

KENT COUNTY COUNCIL – RECORD OF DECISION

DECISION TO BE TAKEN BY:

**Graham Gibbens, Cabinet Member for Adult Social Care
and Public Health**

DECISION NO:

16/00039

For publication

non- key Cabinet Member decision*

Subject: FINANCIAL ARRANGEMENT TO PLACE A LEGAL CHARGE ON A PROPERTY OF A SERVICE USER ACCESSING DOMICILIARY CARE

Decision:

As Cabinet Member for Adult Social Care and Public Health, I agree to the request to place a legal charge on this service user's property on the basis that this is an individual decision and is in no way regarded as setting any precedent.

Reason(s) for decision:

A decision is required to allow Kent County Council to place a legal charge, at the request of the service user's Court of Protection-appointed Deputy, on the property that this individual currently resides in. The reason for doing so is that a Best Interests Review meeting had determined that it is in the lady's general best interest for her current preferred provider to continue to provide her care and support in her own home rather than in a care home. Currently the universal Deferred Payment scheme does not allow discretion to apply the scheme to someone receiving care and support at home, therefore an individual decision is required.

The assessed needs of this service user can be met in a care home at the Kent County Council guide price of £487.42 per week, although, in practice, the typical cost of a nursing home place in West Kent is about £603 per week. However, the best interest decision makers agreed that it is preferable for the service user to be cared for at home at a cost of £1,000 per week. This is £512.58 per week above the Kent County Council guide price for residential care. The service user does not have the liquid assets to fund the extra £512.58 per week and so her Deputy has asked the County Council in writing to fund this on a temporary basis and place a legal charge on the service user's property, as a security for the loan, to cover the shortfall in the cost of care at home. Kent County Council would be able to recoup the amount owed to the Council when the property is later sold.

Kent County Council Legal Services have confirmed that nothing in the Care Act 2014 expressly prohibits or permits this arrangement. However, alternative types of financial arrangement that are similar to deferred payments for non-residential care are envisaged within section 36 of the Care Act 2014, regarding 'alternative financial arrangements'. Kent County Council also has a general power of competence under section 1 of the Localism Act 2011 and this arrangement could be exercised under that provision. It is confirmed that this arrangement does not expose Kent County Council to any risk under the consumer credit legislation.

Cabinet Committee recommendations and other consultation:

None. This decision does not meet the County Council's criteria for a key decision and is not appropriate for consideration or comment by a Cabinet Committee as it follows on from a recommendation made by a social care review panel regarding the care arrangements for an individual service user. The decision need only be published for period of five clear working days before being taken, and for a further five clear working days for the call-in process.

Any alternatives considered:

It is likely that if the request for the temporary financial arrangement is not approved, the service user may have to go into a care home.

Any interest declared when the decision was taken and any dispensation granted by the Proper Officer: None



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signed

12 APRIL 2016

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date