
Appendix 6 – Equality Impact Assessment

NB: The Public Sector Equality Duty (Equality Act 2010) requires Durham County Council to have ‘due regard’ to the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity and foster good relations between people from different groups. Assessing impact on equality and recording this is one of the key ways in which we can show due regard.

Section One: Description and Screening

Service/Team or Section	Resources / Adult & Health Services
Lead Officer	Michelle Waters
Title	Residential Care Charging Policy Deferred Payment Agreement (DPA) Policy
MTFP Reference (if relevant)	N/A
Cabinet Date (if relevant)	16 June 2018 (CMT 2 May 2018)
Start Date	May 2018
Review Date	May 2019

Subject of the Impact Assessment

Please give a brief description of the policy, proposal or practice as appropriate (a copy of the subject can be attached or insert a web-link):
<p>The Residential Care Charging Policy has been designed to ensure that the Council complies with the Care Act 2014, which defines the legal framework for charging for adult social care, including the powers to request financial contribution to social care costs and undertake financial assessments to determine the amount of any contribution towards care services.</p> <p>The Policy has been developed to support Care & Support Regulations and Care & Support Guidance and Annexe issued under the Care Act 2014.</p> <p>The Policy applies to all adult social care services that are provided in a residential care setting, including permanent and temporary placements, and respite care in residential or nursing care. The Policy:</p> <ul style="list-style-type: none">• Sets out procedures for claiming financial support for residential social care charges. The term ‘self-funder’ is given to customers who have over £23,250 (the upper capital limit) in capital and/or assets and is required to pay the full cost of their own care needs and support direct to the care provider.

- Establishes an appeals procedure for customers dissatisfied with the outcome of a financial assessment.
- Safeguards the interests of local tax payers by incorporating a full welfare benefits check into the financial assessment process to ensure customer received all means of support available to them, including support to make the relevant claims.
- Defines circumstances exempt to the Policy including; Continuing Health Care (CHC), after care provided under Section 117, the Mental Health Act 1983, Creutzfeldt-Jacob Diseases sufferers, services provided as a Reablement Service or Intermediate Care of 6 weeks or less and customers awaiting the outcome of a Decision Support Tool to determine CHC funding.

The **Deferred Payment Policy** ensures that the Council fulfils the legislative requirements defined by the Care Act 2014 to offer a Deferred Payment Agreement enabling people to defer the sale of their main or only home where it is needed to fund and pay care fees.

The Care and Support (Deferred Payment) Regulations 2014, as amended by the Care and Support (Deferred Payment) (Amendment) Regulation 2017, set out the legal framework and the Council's responsibilities in greater detail including the obligation to offer two schemes known as the 'traditional' type scheme and 'loan' type scheme.

The Policy sets out the Council's Deferred Payment scheme (for the administration and implementation of DPAs), including type of DPA, eligibility for a DPA, and the Council's obligations in terms of the administration.

Who are the main stakeholders? (e.g. general public, staff, members, specific clients/service users):

County Durham residents and families, Residential Care and Nursing providers, Durham County Council staff.

Screening

Is there any actual or potential negative or positive impact on the following protected characteristics?		
Protected Characteristic	Negative Impact Indicate: Y = Yes, N = No, ? = unsure	Positive Impact Indicate: Y = Yes, N = No, ? = unsure
Age	Y	Y
Disability	Y	Y
Marriage and civil partnership (workplace only)	N	N
Pregnancy and maternity	N	N
Race (ethnicity)	N	N
Religion or Belief	N	N
Sex (gender)	Y	Y
Sexual orientation	N	N
Transgender	N	N

Please provide **brief** details of any potential to cause adverse impact. Record full details and analysis in the following section of this assessment.

Historic custom and practice has resulted in some self-funders being given access to the Council's Residential Care contract, meaning that the care provision was charged at the Council's contractual rate rather than the residential or nursing care providers 'private' rate, which are often higher than the Council's contracted rates.

There may be occasion when customers have already placed in a residential care setting will be given notice that they will be removed from the Council's contract and advised to make their own private arrangements either with the same provider or alternative provider. However social work teams and care coordination teams will still offer support to the individual in terms of advice.

How will this policy/proposal/practice promote our commitment to our legal responsibilities under the public sector equality duty to:

- eliminate discrimination, harassment and victimisation,
- advance equality of opportunity, and
- foster good relations between people from different groups?

The **Residential Care Charging Policy** will ensure that the Council fulfils its obligations as defined by the Care Act 2014 and its contractual obligations with residential care and nursing providers. It will ensure consistent practice and process minimising the risk of legal challenge and elimination of discrimination that may arise from inconsistent practice.

The Policy defines the circumstances when the Council has a duty to meet the care needs of self-funders and the circumstances when customer can request assistance and support to help them meet their care needs. Whilst there no obligation to meet residential care need of self-funders powers defined in section 19, the Care Act 2014 do allow some discretion detailed in para 5.3. Likewise there are circumstances when self-funders may have legitimate access to the Council's contract e.g. Deferred Payment Agreements and support to people who lack capacity, this is reflected in the Policy and contractual arrangements with residential and nursing care providers.

The **Deferred Payment Policy** ensures that the Council fulfils the legislative requirements defined by the Care Act 2014 to offer a Deferred Payment Agreement enabling people to defer the sale of their main or only home where it is needed to fund and pay care fees.

The introduction of a loan style DPA introduces additional choice and provides additional flexibility to those arranging their own care and support and also clearly defines the circumstances when customers may access a traditional DPA, when the Council make the care and support arrangements.

The Policy clearly defines the administrative process to support delivery of the DPA schemes. A review of existing cases has identified the a need to up to

date and accurate property valuations to ensure that customers are offered support i.e. financial assessment and/or financial support from the Council to pay residential care and support fees, at the point where the available equity in the property falls below the upper capital limit of £23,250.

Evidence

What evidence do you have to support your findings?
Please **outline** your data sets and/or proposed evidence sources, highlight any gaps and say whether or not you propose to carry out consultation. Record greater detail and analysis in the following section of this assessment.

A review of the existing **self funders** caseload has been undertaken:

Snapshot Self Funders – February 2018				
Category	TOTAL		With Property	
	No.	Outstanding Balance	No.	Outstanding Balance
Awaiting financial assessment (No FA)	4	£40,001.84	1	£8,503.04
Not signed up to a DPA (Non DPA)	63	£802,491.68	58	£783,443.80
Temporary Placements (Temp)	13	£108,317.22	8	£95,828.77
Referred to Deputyship & Appointee Team (DAT)	48	£577,933.77	20	£295,886.88
Miscellaneous/Individual circumstances	14	£219,700.30	12	£202,017.27
Totals	142	£1,748,444.81	99	£1,385,679.76

Likewise details of new customers and self-funders are actively being monitored by social work and co-ordination teams, financial assessment and financial management teams. Process and procedures have been review to ensure that whilst the Council meets the legal requirements of the Care Act 2014 and contractual obligation it still provides the appropriate support to those impacted by the Policy.

Self Funders advised to make private arrangements from Dec 2017				
Reason not placed on DCC Contract	No. of Cases	No. returned for Council Funding	Deceased	No. Currently Self-Funding and making own arrangements with Provider
Liquid Assets over £23,250	66	7	7	52

Non-Liquid Assets over £23,250 Declined Deferred Payment Agreement	3	0	0	3
No DPS - property sold	1	0	0	1
Total	70	7	7	56

There are currently 108 cases (@ 5.4.18) subject to a **Deferred Payment**, which can be broadly categorised as:

1. Live cases, i.e. charges are still accruing
2. Closed cases where there are no charges accruing and the service user remains in residential care
3. Closed cases where the service user is deceased

Total of All Cases

Category	Number	Outstanding Balance
Live cases	61	£1,764,652.76
Closed cases – service user remains in residential care	7	£146,956.14
Closed cases – service user deceased	40	£1,064,283.67
Totals	108	£2,975,892.57

Further detailed analysis of the categories above is set out below:

Live Cases

There are currently 61 cases where service users are receiving residential care under the Council's contracted provision and remain owners of their home before entering care.

As a formal professional valuation has not been undertaken, further analysis of these cases has been conducted to gain an indication from the valuations entered into the SSID system of cases where the total of fees deferred is approaching the value of the property held as security for the debt. The results show:

- There are 4 cases where the percentage of the property value used is over 70%
- There are 14 cases where the percentage of the property value used is between 50 and 70%
- There are 43 cases where the percentage of the property value used is under 50%

Status	Number	Outstanding Balance	Category
Property Let	12	£74,865.15	Percentage Property Value Used Over 70%
Unoccupied	2	£90,738.35	
Totals	4	£165,603.50	

Status	Number	Outstanding Balance	Category
Property Let	2	£105,333.65	Percentage Property Value Used Between 50 and 70%
Unoccupied	12	£504,575.68	
Totals	14	£609,909.33	

Status	Number	Outstanding Balance	Category
Occupied By Family	4	£88,186.71	Percentage Property Value Used Under 50%
Property Let	13	£293,782.63	
Unoccupied	26	£607,170.59	
Totals	43	£989,139.93	

Closed Cases – Service User Deceased

There are currently 40 cases where the service users are deceased, which are split below between those cases where the service user's property has since been sold and those that where this has not occurred.

Status	Number	Outstanding Balance	Category
Legal Query	2	£144,457.26	Property Sold
Payment Arrangement	1	£2,250.66	
Write Off Pending	1	£17,719.12	
Totals	4	£164,427.04	

Status	Number	Outstanding Balance	Category
CHC Query	1	£38,618.76	Property Not Sold
Enforcement Case	15	£416,252.72	
Legal Query	2	£22,563.33	
No Probate	3	£116,880.26	
Payment Arrangement	2	£84,288.30	
Property Sale Due To Complete	2	£41,350.73	
Unoccupied No Sale	10	£179,230.76	
Write Off Pending	1	£671.77	
Totals	36	£899,856.63	

Screening Summary

On the basis of this screening is there:	Confirm which refers (Y/N)
Evidence of actual or potential impact on some/all of the protected characteristics which will proceed to full assessment?	Y
No evidence of actual or potential impact on some/all of the protected characteristics?	

Sign Off

Lead officer sign off: M Waters	Date: 16.4.18
Service equality representative sign off: M Gallagher	Date: 16.4.18

Data Analysis and Assessment of impact

Please provide details on impacts for people with different protected characteristics relevant to your screening findings. You need to decide if there is or likely to be a differential impact for some. Highlight the positives e.g. benefits for certain groups, advancing equality, as well as the negatives e.g. barriers for and/or exclusion of particular groups. Record the evidence you have used to support or explain your conclusions. Devise and record mitigating actions where necessary.

Protected Characteristic: Age		
What is the actual or potential impact on stakeholders?	Record of evidence to support or explain your conclusions on impact.	What further action or mitigation is required?
<p>The policies will predominately impact upon older age groups, those of state pension age and specifically pensioners aged 75 and over. This age group are most likely to need residential and nursing care and is reflective of the country's ageing population. Likewise this client group is more likely to have savings or capital in excess of £23,250. They may have income from private pensions, have savings and/or may</p>	<p>84.83% of current self-funders are aged 75 or over compared to 72.11% of all residential care placements. When this is broken down further those aged 85 and over account of 52.81% of self-funders compared with 43.89% of all residential care placements.</p> <p>Of those customers currently accruing costs against a DPA 94.25% are aged over 75 and 54.41% of DPAs are with over 85 year olds.</p>	<p>The Council is obliged to assess the care needs of anybody with the appearance of a need for care and support to determine eligible needs.</p> <p>Whilst the Council is not obliged to meet the residential care need of self-funders it</p>

<p>own their own property and have access to the full equity in the property as the properties are often mortgage free. This results in the need to pay the full costs of their care i.e. become self-funders or sign a DPA in order to defer the payment of fees.</p> <p>Elderly customers are more likely to need assistance to navigate their way through the complex financial framework and care and support systems.</p> <p>Historic custom and practice has resulted in some self-funders being given access to the Council's Residential Care contract, meaning that care provision is charged at the Council's contracted rate rather than the providers' private rates, rates that are often higher than the Council's contracted rates.</p> <p>There may be occasion when customers have already placed in a residential care setting will be given notice that they will be removed from the Council's contract and advised to make their own private arrangements either with the same provider or alternative provider. This may result in a negative financial impact. However social work</p>	<p>It is therefore reasonable to assume that those customers identified to be self-funders in the future and therefore directed to make their own residential care arrangements and/or request a new loan style DPA are likely to be reflective of this sample.</p> <p>The Council currently acts as financial Deputy in 30% of the current self-funder cases, compared to 13% of all residential care placements. This suggests that self-funders may need additional financial support, this may be found family or friends and is likely to be directly linked to the age profile of this group i.e. predominantly over the age of 85.</p> <p>Analysis of care types also supports the finding that policies are more likely to impacted older people. 50.6% of self-funders are older people residential care and older people nursing care placements. Likewise 58.93% of DPA cases fall in the same categories.</p>	<p>can exercise discretion to do so using the powers defined by section 19 The Care Act 2014.</p> <p>If during the course of the financial assessment potential entitlement to state benefits is established the Council will either assist or passport to the relevant agency to provide assistance with maximising income. Review current cohort of all self funders and those with a DP order to align with new policies.</p> <p>Social work teams and care coordination teams will offer support to the individual in terms of advice where necessary.</p> <p>The Council will take on the role of financial deputy where circumstances dictate.</p>
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<p>teams and care coordination teams will still offer support to the individual in terms of advice.</p> <p>The Council will exercise powers outlined under S.19 (1) the Care Act 2014 to meet the care and support needs of self-funders, meaning that in specific circumstances some self-funders may continue to be placed using the Council's contracted rates. Details are outlined in the Residential & Nursing Care Charging Policy.</p> <p>The main home of short-term or temporary residents is disregarded for financial assessment purposes. Therefore if a customer's home is their only asset and they have no other form of capital they will not be treated as a self-funder and may qualify for financial support from the Council and the Council's contracted rates.</p> <p>In all cases once a self-funder's capital or assets fall below the £23,250 threshold, they will become eligible for financial support from the Council may make arrangements for their care by placing them on the Council's contracted rates.</p>		
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<p>The introduction of loan style DPA as well as traditional DPA offers the self-funders contracting direct with care providers the opportunity to defer payments rather than being forced to sell their home during their lifetime.</p> <p>Section 18 The Care Act 2018 places a duty on the Council to make arrangements for people assessed as having an eligible need for residential care who lack mental capacity to make arrangements for themselves, if no other person is authorised to do so under the Mental Capacity Act 2005. Therefore where there is a family member or a close friend, or solicitor able to act as a financial deputy they will be advised that they should apply to the Court of Protection to take on this role. However, the Council will take on the role of financial deputy in some circumstances including:</p> <ul style="list-style-type: none">- safeguarding enquiries in respect of financial abuse,- where there are no relatives able to assist/ support with welfare matters,- the person has a degenerative condition which without support will impact upon their health and wellbeing, or		
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- the person is subject to undue influence, coercion or control by another.		
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Protected Characteristic: Disability		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
<p>Impact as above (age).</p> <p>Given the age profile of those who may potentially impacted by the policies and their need for residential care it is reasonable to assume that those affected may have a physical and/mental impairment.</p>	<p>There is no specific detailed data available to quantify or qualify the physical or mental impairments of those that may be impacted by the policies. However analysis of the type of care provision suggests that those with a mental impairment are likely to be impacted. 46.1% of self-funders are dementia residential care and dementia nursing care placements. These care types also account for 40.54% of current DPA cases.</p>	<p>As above (age).</p>

Protected Characteristic: Marriage and civil partnership (workplace only)		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
N/A		

Protected Characteristic: Pregnancy and maternity		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
<p>The policies are unlikely to have any impact upon this protected characteristic.</p>	<p>The age group up to 49 years account for 7.4% of all residential care placements, none of the</p>	

	current self-funders or DPA cases fall within these age groups.	
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Protected Characteristic: Race (ethnicity)		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
The policies are unlikely to have an impact upon this protected characteristic. Ethnic data varies widely across the country and Durham is known to have a large Gypsy and Roma Traveller community.	Analysis of self-funders and DPAs indicates that 100% of cases have been recorded as White British and the remainder as White/Other Background. This compares to 98.87% of all residential placements. However there is no indication whether or not the Gypsy or Roma community are represented in this group.	

Protected Characteristic: Religion or belief		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
The policies are unlikely to have an impact upon this protected characteristic.	The majority of self-funders, 47.19% are recorded as not religion or religion not know compared to 31.25% of DPA cases and 36.68% of all residential care placements. However the majority of DPA cases, 55.36% are recorded as Church of England compared to 38.20% of self-funders and 46.38% of all residential care placements. Other religions including other Christian denominations, Muslim, Jewish, Budhist and Sikh account for the remaining 14.61% of self-funders and 13.39% of DPA cases.	

Protected Characteristic: Sex (gender)		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
Impact as above (age). The policies are likely to impact women more than men, reflecting data available for the current cohort and the average UK life expectancy rates which are 77.2 for men and 81.6 for women.	The majority of self-funders are women 65% compared to 35% men. This is also reflected in all residential care placements where 62% are women and 38% men. The gender split is even higher where DPA cases when 72.3% are women and 27.7% men.	As above.

Protected Characteristic: Sexual orientation		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
The policies are unlikely to have an impact upon this protected characteristic.	Insufficient data available.	

Protected Characteristic: Transgender		
What is the actual or potential impact on stakeholders?	Explain your conclusion considering relevant evidence and consultation	What further action or mitigation is required?
The policies are unlikely to have an impact upon this protected characteristic.	Insufficient data available.	

Section Three: Conclusion and Review

Summary

Please provide a brief summary of your findings stating the main impacts, both positive and negative, across the protected characteristics.
The policies ensure that Council fulfils and complies with legislative requirements of the Care Act 2014 and associated regulations and guidance;

the Care and Support (Deferred Payment) Regulations 2014, as amended by the Care and Support (Deferred Payment) (Amendment) Regulations 2017.

The Care Act 2014 obliges the Council to assess the care needs of anyone with the appearance of need for care and support. If the assessment determines that there are eligible needs, consideration must be given to how these needs will be met and a financial assessment made to determine whether and to what level the financial contribution towards the cost will be.

The protected characteristics potentially affected by the policies are age (older people, especially people over the age of 75 years), disability and gender (there is a disproportionate impact on women as more women receive residential care as they live longer than men). Characteristics of the current cohort is likely to be reflective of future cohort and are likely to be older and disabled, therefore vulnerable and requiring support to navigate through complex financial frameworks.

Positive impact includes consistency in practice and process in order to eliminate any discrimination. Furthermore, whilst the Council is not obliged to meet the residential care need of self-funders it can exercise discretion to do so using the powers defined by section 19 The Care Act 2014.

The introduction of loan style DPA as well as traditional DPA offers the self-funders contracting direct with care providers the opportunity to defer payments rather than being forced to sell their home during their lifetime.

If during the course of the financial assessment potential entitlement to state benefits is established the Council will either assist or passport to the relevant agency to provide assistance with maximising income.

There may be occasion when customers have already placed in a residential care setting will be given notice that they will be removed from the Council's contract and advised to make their own private arrangements either with the same provider or alternative provider. This may result in a negative financial impact. However social work teams and care coordination teams will still offer support to the individual in terms of advice. The Council will exercise powers outlined under S.19 (1) the Care Act 2014 to meet the care and support needs of self-funders, meaning that in specific circumstances some self-funders may continue to be placed using the Council's contracted rates. Details are outlined in the Residential & Nursing Care Charging Policy. The main home of short-term or temporary residents is disregarded for financial assessment purposes. Therefore if a customer's home is their only asset and they have no other form of capital they will not be treated as a self-funder and may qualify for financial support from the Council and the Council's contracted rates. In all cases once a self-funder's capital or assets fall below the £23,250 threshold, they will become eligible for financial support from the Council and the Council may make arrangements for their care by placing them using the Council's contracted rates.

Will this promote positive relationships between different communities? If so how?
N/A

Action Plan

Action	Responsibility	Timescales for implementation	In which plan will the action appear?
If during the course of the financial assessment potential entitlement to state benefits is established the Council will either assist or passport to the relevant agency to provide assistance with maximising income.	Financial Assessment Team		
Review current cohort of all self funders and those with a DP order to align with new policies.	Finance & Transactional Services	June 2018 to December 2018	Self-funders & DPA Review
Social work teams and care coordination teams will offer support to the individual in terms of advice where necessary.	Adult & Health Services		

The Council will take on the role of financial deputy where circumstances dictate.	Deputy & Appointeeship Team		
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Review

Are there any additional assessments that need to be undertaken? (Y/N)	N
When will this assessment be reviewed? Please also insert this date at the front of the template	N

Sign Off

Lead officer sign off: Michelle Waters	Date: 11/5/18
Service equality representative sign off: Mary Gallagher	Date: 16/5/18

Please return the completed form to your service equality representative and forward a copy to equalities@durham.gov.uk