 6. The impacts identified in relation to the proposed policy is that it will enable some residents to enter into agreements that will mean they are not required to sell their property, this is a positive impact upon those who may otherwise have to sell their property. The proposal to charge interest and administrative costs is justified as this is to protect the Council's financial interests in relation to the outlay it will make in operating the scheme. It is unlikely that the new policy would wish to be used by those of Islamic faith, since Sharia Law does not allow the charging of interest which is a key element of the Deferred Payments Scheme.

22. **Crime and Disorder Implications** – no implications from this report

23. **Health Implications** – positive impact on residents' mental health and wellbeing as entering into agreements means that the resident is not required to sell their property.

24. **Sustainability Implications** - no implications from this report

25. **Human Rights Implications** - The Policy supports Article 8, a person's rights to respect for their private and family life (including managing their property) by supporting choice. The additional costs are fair and proportionate and will have been freely chosen by the individual. The inclusion of an element of interest does not constitute an infringement of a person's Article 9 right to practice their religion

(because it would not be Sharia compliant) because the Deferred Payment Agreement is voluntary and Sharia compliant financial loans are available thus leaving a person with a choice that is compliant with their religious practice.

26. **Area and Ward Implications** - this report relates to a policy which has borough wide impact.



**GATESHEAD COUNCIL**

**ADULT SOCIAL CARE**

**DEFERRED PAYMENT POLICY FOR CARE AND SUPPORT  
SERVICE**

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## **1. Introduction**

- 1.1 The Care Act 2014 establishes a universal deferred payment scheme which means that people will not be forced to sell their home in their lifetime to pay for their care and support.
- 1.2 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 for them and their loved ones as they make the transition into care.
- 1.3 This document sets out how the deferred payment scheme operates and how Gateshead Council (the Council) will administer its deferred payments scheme.

## **2. The legal framework and definitions**

- 2.1 The legal framework includes the following:
  - The Care Act 2014 (sections 34 and 35)
  - The Care and Support (Deferred Payment) Regulations 2014
  - Care and Support Statutory Guidance

Gateshead Council's policies of relevance are:

- Gateshead Council Fees and Charges policy
- Gateshead Council Charging policy

- 2.2 For the purpose of this scheme, the following are defined in accordance with the regulations:

- Care Home means a care home within the meaning given in S3 of the Care Standards Act 2000.
- Supported Living accommodation is accommodation that is not a care home and is defined in s3(2) of the Care and Support (Deferred Payment) Regulations 2014.

## **3. Offering and Refusing Deferred Payment Agreements**

- 3.1 The Council will only enter a deferred payment agreement with an adult for amounts due for care and support which the local authority considers to be sufficient to meet the adult's needs.



### When a Deferred Payment Agreement will be offered

3.2 The Council will offer and will enter into a deferred payment agreement where:

- The person is an adult that has needs for care and support.
- The Council agrees to meet those needs by provision of accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested).
- The adult has a legal or beneficial interest in a property which is the adult's main or only home.
- The value of that interest is not disregarded for the purpose of calculating the amount of the adult's capital when the financial assessment rules are applied.
- The adult's capital (excluding their interest in the property) does not exceed £23,250.
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs is capable of being registered as a first legal charge in favour of the local authority in the land register.
- Genuine and informed consent is given in writing to the creation of a charge that will rank before any interest the person has by anyone with an interest in the land or asset over which a charge will be made or who might prevent the Council from exercising a power of sale or recovering the deferred payment amount.
- The adult agrees to all of the terms and conditions set out in the Deferred Payment Agreement document.

### When a Deferred Payment Agreements may be offered

3.3 The Council may offer a deferred payment agreement to an adult provided the following conditions are met:

- The person is an adult that has needs for care and support
- The Council agrees to meet those needs by provision of accommodation or supported living accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested)
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs and is capable of being registered as a first legal charge in favour of the local authority in the land register or where other security is available which is considered by the council to

be sufficient to secure payment of the deferred amount and any interest or administration costs.

3.4 In considering whether to offer a deferred payment the Council will take into account the following factors:

- Where meeting care costs would leave the adult with very few accessible assets.
- If the adult would like to use wealth tied up in their home to fund more than just their core care costs and purchase affordable top-ups.
- If the adult has any other accessible means to help them meet the cost of their care and support.
- If the adult is narrowly not entitled to a deferred payment agreement because they have capital of slightly more than £23,250.

The list above is not exhaustive and the Council will have regard to other considerations where appropriate.

#### **4 The Deferred amount and equity limit**

4.1 The amount that will be included in the deferred payment agreement is as defined in Regulation 5 of The Care and Support (Deferred Payment) Regulations 2014.

4.2 The equity limit will be set at 90% of the current market value of the property less £14,250 and less the amount of any encumbrance secured on it which ranks in priority to the Council's charge.

4.3 The Council will treat administration costs and interest in the same way as a deferred amount even after the equity limit is reached.

4.4 The Council may undertake an annual revaluation of the property to ensure that there remains sufficient equity in the property for the deferred amount.

#### **5 The Adult's contribution**

5.1 The Council will allow an adult to retain a 'disposable income allowance' of £144 per week from which contributions towards care costs will not be required. However, a person may, if they wish to do so, pay additional contributions from their disposable income allowance.

5.2 In any week where the adult's income (as calculated in line with The Care and Support (Charging and Assessment of Resources) Regulations 2014) exceeds £144 the Council will not defer an amount due for the provision of care and support to meet the adult's needs in that week for the provision of accommodation in a care home or supported living accommodation. The sum that will not be deferred per week will not exceed the amount by which the adult's income exceeds £144. The adult will be required to pay this sum that is not deferred to the authority or the provider.

## **6 Repayment of a deferred amount**

- 6.1 The deferred amount (including any interest and administration costs) must be repaid on the earlier of:
- The date of sale or disposal of the property over which the Council has a charge
  - 90 days after the death of the adult with whom the agreement is made.
- 6.2 The Council will provide a full breakdown of the total amount deferred to the executor after two weeks from the date of the person's death. Information may be requested prior to this on request.
- 6.3 The executor of the will can decide how the amount due is to be paid; either from the person's estate or from a third party source.

## **7 Termination**

- 7.1 The adult may terminate the deferred payment agreement at any time subject to the conditions below and as detailed in the contract by:
- Giving reasonable notice in writing
  - Making a repayment of the deferred amount including any interest and administration costs.

## **8 Refusal to defer charges**

- 8.1 The Council may refuse to defer any further charges in the following circumstances:
- Where the adult's total assets fall below £23,250 so the person becomes eligible for local authority support in paying for their care
  - Where the person no longer has need for care in a care home (or care in supported living arrangements.)
  - Where the property becomes disregarded under the financial charging regulations so the person qualifies for local authority support in paying for their care.
  - Where the Property can no longer be insured against all the usual risks, unless there are reasonable grounds for concluding that the site value of the property, disregarding any buildings on it, is adequate security for the deferred payment debt.
- 8.2 The Council will cease deferring further amounts when:
- The adult has reached the 'equity limit' that they are allowed to defer.
  - The adult is no longer receiving care and support in a care home or in supported living accommodation
  - The value of the security has dropped and so the equity limit has been reached earlier than expected.

8.3 As set out in paragraph 5.1 an amount may not be deferred in light of the adult's income exceeding £144 in a particular week.

## 9 **Interest**

9.1 The Council will charge interest on all payments that are deferred which will include:

- The deferred amount for care and support.
- Any amounts of interest deferred, unless the adult requests to pay interest separately and not defer it.
- Any administration costs deferred unless the adult requests to pay these separately and not defer them.

9.2 Interest will be treated in the same way as the adult's deferred amount unless a request is made in writing to pay this separately.

9.3 The rate of interest charged will be as set out in the Gateshead Council Fees and Charges Policy.

9.4 Interest will continue to accrue once the equity limit is reached.

9.5 Interest will also continue to accrue after the death of the adult until the deferred amount is repaid to the Council.

## 10 **Administration Costs**

10.1 The Council will make a charge for administration costs in accordance with the following paragraphs.

10.2 The administration costs charges will be as set out in the Gateshead Council Fees and Charges Policy.

10.3 Administration costs will be treated in the same way as the deferred payment amount unless the adult requests to pay them separately.

10.4 Administration costs will include the following:

- Postage, printing and photocopying
- Providing statements
- Staff costs
- Overheads (e.g. computer equipment, utility charges etc)
- Valuation and revaluation fees
- Land registry fees

- Costs incurred in perfecting the security obtained in respect of the deferred amount
- Legal costs and fees
- Costs incurred for ensuring compliance by parties to the terms and conditions in the agreement

10.5 Before entering into a deferred payment agreement the Council will give the adult an estimate of the amount of any administration costs the Council are likely to levy.

10.6 The Council will provide a statement setting out the administration costs incurred before requesting payment for the costs or treating them as a deferred amount.

## 11 Terms and conditions

11.1 The Council's Deferred Payment Agreement document sets out the terms and conditions of the scheme.

11.2 The adult is required to maintain their property and to keep it insured against all losses or damage. Failure to do so may lead to the Council withdrawing support.

## 12 Information

12.1 The Council will provide the adult with a written statement every 6 months during the agreement or within 28 days of a request. This will include information on:

- The amount the adult will have to pay to terminate the agreement, the date of the statement and the amount of any interest and administration costs accrued.
- Details of the interest calculation and the calculation of administration costs.
- The security accepted by the Council
- The maximum amount to be deferred.

12.2 The Council will provide at least 30 days written notice to the adult of the date the equity limit will be reached or if different, where the parties have agreed an amount to be deferred, the date when that will be reached.

## 13 Dispute resolution

13.1 The Corporate Complaints Procedure may be utilised in relation to any disputes arising in relation to matters covered by this policy.

13.2 Where a dispute arises in relation to the Council's valuation of a property or asset the following procedure applies:

- The adult should make representations in writing to the Council's Financial Assessment team. The Council may ask for further evidence and information to support the adult's dispute.
- Where the parties continue to fail to agree a valuation for the property the adult may obtain an independent valuation at their own expense. The local authority will consider this and will respond in writing.
- If agreement is not reached the matter may be referred by the adult to the Corporate Complaints Procedure.
- An appropriate valuation must be agreed prior to proceeding with a deferred payment agreement.

## Options for the charging of Interest

The examples below are based on:

- Compound interest calculation
- Interest calculated annually/6-monthly/Monthly
- Average loan amount of £250 per week (£13,000 annually)
- Interest rate of 2.15% (current maximum prescribed in the regulations) and an alternative of 1.15%
- Property/Equity value £100,000
- Calculated over a period of 6 years

Interest Compound Period	Final Balance	Deposits (per annum at start of year)	Additional Deposits/Withdrawals	Interest Rate	Interest Charge (1st year)	Interest Charged (over 6 years)	Balance >80% of Property Value
Annually	81,200.37	13,000.00	0.00	1.15%	149.50	3,200.37	Year 6
6 Monthly	80,977.61	13,000.00	0.00	1.15%	112.34	2,977.61	Year 6
Quarterly	80,865.90	13,000.00	0.00	1.15%	93.71	2,865.90	Year 6
Monthly (Compound)	80,791.31	13,000.00	0.00	1.15%	81.26	2,791.31	Year 6
Monthly (Annual Comp)	80,777.24	13,000.00	0.00	1.15%	80.98	2,777.24	Year 6
Amount		13,000.00					
Current Rate of Return		0.51%					
Loss on Investment (annually)		66.30					

In summary, for an interest rate of 1.15%, the interest payable over the period ranges between £3,200.37 and £2,777.24, depending on whether interest is applied annually or monthly.

Interest Compound Period	Final Balance	Deposits (per annum at start of year)	Additional Deposits/Withdrawals	Interest Rate	Interest Charge (1st year)	Interest Charged (over 6 years)	Balance >80% of Property Value
Annually	84,084.40	13,000.00	0.00	2.15%	279.50	6,084.40	Year 6
6 Monthly	83,670.97	13,000.00	0.00	2.15%	210.38	5,670.97	Year 6
Quarterly	83,463.11	13,000.00	0.00	2.15%	175.63	5,463.11	Year 6
Monthly (Compound)	80,861.61	13,000.00	0.00	2.15%	152.39	5,324.12	Year 6
Monthly (Annual Comp)	80,562.64	13,000.00	0.00	2.15%	151.40	5,273.26	Year 6
Amount		13,000.00					
Current Rate of Return		0.51%					
Loss on Investment (annually)		66.30					

For an interest rate of 2.15% the amount accrued in interest rises to between £6,084.40 and £5,273.26.

### Options for charging for administering a deferred payment

The regulations provide for administration costs to be charged:

**10.-(1)** The local authority may charge the adult administration costs...

These costs must not exceed the total of costs actually incurred in relation to the deferred payment agreement.

The administration of a deferred payment agreement will include such items as:

- Legal costs and fees
- Stationery costs
- Staff costs in relation to set up, compliance and monitoring
- Valuation fees
- Overheads

There are two options available in the charging of administration costs:

- An average
- The actual costs incurred on a case by case basis

However the council must, before entering into a DPA, give the adult an estimate of the amount of any charge.

The average costs are estimated to be:

Set up costs (including legal fees)	£250.00
Ongoing regular administration costs	£30.00 per annum
One off charges	£20.00 per hour
Account finalisation	£20.00 per hour

Actual costs could result in a charge of between:

Simplest case set up	£171.00
Complex case set up	£372.00
Other charges at an hourly rate of	£20.00 per hour

(In the main, the complexity is from a legal perspective or where the adult delays in complying with the requirements of the scheme.)



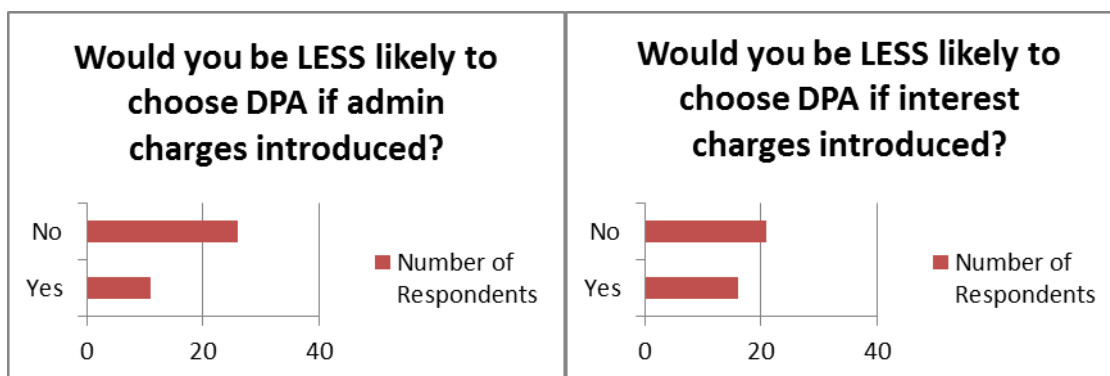
**Deferred Payment Agreements in Gateshead  
Feedback from Consultation – 26<sup>th</sup> January 2016**

**1. Methodology:**

- 1.1 Public consultation on Deferred Payment Agreements (DPAs) commenced on 20th November 2015 and ended on 15<sup>th</sup> January 2016. We allowed for an 8 week consultation period due to it falling over the Christmas holidays.
- 1.2 Consultation consisted of sharing information about deferred payments, eligibility, the proposals for changes and further detail about what the proposed charges would cover. This was accompanied by a short Feedback Form asking 6 questions plus personal characteristics information (Appendix 1).
- 1.3 A consultation and communications plan is also attached (Appendix 2) outlining the methods used to reach service users, partnerships, residents, the community and voluntary sector.

**2. Summary:**

- 2.1 With only 42 responses in total it is difficult to draw robust conclusions from the data. The low response rate can in part be attributed to the complexity of the subject area and the limited numbers who would currently be affected by the charges. However there are some messages that have emerged.
- 2.2 70% of respondents (26 people) highlighted that they would not be deterred from taking up a DPA if admin fees were introduced. Responses were almost equally split with 43% (16 people) saying they would be less likely to take a DPA if interest charges were introduced. Two of the 34 comments we received featured the proposed interest rate charge – both of these suggesting that people should expect to pay interest as “a loan from the bank would not be free of charges.”



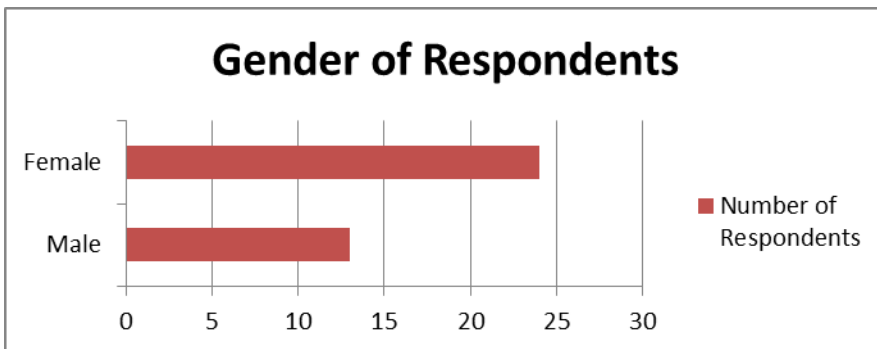
- 2.3 In total people made 34 comments in their feedback in 3 question sections.
- 2.4 Four of the 11 people who made comments about the DPA scheme agreed it was reasonable for Gateshead Council to recover administrative charges when setting up

care arrangements, pointing out that the Council should not foot the bill for people who could afford to pay. Two people were against, one highlighted that clerical staff were already employed the Council so should not seek contributions to their wages from the public. The other 5 comments recorded here were general comments or suggestions about the DPAs.

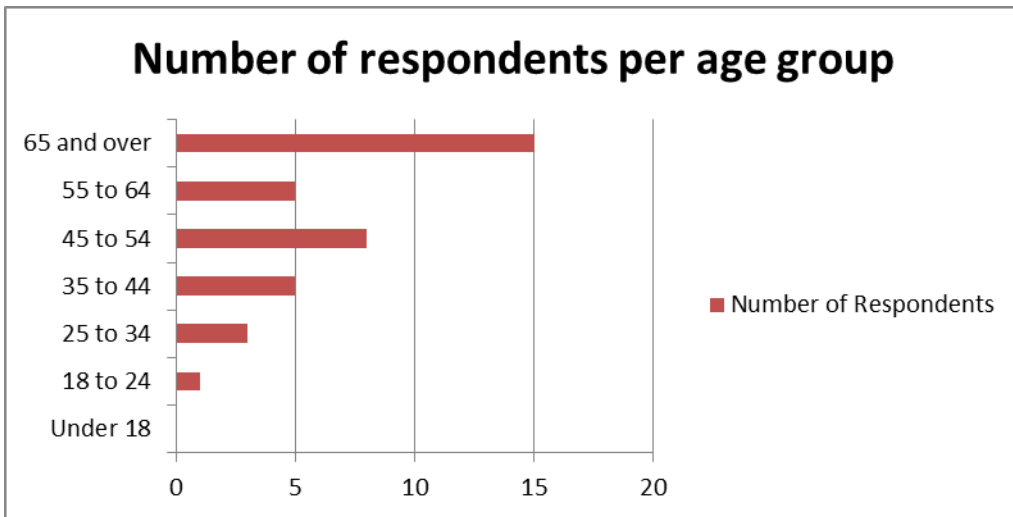
- 2.5 Ten comments were offered when we asked for alternative ideas relating to the charge. Some of these related to how the Council could save money from elsewhere. This is not surprising as the Budget Consultation was also running at the same time containing options to meet the funding gap. Two people felt it unfair to “penalise” those who had worked hard to leave something for their children. Another commented that the Council should safeguard against those who sign their homes over to their children in order to avoid paying care costs. A couple of respondents also felt the Council should manage short term rentals of the property to avoid losing the family home.
- 2.6 Thirteen comments were received when we asked if people had other concerns or comments. Some questions were raised about joint ownership, joint bank accounts, opportunities for renting and where a spouse had died leaving half the house in a will to family members. This identifies further areas to clarify our information when discussing DPAs with individuals and their families. Concern was also noted about how people would meet their care costs in the future.

### 3. Who gave their views?

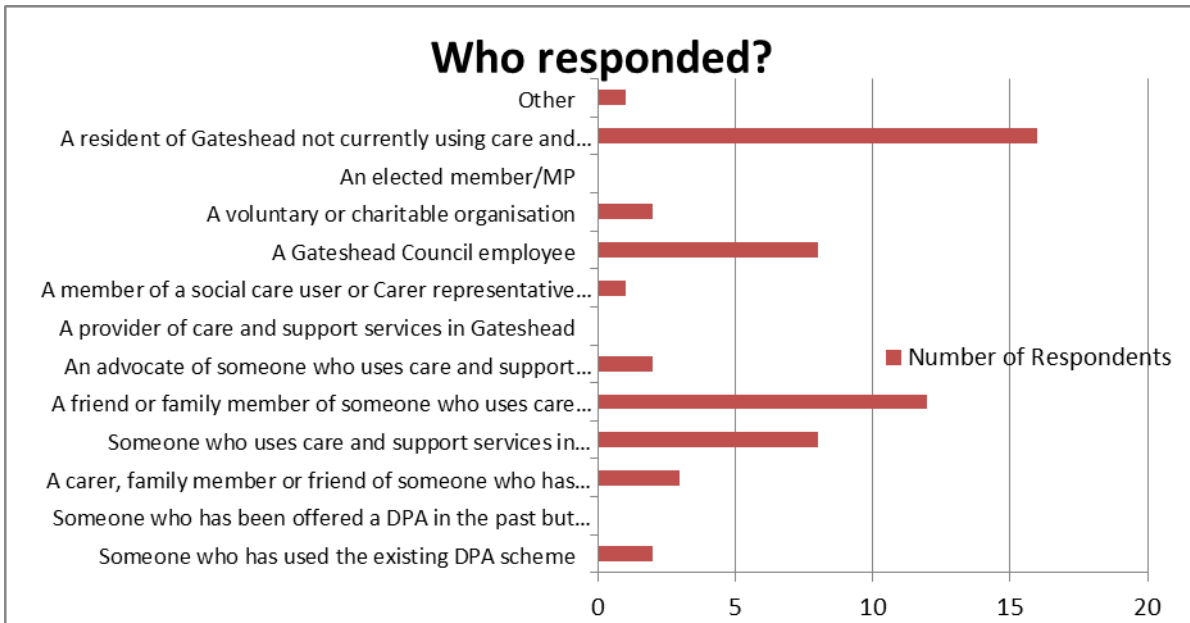
- 3.1 A total of 42 people responded to the survey. Of the total 65% were female and 35% were male. Although this sample is not robust enough to show statistically significant differences, it is possible to use the data qualitatively to give an indication of people’s view regarding a DPA scheme in Gateshead.



- 3.2 97% of respondents were White British with only 3% identifying as Black/Black British. Out of the 42 respondents 73% were Christian, 18% no religion, 6% preferred not to say and 3% as “other” religion. Almost three quarters, 73% said that they do not have a disability and do not look after anyone with a disability – 76%.
- 3.3 More than 40% of respondents were aged 65 and over.



3.4 The majority of people responding were residents of Gateshead who were not currently using care and support services – 40%, followed closely by friends or family members of people who do use care and support services – 30%. People who use care and support services and Council staff each had 8 respondents – 20%.



3.5 The breakdown of respondents by neighbourhood area is shown below:

Neighbourhood Area	Number of Respondents
Central	4
East	6
Inner West	6
South	14
West	6
Out of Borough	1

#### **4. Quotes, queries and questions from Consultation feedback:**

##### **4.1 Alternative ideas or comments relating directly to the DPA proposal:**

- 2 people suggested renting out a property as an alternative way of securing income and safeguards the family against losing the property – “Offer to manage short term rentals of the property and make an acceptable charge.”
- 1 suggestion was that charges should be added at the end and reclaimed once the property is sold as “some services users may not have the funds at the time they are admitted they have it tied up in an asset.”
- 1 suggestion was to “set a maximum term, say 10 years before the property should be sold or acquired by the Council.”
- 1 suggestion was to “add the charges onto the annual Council tax bills on the property - that would save the overheads and guarantee the money is paid.”

##### **4.2 Any other comments or concerns:**

- A number of requests for clarity around joint ownership, joint bank accounts and savings
- 2 people raised concerns about working hard to keep a roof over their family’s heads for many years and now penalising them for trying to better themselves.
- 1 concern about people who sign their assets over to children to avoid paying costs
- 7 comments agreed that people should provide for their own futures; that the Council should recover any costs that it can and a suggestion that people with assets “should pay now rather than later to reduce the current burden.”
- Some people have misunderstood the information given as part of the consultation and made suggestions that are already covered by the scheme such as;
  - “The family should have the right to sell parent’s homes and pay for parent care on a weekly or monthly basis.”
  - “If the debt owed to the Council outweighs the value of the property, would you still charge admin costs?”
  - “Would you consider a flat rate?”
  - “Reduce the resident’s personal allowance.”

#### **5. Response to feedback/Recommendations:**

How the consultation feedback will be used to shape the overall policy proposals:

- 5.1 Colleagues from Finance and Legal have had the opportunity to see an overview of the responses to the consultation.
- 5.2 Despite a low response the view appears to be to agree with administration and interest charges.
- 5.3 The individual comments made, whilst useful, would not change the DP policy as the concerns are all covered in regulations or within the policy anyway.
- 5.4 The individual comments will be considered when producing information about the scheme to clarify the issues people have made during the consultation.

**6. Recommendation:**

The consultation responses would not change the proposed policy. We therefore recommend moving forward on that basis with the policy as it is, agreeing to charge admin costs and to charge interest.



## Equality Impact Assessment Initial Screening Pro-forma (Stage 1)

The purpose of this initial assessment is to analyse whether a new or substantially revised policy, strategy, function or budget proposal is likely to have significant negative impact in terms of equality and therefore require a full Equality Impact Assessment (Stage 2). *If you are already aware that a full assessment is required, there is no need to complete Stage 1.*

<b>Group:</b>	<b>Service:</b>	<b>Section:</b>	<b>Officer responsible for assessment:</b>
<b>Support officers:</b>		<b>Completion date:</b>	
		<b>Review date:</b>	
<b>(1) Name &amp; purpose of the policy, strategy, function or budget proposal:</b> Briefly describe the aims, objectives and purpose of the policy/function or budget proposal	Deferred Payments Policy The council is required to have in place a scheme for clients so they do not have to sell their home in their lifetime to pay the costs of their care, effectively deferring payment to some date in the future. The council can charge the costs it incurs in running the scheme and propose to charge an administrative fee and interest in accordance with the governing regulations.		
<b>(2) Is this new or existing?</b>	The power to charge an administrative fee and interest are new powers conferred by the Care Act. However the Council has been offering Deferred Payment Agreements previously		

<p><b>(3) Who are the main customer groups affected by this policy, strategy, function or budget proposal and has there been prior consultation undertaken?</b></p>	<p>Anyone who requires permanent care and support in a residential care setting who owns or part owns a property that is assessable as capital.  The client groups affected include  (1) (1) Working age clients with physical or mental disability; Older people going into permanent residential care; of which the majority would be female.  Consultation was undertaken 20/11/15 – 15/01/16.</p>
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**(4) Using the table below please consider the impact of the policy, strategy, function or budget proposal on the protected characteristics as identified in the Equality Act 2010. If you have identified negative impact then a full EIA will need to be completed. Please note Question 5 should be answered in relation to impact on employees.**

Protected Characteristics	Assessment of Potential Impact (delete as appropriate)	Reason for this Assessment	Are there any mitigating circumstances?
Age	/Neutral	A positive effect is that older people will not be forced to sell their property, possibly at a bad time to fund care. A negative is that this will incur costs and interest. However the interest and costs are substantially less than comparable products on the financial market	no
Disability	/Neutral	see above	
Race	Neutral	no impact	
	Positive/Negative/	Because of the gender imbalance	

Gender (includes gender reassignment)		within the group of elderly clients accessing permanent care, there will be a greater impact upon female clients. There is no gender imbalance within disability groups	
Pregnancy & Maternity	/Neutral	No impact	
Sexuality	/Neutral	No impact	
Religion or belief	Neutral	Followers of Sharia law would not be able to use the Deferred Payment Agreement because of the element of interest	Sharia compliant loans are available from financial institutions
Marriage & civil partnership	Neutral	No impact	



**(5) Impact on Council Employees**

Please indicate which of the protected characteristics your assessment has identified as being of relevance:

Age  Disability  Race  Gender (inc. gender reassignment)

Pregnancy & Maternity  Sexuality  Religion or belief  Marriage & civil partnership

None

Reason:

## **(6) Evidence and Engagement**

**Please use this section to detail the information that you have considered to assess the service for its relevance to equality eg data, research, engagement etc.**

We have used information from CareFirst and other Council records.

The JSNA

Other public information on demographic and population trends

We have consulted service users, their carers and other interested group in a consultation exercise.

The results of the consultation are annexed to the Cabinet report. Broadly it showed that service users did not object to paying the moderate level of administrative charge and interest proposed by this policy.

Gateshead JSNA – Frailty Data

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Needs-Assessment-by-Life-Course/Older-people/Frailty/Gateshead-data.aspx>

Population

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Population-and-Deprivation/Demography/Demography.aspx>

Older People's Health Profile

<http://fingertips.phe.org.uk/profile/adultsocialcare/data#gid/1000105/pat/6/ati/102/page/1/par/E12000001/are/E08000037>

Learning Disabilities

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Communities-of-Interest/Learning-Disabilities/Learning-Disabilities.aspx>

Physical Disabilities

<http://www.gateshead.gov.uk/Health-and-Social-Care/JSNA/Topics/Communities-of-Interest/Physical-Disabilities/Physical-Disabilities.aspx>

<b>(7) Should this policy, strategy, function, or budget proposal proceed to a Stage Two EIA?</b>	<b>No</b>  If yes is this because: <ol style="list-style-type: none"> <li>1. Negative impact identified</li> <li>2. Need better monitoring data</li> <li>3. Need other information</li> <li>4. Possibility to promote equal opportunities and good inter-group relations.</li> </ol>	Date Stage Two EIA to commence:
		Target date for completion of Stage Two EIA:

**SIGNED:**  
**Completing Officer**

**SIGNED:**  
**Service Director**

**SIGNED:**  
**Strategic Director**