

From: Andrew Ireland, Corporate Director Social Care Health and Wellbeing

To: Graham Gibbens, Cabinet Member for Adult Social Care and Public Health, 17 December 2014

Decision: 14/00136

Subject: **CARE ACT IMPLEMENTATION – DEFERRED PAYMENTS**

Classification: Unrestricted

Past Pathway: Adults Transformation Board 22 October 2014
CMT 11 November 2014
Cabinet 1 December 2014
Adult Social Care and Health Cabinet Committee 4 December 2014

Electoral Division: All

Summary: The Care Act 2014 introduces a new Universal Deferred Payments Scheme which all local authorities must introduce from April 2015. Deferred Payments enables an individual in residential care who is unable to access their capital (usually because it is tied up in a property) to access funding from the local authority on a temporary basis. The funding will eventually be repaid, usually when the property is sold. The Act confers a duty on local authorities to develop a mandatory scheme based on national regulations. In addition to the mandatory scheme, the Act gives the local authority the power to offer Deferred Payments to a wider group of people on a discretionary basis. It is envisaged that the criteria for the discretionary scheme will encompass, at the very least, the sort of situations currently covered by the Kent Temporary Financial Assistance (TFA) scheme.

Recommendation: That the Cabinet Member for Adult Social Care and Public Health makes the decision that Kent County Council introduces the new Deferred Payments scheme from 1 April 2015 (with both mandatory and discretionary elements). It is further recommended that the current Temporary Financial Assistance scheme should cease after 31 March 2015 as the new Deferred Payments scheme will cover the same groups of individuals.

1. Introduction

1.1 The Care Act 2014 received Royal Assent in May this year. It will be implemented in two stages starting in April 2015 with the introduction of the new legal framework. The majority of the reforms will come into effect in April 2015 but the key 'Dilnot' reforms (cap on care costs and raising of the capital threshold) and new rights for self-funders in relation to care homes will not be instituted until April 2016 (subject to final decisions by the Government).

2. Deferred Payments and Temporary Financial Assistance

2.1 The Care Act 2014 introduces a new Universal Deferred Payments Scheme which all local authorities must introduce from April 2015. The relevant sections of the Act are

sections 34 and 35. Further details are provided in The Care and Support (Deferred Payment) Regulations 2014 and in the statutory guidance, the final versions of which were issued in October 2014. The Act confers a duty on local authorities to develop a mandatory scheme based on national regulations. Kent will institute a scheme from April 2015 in accordance with these criteria. Appendix 2 gives a brief overview of what the mandatory scheme will involve.

2.2 In addition to the mandatory scheme, the Act gives the local authority the power to offer Deferred Payments to a wider group of people on a discretionary basis. It is envisaged that the criteria for the discretionary scheme will encompass, at the very least, the sort of situations currently covered by the Kent Temporary Financial Assistance (TFA) scheme and may even be wider in scope. Appendix 4 gives a brief overview of the discretionary scheme.

2.3 In view of the above, it is not believed to be necessary to continue the local TFA scheme and it is recommended therefore that the TFA scheme end for new clients from 31 March 2015.

2.4 It is important to note that when the new Deferred Payment scheme starts on 1 April 2015, existing Deferred Payment and TFA agreements will not be affected and will continue. There are currently (as at 29.10.14) 119 Deferred Payments agreements and 43 TFA agreements extant.

3. Equalities Impact Assessment

3.1 It was considered whether an Equalities Impact Assessment should be carried out but it was decided this was not necessary as the new Deferred Payments scheme will encompass the types of people currently covered by the current Deferred Payments scheme and Temporary Financial Assistance.

4. Cabinet Committee input

4.1 The proposed decision was considered by the 4 December 2014 Adult Social Care and Health Cabinet Committee.

4.2 The Cabinet Committee resolved that the decision proposed to be taken by the Cabinet Member for Adult Social Care and Health (that the County Council should adopt from 1 April 2015, both the mandatory and discretionary elements of the proposed Deferred Payments scheme (as set out in Sections 34 and 35 of the Care Act 2014), and the current Temporary Financial Assistance scheme end for new clients on 31 March 2015) be endorsed.

5. Recommendations

5.1 Recommendation: That the Cabinet Member for Adult Social Care and Public Health makes the decision that Kent County Council should adopt from 1 April 2015, both the mandatory and discretionary elements of the proposed Deferred Payments scheme (as set out in Sections 34 and 35 of the Care Act 2014), and that the current Temporary Financial Assistance scheme should cease after 31 March 2015 as the new Deferred Payments scheme will cover the same groups of individuals.

5. Appendices

Appendix 1 – Record of Decision

Appendix 2 – Overview of the proposed Deferred Payments mandatory scheme

Appendix 3 – Overview of the proposed Deferred Payments discretionary scheme

6. Background documents:

Care Act 2014

Statutory Regulations 2014 – released October 2014

Statutory Guidance 2014 – released October 2014

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