

# Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel

**Date: Tuesday, 28th January, 2020**

**Time: 10.00 am**

**Venue: Council Chamber - Guildhall, Bath**

**Councillors:** Vic Pritchard, Michelle O'Doherty, Jess David, Ruth Malloy, Bharat Pankhania, Mark Roper, Andy Wait, Paul May and Liz Hardman

**Co-opted Voting Members:** David Williams

**Co-opted Non-Voting Members:** Chris Batten and Kevin Burnett

**Please note there will be a pre-meeting for Panel Members only from 9.30am.**



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## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the Guildhall - Bath.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

3. **Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator.

The Council will broadcast the images and sound live via the internet [www.bathnes.gov.uk/webcast](http://www.bathnes.gov.uk/webcast) An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

4. **Public Speaking at Meetings**

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may also ask a question to which a written answer will be given. **Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.** Further details of the scheme:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

5. **Emergency Evacuation Procedure**

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6. **Supplementary information for meetings**

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**Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel -  
Tuesday, 28th January, 2020**

**at 10.00 am in the Council Chamber - Guildhall, Bath**

**A G E N D A**

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 6.

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest** *or* an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

6. ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING

At the time of publication no notifications had been received.

7. MINUTES - 1ST OCTOBER 2019 (Pages 7 - 24)

8. CLINICAL COMMISSIONING GROUP UPDATE

The Panel will receive an update from the Clinical Commissioning Group (CCG) on current issues.

9. CABINET MEMBER UPDATE

The Cabinet Member(s) will update the Panel on any relevant issues. Panel members may ask questions on the update provided.

10. MATERNITY SERVICE RECONFIGURATION UPDATE (Pages 25 - 42)

This update provides a summary of the Maternity Service Reconfiguration programme, which has been running for the past three years across BaNES, Swindon and Wiltshire (BSW). It includes an update on the decision made by BSW Governing Body on January 16th 2020 and next steps.

11. DRAFT CORPORATE STRATEGY (Pages 43 - 64)

This report sets out the current position on the Council's draft Corporate Strategy to the Panel for consideration and feedback.

12. FOOD POVERTY ACTION PLAN (Pages 65 - 74)

This report puts forward a process and timeline for developing a food poverty action plan for B&NES and investigating the refresh of B&NES Food Strategy.

13. CARE AND SUPPORT CHARGING AND FINANCIAL ASSESSMENT FRAMEWORK (Pages 75 - 314)

The Care and Support Charging and Financial Assessment Framework and the Direct Payment Policy came before the Panel on the 1st October 2019 prior to the conclusion of the public consultation. The public consultation has now concluded, and the policies have been amended with consideration of the feedback received.

14. PEOPLE AND COMMUNITIES STRATEGIC DIRECTOR'S BRIEFING

The Panel will receive a verbal update on this item from the People and Communities Strategic Director.

15. PANEL WORKPLAN (Pages 315 - 318)

This report presents the latest workplan for the Panel. Any suggestions for further items or amendments to the current programme will be logged and scheduled in consultation with the Panel's Chair and supporting officers.

The Committee Administrator for this meeting is Mark Durnford who can be contacted on [mark\\_durnford@bathnes.gov.uk](mailto:mark_durnford@bathnes.gov.uk), 01225 394458.

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**BATH AND NORTH EAST SOMERSET**

**CHILDREN, ADULTS, HEALTH AND WELLBEING POLICY DEVELOPMENT AND SCRUTINY PANEL**

Tuesday, 1st October, 2019

**Present:-** Councillors Vic Pritchard (Chair), Michelle O'Doherty (Vice-Chair), Jess David, Ruth Malloy, Mark Roper, Andy Wait, Paul May and Liz Hardman

**Co-opted Members:** Chris Batten and Kevin Burnett

**Also in attendance:** Mike Bowden (Corporate Director), Lesley Hutchinson (Director of Safeguarding and Quality Assurance), Bruce Laurence (Director of Public Health), Dr Ian Orpen (Clinical Chair, B&NES CCG), Sarah Hogan (Deputy Safeguarding Lead CYP & QA), Annemarie Strong (Legal Advisor/Paralegal) and Sarah Watts (Complaints & Data Protection Team Manager)

**Cabinet Member for Adult Services:** Councillor Rob Appleyard

**Cabinet Member for Children's Services:** Councillor Kevin Guy

**12 WELCOME AND INTRODUCTIONS**

The Chairman welcomed everyone to the meeting and Panel members introduced themselves.

**13 EMERGENCY EVACUATION PROCEDURE**

The Chairman drew attention to the emergency evacuation procedure.

**14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Co-opted Members Andrew Tarrant and David Williams had sent their apologies to the Panel.

**15 DECLARATIONS OF INTEREST**

Councillor Paul May declared an other interest as he is a non-executive Sirona board member. He said that he would leave the room during the debate of agenda item 8 (Virgin Care).

Councillor Jess David declared an other interest as her husband is a partner in the Heart of Bath group of GP practices which operates in Bath.

**16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was none.

**17 ITEMS FROM THE PUBLIC OR COUNCILLORS - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS RELATING TO THE BUSINESS OF THIS MEETING**

Pam Richards, Protect Our NHS BANES made a statement to the Panel on the subject of Virgin Care. A copy of the statement can be found on the Panel's Minute Book, a summary is set out below.

Protect Our NHS BANES is deeply concerned about the performance of Virgin Care in several key areas. Reports have come to us from staff, former staff, patients/service users and carers.

On 1st April 2017 1700 employees transferred to Virgin Care but by 10th September 2019 Virgin Care had only 1200 employees. We are aware of significant staff shortages and a high turnover of staff. We would like to see a detailed staffing breakdown - loss of posts through redundancies, long term vacancies, frozen posts, skill shortages number of agency and locum staff employed. Inevitably this staffing crisis will impact on the quality of the service that the public receive.

Many staff have told us that they have left because they no longer feel that they can deliver a safe and effective service. Others have said that their concerns are not listened to and management is poor. Many feel pressured and overworked because of staff shortages. Staff reviews about Virgin Care on employment agency websites are very damning. The health and social care system is a people business, the way you treat people/staff is crucial to the outcomes you achieve.

The lack of progress on achieving key transformation targets such as the introduction of the integrated care record and the creation of care co-ordination hubs calls into question much of the basis of the Virgin Care bid. The integrated record is way behind schedule and although there is work underway to create a hub at Peasedown this does not include social care.

We hear reports of a significant deficit in the Virgin Care budget. Virgin Care promised a standstill budget over 7 years based on efficiency savings. If savings are not achieved what happens next – will Virgin ask for more money or withdraw from the contract?

We feel that there is mounting evidence that Virgin Care is not delivering what they promised and the staffing crisis is a cause for grave concern. It is the role of this Scrutiny Panel to scrutinise and it is time that it did just that. We ask you to conduct (in conjunction with the Commissioners) a thorough review of the Virgin Care contract before real harm is inflicted.

Councillor Liz Hardman asked what she thought the impact of Brexit would be on staffing levels within Virgin Care.

Pam Richards replied that she believed that it would have a severe effect on all staff within health and social care.

Councillor Jess David asked how many members of staff she had met to discuss their morale.

Pam Richards replied that she had met 10 members of staff within the last few months and said that she was aware that some have left Virgin Care due to stress and concern over their professional standards.

The Chairman thanked Pam Richards for her statement on behalf of the Panel.

## **18 MINUTES - 23RD JULY 2019**

The Chairman referred to page 8 of the minutes and asked if the Terms of Reference and membership of the Autism Partnership Board had been shared with the Panel.

Councillor Rob Appleyard, Cabinet Member for Adult Services replied that this was still a work in progress and that he was due to attend a meeting regarding later in the month.

The Chairman asked for the following paragraph to be amended as the next meeting has actually taken place in October.

*The Chair replied that following correspondence with Pam Richards, Protect Our NHS BANES he had agreed that this item would be discussed by the Panel in ~~September~~ October.*

Councillor Andrew Wait commented that he had not had a response to the point he raised on page 5 relating to the costs raised through the RUH car park.

The Chairman said that a response will be chased on behalf of the Panel.

Kevin Burnett asked if a response has been received from the Secretary of State regarding the funding pressure in the education system.

Councillor Kevin Guy, Cabinet Member for Children's Services replied that the Council had received a generic response and were seeking further information.

With these comments and amendments in mind the Panel confirmed the minutes of the previous meeting as a true record and they were duly signed by the Chairman.

## **19 VIRGIN CARE - PERFORMANCE UPDATE**

Kirsty Matthews, Managing Director – Bath and North East Somerset, Virgin Care Services Limited introduced this report to the Panel and highlighted the following areas from within it.

She stated that she had been in her role for two years and said that she was proud of all her colleagues within Virgin Care who work very hard.

She explained that the Bath and North East Somerset Community Health and Care Services, provided by Virgin Care, went live on 1 April 2017. The contract brings together community health and care services to deliver the objectives of Your Care, Your Way (YCYW), a document which was compiled by the Council and NHS Bath

and North East Somerset Clinical Commissioning Group (CCG) over the previous two years through consultation with local people.

Under the contract, Virgin Care is responsible for the direct delivery and sub-contracted delivery for approximately 200 community services.

She said that overall, the service is performing well against both local contractual and national indicators, with significant performance improvements noted in a number of areas. Performance of the service is monitored at both local and national level, as well as by commissioners at the Council and CCG.

She informed the Panel that there have been a number of significant improvements in service performance since the transfer in April 2017, including:

- The average length of stay on rehabilitation wards at Paulton and St Martin's Hospital has reduced from 36 days at point of transfer to 28 in 19/20, despite increased complexity of the patients admitted. This length of stay is now in line with the national average for these types of services and brings significant benefits for patients by enabling them to return home, with support, and live as independently as possible.
- Safeguarding performance has significantly improved. Decisions taken within 4 days has increased from 48% in 17/18 to 88% in 18/19. Planning meetings being held within 10 days has increased from 32% in 17/18 to 77% in 18/19
- Continuing Health Care assessments completed within 28 days has risen from an average of 23% completion in 2017 when Virgin Care took on the contract to an average of 73% this year, and 100% in August 2019.
- Virgin Care has worked with Royal United Hospitals, Wiltshire Health and Care and Somerset Partnership Foundation Trust and commissioners to deliver the Home First pathway. This was recognised with a Parliamentary award for Excellence in Urgent and Emergency Care in 2018.
- A new service was developed with the Royal United Hospitals and South West Ambulance Service, a 'falls pick up service' which provides an early response to people who have had a fall within their own home and avoids them having to go to hospital. Initial outcomes from this service show that 70% of people who were supported in this service were able to be instead managed in an outpatient setting
- Bath and North East Somerset is now among the top performers for delivery of the Healthy Child Programme. This has improved from 82% compliance with national standards for 14-day visits at the point of transfer, to 94% in 19/20.
- As of August 2019 the overall staff sickness rate is 2.76% which compares well to the average NHS staff sickness rate of 4.51% (February 2019 data).
- Our staff turnover data is 12.68% on a monthly average rolling year to date basis, this figure includes retirees

She stated that IT services are essential to the ongoing positive performance of health and social care services. Virgin Care mobilised a new network and equipment following the transfer of services from Sirona and while the fast rollout of the system caused widely reported issues these were resolved during the first year of the contract (17-18).

There are number of areas of the transformation programme that technology continues to support to meet the Your Care Your Way objectives of joining up the information and these include; a new referral management solution, the deployment of an integrated care record and the provision of mobile working.

She said that Children's Services delivered as part of the contract are consistently high performing, both against national benchmarks and the Key Performance Indicators set by the Council and NHS.

Virgin Care, through its learning and development arm, The Learning Enterprise – an Ofsted registered apprenticeship provider with the Skills for Health Quality Mark – will launch four new Social Work apprenticeship roles in October. These degree-level programmes will allow Bath and North East Somerset to “grow its own”, provide career development opportunities, helping to secure the future of a stable adult social work service into the future.

The performance of the service is significantly improved since it transferred to Virgin Care in 2017 and continues to be on a trajectory of further improvement. At the time of transfer, 72 needs assessments per month were taking longer than 28 days. At the time of writing, just 3 per month take longer than 28 days.

Virgin Care provides a number of services to support health and wellbeing in Bath and North East Somerset. This is both by directly providing the services and through sub-commissioning with a large number of third sector providers across Bath and North East Somerset.

She explained that with the introduction of Primary Care Networks, Virgin Care are working with primary care, with Developing Health and Independence (DHI) and Village Agents, amongst many others, to develop the local offer for social prescribing. This will be launched this winter and will form part of Wellbeing Bath and North East Somerset. It supports a key principle for Your Care Your Way of living and staying well and delivering care closer to the community.

Virgin Care are proactive partners with the third sector in Bath and North East Somerset. This has enabled volunteering services to continue and which is now being directly provided. Virgin Care work closely with Third Sector Groups, 3SG, partners and is supporting Bath Mind to develop a Safe Haven for Mental Health services locally.

She said that recruitment remains a key issue across all services leading to high agency usage in some areas. This is reflected in the national position for all providers of healthcare services. During the summer, Virgin Care held two recruitment open days and these were popular, leading to the recruitment of both new colleagues and additional members of the bank.

She informed the Panel that the Supported Living Services teams in Bath and North East Somerset were inspected by the CQC in 2018, after the transfer to Virgin Care Services Limited. The CQC awarded a “good” rating to the services following this inspection.

No quality performance notices have been served on Virgin Care in the past 12 months. The quality of services has remained of a high standard, and this is reflected in the quality indicators including:

- Maintaining the proportion of service users receiving ‘harm free’ care as measured by the national Safety Thermometer audit (94.2% in 2018/19 compared to 94.2% in 2016/17)
- No MRSA Bacteraemia infections in Community Hospitals since 2014
- An ongoing reduction in the number of acquired pressure ulcers from 281 in 2017/18 to 187 in 2018/19.
- The number of falls reported in community hospital wards is reducing over time, as a result of proactive work to reduce risk. The reduction has been from 104 between April – August 2018 to 88 between April – August 2019.

Virgin Care established its Citizens’ Panel engagement network during its first year of the contract and has continued to engage with local people through this panel, while also seeking to grow membership which, at time of writing, stands at just over 100 active members. This group of users engages with service change programmes and supports Virgin Care to ensure proposals for change work to the advantage of service users and meet local people’s needs.

2019-20 is year 3 of the contract, and as such the transformation programmes have gathered pace and are now substantially progressed.

Care co-ordination (CCC) – The delivery of a care co-ordination centre which works across Bath and North East Somerset, and conducts many of the administrative functions previously carried out within each individual service, is an essential enabler of providing joined-up and resilient services. The service is now in phase 2 of its deployment with wellbeing services co-located alongside some social care colleagues and adults health professionals as well as administrative support.

Mobile working – Alongside the care co-ordination centre, mobile working allows us to maximise the time teams have to be with service users directly by cutting down on travel and duplicated note-taking. Virgin Care has deployed over 400 devices to enable colleagues to work closer to people’s homes and spend as much time face to face with people as possible. In some teams this has resulted in an increase of over 20% time spent with the people they support.

Virgin Care is working with key partners across Bath and North East Somerset to introduce an Integrated Care Record (ICR) within the area and more widely.

The ICR will collate information on an individual’s health and care record into a single view, enabling appropriate sharing of information across organisations to support decisions regarding care and serve to ensure that people do not have to repeat their story and history to each care provider they see.

The ICR will be used to share information between Royal United Hospitals Bath NHS Foundation Trust, Bath and North East Somerset Council, Avon & Wiltshire Mental Health Partnership NHS Trust, Virgin Care's Bath and North East Somerset Community Health and Care Services, Dorothy House Hospice and up to 30 GPs. Each organisation will have access to a single record that can be viewed independently or from within an existing system.

The programme to integrate records from various systems is well established and the technical implementation has been successful both for community health records and social care. The programme is working towards full systems implementation by the end of the calendar year.

Access to the system will be released in October and the first teams to access will be the colleagues who support frailty within Virgin Care and RUH Emergency Department.

Colleague engagement and morale is always impacted by significant change and, following the transfer of employer in 2017, the significant, lengthy and ongoing change programmes have reduced engagement and morale across some services. Virgin Care has, and is, committed to taking steps to improve. This is measured through the annual Have Your Say staff survey, which mirrors some questions from the NHS National Staff Survey.

During 19/20, Virgin Care is also reviewing its staff engagement programmes. The Partnership Forum will be repurposed, increasing its effectiveness as a colleague consultation forum; managers will continue to be supported and trained to ensure they are as effective as possible. Kirsty Matthews and the Senior Leadership Team will hold a series of listening groups across the service, to hear from the frontline. Virgin Care will also focus on improving the quality of conversations at appraisals.

Virgin Care increased recruitment activity during 18-19 and continues to do so during the current year. This work is focused on reducing the use of agency staffing in wards, which not only increases cost but can also reduce the overall quality of services, and on increasing staffing of the "bank" of flexible workers.

She explained that the contract between the Council and NHS CCG with Virgin Care Services Limited runs over the course of seven years with the option to extend to a maximum of ten years. The contract requires a 9% cash saving over the course of the 7-year contract, and the provider's income is partially dependent on the satisfactory performance of the service.

In 2018/19 after the direct costs of delivery, such as the wages of colleagues and premises, payment of sub-contractors for services commissioned by Virgin Care and a £600,000 contribution towards the costs of centrally provided services (shared back office functions such as payroll and IT), the contract generated an overall loss of £1.4m for Virgin Care.

While transformation is ongoing, in 2019-20 the services are making good progress towards financial sustainability as the benefits of investments made in future years begin to materialise. These investments include the development of the care co-

ordination centre, remote working by community teams and other programmes which have supported efficiencies and increased productivity.

Councillor Liz Hardman asked if the recruitment open days that were held were successful and what impact does the use of agency staff have on costs.

Kirsty Matthews replied that the open days were held at St Martins and Paulton for potential staff to visit and see the facilities available within the wards. She added that the conversion rate from those that attended to gaining employment was good. She said that they also actively recruit through NHS Jobs and adverts in professional journals.

Councillor Liz Hardman asked what impact staff morale is having on the recruitment and retention of staff.

Kirsty Matthews replied that change has been the major factor in morale amongst staff with many having been in their role for a number of years. She said that she always enjoyed receiving direct feedback from staff. She added that a lot of changes have taken place, with some still ongoing and that after Year 3 there would be more of a focus on service delivery.

Councillor Liz Hardman asked what is the expected impact of Brexit on recruitment.

Kirsty Matthews replied that she believed that Brexit will affect health care staff both nationally and locally. She said that Virgin Care has a robust plan in place and that a risk register has been produced as part of the plan. She added that an Emergency Planning Lead Officer has been appointed to oversee this work.

The Chairman commented that there were encouraging aspects within the report and that he was pleased to see the profile of Social Workers to be increased. He asked how confident she was on delivering the 9% savings agreed when the contract was awarded given that in Year 2 there was a deficit of £1.4m.

Kirsty Matthews replied that the deficit was due to initial delays in the transformation programme, but said that the delivery of a care co-ordination centre, enhancements in mobile working and staff co-location would lead to savings and that she was confident they could deliver the savings as agreed.

Councillor Jess David asked when the transformation programme was due to be complete.

Kirsty Matthews replied that it is scheduled for the end of Year 3 of the contract.

Dr Ian Orpen, Clinical Chair, BaNES CCG commented that the morale, wellbeing and recruitment of staff within the NHS is a high priority. He added that when in place the Integrated Care Record (ICR) will be a great benefit to both professionals and the public.

Councillor Andrew Wait asked if Virgin Care would be able to achieve a balanced budget for this financial year.

Kirsty Matthews replied that she believed they would.

Councillor Mark Roper asked what were the figures for the previous year in relation to the Have Your Say survey given that this year it is rated at 64%.

Kirsty Matthews replied that the figure the previous year had been 60%.

The Chairman thanked her on behalf of the Panel and said that she could expect to be invited back in 12 months' time to give a further progress update.

## **20 CLINICAL COMMISSIONING GROUP UPDATE**

Dr Ian Orpen, addressed the Panel. He apologised for not being able to attend their July meeting and said that he had met with the majority of members since to brief them regarding the Bath and North East Somerset, Swindon and Wiltshire (BSW) CCGs Merger Consultation.

A copy of the update can be found on their Minute Book and as an online appendix to these minutes, a summary of the update is set out below.

### **Bath and North East Somerset, Swindon and Wiltshire (BSW) CCGs Merger Consultation**

During June and July 2019, the Governing Bodies of the three CCGs each met in public and approved plans to apply to NHS England and NHS Improvement to establish one single commissioning organisation for BSW.

GPs across BSW were consulted with to seek their feedback and to consider and respond to points raised. The LMC ran a formal vote on our behalf, which closed on 17 September 2019, to ensure that member practice support is demonstrated in line with each CCG's Constitution.

Following the GP vote, on 25 September 2019, the Governing Bodies of the three CCGs met in common to sign off our application submission. We will now submit a formal application to merge our CCGs to NHS England and NHS Improvement and we anticipate confirmation of their decision in October.

### **Winter Planning Update**

BaNES CCG is part of the *BSW Seasonal Influenza Task and Finish Group*, who are coordinating the flu campaign across BSW. The BSW flu vaccination campaign 2019/20 aims to promote flu vaccination uptake amongst the following three groups:

1. Under 65s at risk (those with long term health conditions, those who are pregnant etc.)
2. Carers
3. Social care providers.

CCG and B&NES council staff based at St Martin's hospital have again been offered their free flu jab, in line with our objective to ensure as many staff as possible are vaccinated.

He urged those who are eligible and in need to receive the vaccination and stated that it was not possible to catch the flu from the vaccination.

## **EU Exit Update**

The effect of a no-deal EU exit has been spelt out in an open letter to MPs by The King's Fund, The Health Foundation and Nuffield Trust. The letter summarises the four major areas where the impact of a no deal EU exit could be felt most sharply in health and care: a risk of intensifying the staffing crisis, shortages and price rises for vital supplies, the need to care for returning emigrants, and funding shortfalls at a time when health and care need it most.

Councillor Liz Richardson asked how confident he was with regard to Brexit and the impact that will have on staff and supplies.

Dr Orpen replied that a great deal of time and effort has been put in place on this matter to minimise the impact. He added that of course he was not in a position to give a direct guarantee, but urged people not to stockpile the medicines they receive.

Councillor Paul May asked if under the proposed new model of CCGs B&NES residents could retain the same standards.

Dr Orpen replied that patients should not see a difference in the standards and services they receive. He said that it was more about an ethos of learning from each other and working collaboratively.

Councillor Jess David asked if it was known who had voted against the merger.

Dr Orpen replied that the vote was taken in private. He added that the figure of 89% was a clear majority to proceed.

Kevin Burnett asked if there were good reasons for the merge to take place.

Dr Orpen replied that there was, in particular the collaboration of knowledge and expertise across the three areas.

Councillor Paul May commented that he was pleased to see the recent appointments to the BSW executive team.

The Chairman thanked Dr Orpen for the update on behalf of the Panel.

## **21 CABINET MEMBER UPDATE**

Councillor Kevin Guy, Cabinet Member for Children's Services addressed the Panel. A copy of the update can be found on their Minute Book and as an online appendix to these minutes, a summary of the update is set out below.

The Chairman commented that for future meetings the Panel would appreciate seeing the update in advance of the meeting.

## **Community Resource centres**

Panel members may be aware that Sirona Care and Health has given 12 months' notice on the contract to run community resource centres and extra care facilities in Bath and North East Somerset. The Council is looking at options for how these services will be managed in the longer term, but there is no direct impact on residents or tenants who receive support through these services, nor does it impact on the security of the jobs of staff employed in these services, though they will have a change of employer. We will keep the Panel informed as future plans are developed.

## **National funding settlement and Brexit**

An early indication of a one year settlement that continues existing levels of grant funding for local authorities is welcome as a short term measure, but leaves a substantial level of uncertainty about how the underlying pressures and challenges might be addressed in the longer term. Local services are continuously updating their risk assessments and plans to respond as and when final details of EU Exit are confirmed. Clearly there continue to be a lot of unknowns.

The Chairman asked if it would be an option to bring the Community Resource Centres back 'in house'.

Councillor Kevin Guy and the Corporate Director replied that was an option that was being considered.

Councillor Liz Hardman asked if there had been some specific funding allocated in relation to Brexit.

The Corporate Director replied that there has been a small amount of funding which has led to a Brexit officer being appointed to oversee the plans for the Council.

The Chairman thanked Councillor Guy for his update on behalf of the Panel.

## **22 LSCB & LSAB ANNUAL REPORT 2018/19**

The Director for Safeguarding & Quality Assurance and the Director of Public Health (former Chair of the LSCB) introduced these reports to the Panel.

The Director for Safeguarding & Quality Assurance acknowledged the depth of content within both reports and said that executive summaries were available for both. She explained next year would see a report that consisted of six months of activity from both Boards and six months of the new Community Safety & Safeguarding Partnership. She added that the plan will be to produce a more focussed report in future years.

The Director of Public Health said that it had been a privilege to hold the role of LSCB Chairman and to work within an environment that works incredibly hard for such an important cohort within B&NES. He commended the work of the Director for Safeguarding & Quality Assurance and the Safeguarding Children & Adults Boards Business Support Manager.

The Chairman asked if the figures in section 3.1.2 of the report represented the same children with multiple support needs.

The Director for Safeguarding & Quality Assurance replied that these were explicit categories.

The Corporate Director said that it was possible to give snapshots of the numbers of Children in Care / Children in Need at any one time.

Councillor Paul May commented that given the Council's lesser role in the day to day running of schools how can it be assured that if a safeguarding issue is raised through an Ofsted inspection that it goes through the proper process.

The Director for Safeguarding & Quality Assurance replied that the Council tries its best to triangulate local data that it receives and if appropriate it will take steps to go into the identified setting. She added that schools also complete a Section 175 Safeguarding Self-Assessment and that the Council receives a 100% return on these. She stated that two Child Protection Forums are held a year and schools are encouraged to contact the Council if issues arise.

Councillor Liz Hardman asked who are assurances being sought from about the increase in children excluded and those home schooled that they are achieving good outcomes and that they are not at risk of harm and are the six monthly progress reports coming to this Panel now.

The Corporate Director replied that this referred to the LSCB challenging the Health & Wellbeing Board on these issues.

Councillor Hardman asked if the reports could be shared with the Panel.

The Corporate Director replied that they could.

Councillor Hardman asked if more resources were needed in relation to Early Help.

The Director for Safeguarding & Quality Assurance replied that it is a real challenge and not just a problem that this Council were facing. She added that capacity levels would be reviewed as part of the arrangements for the new Community Safety & Safeguarding Partnership.

Councillor Hardman asked in relation to County Lines if we have an update on our Problem Profile to highlight particular hot-spots.

The Director for Safeguarding & Quality Assurance replied that the Problem Profile has not been provided to the Council yet and that she would need to check if it would be able to be shared with Councillors.

Councillor Hardman asked why the Joint LSCB and LSAB County Lines Task and Finish Group were not meeting more often.

The Director for Safeguarding & Quality Assurance replied that Council officers attend monthly meetings with the Police on this matter and that within the

Community Safety & Safeguarding Partnership the Exploitation Group will take the lead role. She added that Youth @ Risk Strategy had just been launched and that it will be underpinned by six individual protocols addressing in greater detail the following broad areas of exploitation:

- Child Sexual Exploitation
- Radicalisation
- Child Criminal Exploitation, including involvement in county lines, gangs, human trafficking, modern slavery and labour exploitation
- Serious Youth Violence
- (Going) Missing from Home, Care or School
- Harmful Sexual Behaviour

Councillor Andrew Wait asked if the Serious Case Review (SCR) Action Plan was robust.

The Director for Safeguarding & Quality Assurance replied that a really robust plan is in place. She said that the incident reported was historical, but that it was right for the review to be carried out. She added that the individual agencies concerned also have their own action plans.

Kevin Burnett commented on the importance of communications with the CEOs of the local Multi-Academy Trusts with regard to training, especially Child Protection courses. He stated that he felt a message should be sent to Government that more training days are required for academies / schools.

The Panel **RESOLVED** to note the Annual Report 2018/19 and Executive Summary for both the LSCB and LSAB.

## **23 INDEPENDENT REVIEWING OFFICER (IRO) ANNUAL REPORT 2018/19**

The Deputy Lead for Safeguarding and Quality Assurance: Children and Young People introduced this item to the Panel. She informed them that the annual report provided information on;

- The profile of the Local Authorities Looked After Children,
- The IRO Service structure and development,
- The inclusion and participation of children, young people and their parents
- The review and monitoring of individual care plans for Looked After Children,
- Area's for development over the course of 2019-2020.

She said that the IRO is often the most consistent relationship (after a child's primary carer) for a child and young person who is looked after. The IRO role for children and young people is so valuable as it can prevent the needs of children being overlooked, decisions being forgotten and the journey of children and young people being lost.

She explained that whilst there has been an increase in the child in care population it has been possible to reduce the average caseload for the IRO's as a result of the Independent Chair role.

She stated that the IRO Handbook suggests that for a full-time IRO it would be good practice for their caseload to consist of 50-70 looked after children. The current average caseload within B&NES is 47 per IRO.

She said that within the reporting period the IRO Service has chaired a total of 454 review child in care meetings for children and young people and that this is only a 1.5% increase on the previous financial year. She added that given that there has been a 14% increase in the number of children and young people becoming looked after this year, this small increase could therefore be related to;

- Children and young people facing less disruption and therefore not requiring additional review meetings, and
- Sibling groups remaining together reducing the number of reviews required.

She informed the Panel that the gender breakdown remains stable in relation to previous years and reflects the national picture and that at the end of this reporting period, there were 87 (45%) females and 105 (55%) males accommodated by the Local Authority.

She said that with regard to ethnicity the data shows that whilst the majority of children and young people looked after by the Local Authority are largely White British (73.4% (141)), there are 41 children and young people from Black Minority Ethnic Groups. She added that it is important that the cultural needs of the children and young people looked after are taken into consideration when identifying placements and the services on offer.

She stated that to ensure children and young people in the care of the local authority remain connected to their local community, family and friends, and to limit the level of disruption in a child/young person's life, local authorities should always first try to place a child or young person in care within the geographical area of their family home. She added that the challenge however is ensuring that the identified carers have the appropriate skills to meet the child and young person's needs and that any risks of being within relative proximity to their family can be managed.

She said that in Bath and North East Somerset a large percentage of looked after children are placed within the boundary of the local authority or within a 20 mile radius.

She informed the Panel that Bath and North East Somerset continues to have a small cohort of young people (6) who have arrived in this country unaccompanied and seeking asylum or who have been trafficked.

She explained that all children and young people should be able to speak with their social worker ahead of their child in care review to talk about who they would like to attend their meeting and where they would like for the meeting to be held. All IRO's promote the participation of children and young people in their review and consider how best meetings can be held to facilitate children and young people's attendance.

She stated that within the current reporting period out of 454 reviews, 358 included participation of the child / young person. She added that as the data demonstrates

this does not always involve the child being physically present at the review and verbally contributing but includes participation through the attendance of an advocate and other persons within the child / young person's network.

She said that one of the key functions of the IRO is to resolve problems arising out of the care planning process and whilst IRO's are expected to establish positive working relationships with social workers of the children for whom they are responsible this should not prevent the IRO from addressing any concerns they may identify for a child in respect of their placement, care plan, resources available and poor performance.

She added that currently there is no data report available that can collate how many informal and formal issues are raised by an IRO in any given year, however all IRO's are expected to inform their Manager in supervision of any issues that have required the use of the informal and formal stages of the dispute and resolutions Protocol. She said that this has identified this as being one of the key areas for development in the coming year (2019/20) and will be working with the Business Intelligence Manager within the Council and the Service Designer for the Liquidlogic Children's System (LCS) so this data can be captured.

She said that she was proud to work with so many committed members of staff who act with compassion and are always looking to improve.

Councillor Paul May asked how colleagues respond to queries raised by her.

The Deputy Lead for Safeguarding and Quality Assurance: Children and Young People said she felt able to have the sometimes difficult conversations and had no concerns with escalating an issue if not satisfied.

Councillor Andrew Wait asked if any further comment could be made on the percentage of Children and Young people having 3 or more placement moves within a 12 month period.

The Deputy Lead for Safeguarding and Quality Assurance: Children and Young People replied that the matching of children is crucial and that it is not always possible for them to be placed in long term care in the first instance. She added that placements must meet the needs of the child and that unfortunately some relationships do break down.

The Panel **RESOLVED** to;

- i) Note the increase in numbers of children and young people placed in the care of the Local Authority and the performance of the Independent Reviewing Service in reviewing the quality of the care planning for these children.
- ii) Recognise the complexity of the work that is required with children and young people and continue to support the IRO Service in ensuring that the Local Authority fulfils its statutory responsibilities to the children and young people in care

- iii) Support the need for additional data reporting to be made available so that there can be greater understanding of the use of the Issues Resolution Protocol and whether there are any themes as to the concerns identified by the IRO Service for the children and young people in the care of the Local Authority.
- iv) Promote the IRO Services key areas for development for 2019-2020 with colleagues in the Council's Children's Services.

## **24 CHILDREN SERVICES REPRESENTATIONS, COMPLIMENTS AND COMPLAINTS REPORT 2018/19**

The Complaints & Data Protection Team Manager introduced this item to the Panel. She explained that the report considers compliments, complaints and representations received between 1st April 2018 and 31st March 2019 and also provides an analysis of outcomes, trends and learning from complaints which can be used by the service for planning and improved service delivery.

She said that complaints against schools are governed by different legislation and each school is required to have its own complaints procedure and complaints about schools are not therefore included in this report.

She stated that during the year a total of 106 complaints were processed under the Children's Social Care statutory complaints procedure or the Council's Corporate Complaints Procedure. She added that the report explains how the complaints were resolved under the procedures.

She said there were four referrals to complaints to the Local Government and Social Care Ombudsman.

She said that during the period of the report that 36 compliments were recorded.

Councillor Liz Hardman asked if there are lessons to be learnt from the number of Stage 1 complaints that are upheld (23%).

The Complaints & Data Protection Team Manager replied that action plans are devised following the end of the process. She added that the majority of complaints were due to a lack of good communication between parties.

Kevin Burnett asked if all the figures in the report were in relation to B&NES employees.

The Complaints & Data Protection Team Manager replied that they were.

The Panel **RESOLVED** to note the report.

## 25 CARE AND SUPPORT CHARGING AND FINANCIAL ASSESSMENT FRAMEWORK

The Legal Advisor introduced this report to the Panel. She explained that the following areas of the Framework will be subject to consultation as all other areas included are not discretionary within the statutory obligations:

- Individuals will be required to respond within two weeks of being contacted by a Care Finance Officer to arrange a meeting to discuss the financial assessment. If no contact is made within this period, they will be deemed as self-funding.
- The Council will take into account Pension Guaranteed Credit and Employment and Support Allowance benefit that a service user would have an automatic entitlement to, if an application were made.
- A new third party 'Top Up Agreement' will be implemented for families /friends/ organisations who wish to make a top up payment on behalf of an individual. Example a larger room in a care home.
- There will be an improved procedure for setting up a Deferred Payment Agreement (DPA) and an increase in the fees charged for setting up a DPA.
- A new Interim Funding Policy (dependent upon criteria) is proposed for those people who have unregistered properties and for those who are waiting to obtain deputyship to allow them to act on the individual's behalf.
- The Council are reviewing the amounts that are applied to Disability Related Expenditure and some expenditure will not be allowed. Please refer to the Disability Related Expenditure Factsheet for more information.
- Transport and education costs will be allowed if this is set out in the individuals Care and Support Plan and the individual is not in receipt of Disability Living Allowance or any Disability Living Allowance component of Personal Independence Payment (PIP).
- The standing charge for gas, electricity, water and sewerage will be allowed as part of the financial assessment. Those individuals who have other heating systems such as oil heating, delivery costs will be allowed.
- A new one off administration charge will be applied to self-funders where an individual has asked the Council to arrange for the care and support.
- The Council has updated its Direct Payments Policy to provide clearer guidance and information.

She said that the consultation will run from the 24th September until 3rd December 2019 and that a series of consultation events for individuals, family members, care and support staff and agencies will be held. She added that a presentation by council

officers will be given at the start of the session and there will be an opportunity to ask questions.

The Chairman asked her to confirm that this was not simply a cost cutting exercise.

The Legal Advisor replied that it was not and that the process will bring the Council in line with other local authorities and the National Association of Financial Assessment Officers (NAFAO) based guidance.

Councillor Liz Hardman asked if changes would be made if comments were received during the consultation.

The Director for Safeguarding & Quality Assurance replied that they were open to changes being following the consultation.

Councillor Hardman commented that she felt that the initial two week timescale should be extended.

Councillor Ruth Malloy agreed as she said that two weeks was quite a short timescale.

The Panel **RESOLVED** to;

- i) Note the report
- ii) Receive a further report on the Framework following the end of the consultation process.

## **26 PEOPLE AND COMMUNITIES STRATEGIC DIRECTOR'S BRIEFING**

The Corporate Director (People) addressed the Panel. He wished to inform them that the Youth @ Risk Strategy had recently been launched and that Sian Walker had been appointed as Chair of the new Community Safety & Safeguarding Partnership.

## **27 PANEL WORKPLAN**

Kevin Burnett asked if the briefing to show how the various Boards and organisations fit together had taken place.

The Chairman replied that it had and that he would ask for that information to be forwarded to him.

Councillor Jess David commented that as highlighted within the IRO report she would like the Panel to receive further information to gain a level of understanding and knowledge of the use of unregulated placements.

The meeting ended at 12.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Children, Adults, Health &amp; Wellbeing Panel</b>	
MEETING/ DECISION DATE:	<b>28th January 2020</b>	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	<b>Transforming Maternity Services Together – outcome and next steps</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
Transforming Maternity Services Together – summary slide deck		

## **1 THE ISSUE**

- 1.1 This update provides a summary of the Maternity Service Reconfiguration programme, which has been running for the past three years across BaNES, Swindon and Wiltshire (BSW). It includes an update on the decision made by BSW Governing Body on January 16<sup>th</sup> 2020 and next steps.

## **2 RECOMMENDATION**

**The Committee is asked to;**

- 2.1 Note the update and next steps

## **3 THE REPORT**

In 2016, a Local Maternity System (LMS) was created across the BaNES, Swindon and Wiltshire (BSW) geography to standardise and improve experience for mums and families and support delivery of the national Better Births recommendations.

In parallel to this, the Royal United Hospital in Bath had begun conducting a review of place of birth options for women within its services. This review was then extended to facilitate an assessment of place of birth options for all women across BSW.

Engagement activities were then held across our area to better understand the reasons for these changes and the views of women and families in relation to place of birth. More than 2,000 women and families were involved in this work along with our staff and proposals for change were co-created. Listening to feedback during this process, our proposals were extended to also include a review of postnatal community beds, home birth services and antenatal and postnatal community care.

This service transformation programme has followed the NHSE seven step assurance process. Our clinical case for change was approved by the South West Clinical Senate in June 2018 and a 15 week public consultation was undertaken with more than 2,480 interactions and 1,800 survey responses received. These responses were independently and academically analysed by the University of Bath.

A set of final recommendations based on the thematic outcomes of the consultations were presented to an independent Expert Panel in September 2019 prior to the completion of the Decision Making Business Case, which was approved in full by the BSW Governing Body on January 16<sup>th</sup> 2020.

#### **4 STATUTORY CONSIDERATIONS**

4.1 A full Integrated Impact Assessment has been undertaken and included in the Decision Making Business Case

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

5.1 This is detailed in the Decision Making Business Case. There remains a risk around securing capital funds for the creation of the Alongside Midwifery Unit at the RUH.

#### **6 RISK MANAGEMENT**

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the CCGs decision making risk management guidance.

#### **7 CLIMATE CHANGE**

7.1 The new Alongside Midwifery Unit at RUH is planned to be a sustainable building.

#### **8 OTHER OPTIONS CONSIDERED**

8.1 None

#### **9 CONSULTATION**

9.1 More than 4,000 mums, families and staff have been involved in the engagement and consultation process.

<b>Contact person</b>	Lucy Baker – Director of Service Delivery – BSW CCGs
<b>Background papers</b>	The full Decision Making Business Case and associated appendices are available
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## Our recommendations for change

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Bath and North East Somerset, Swindon & Wiltshire  
Local Maternity System

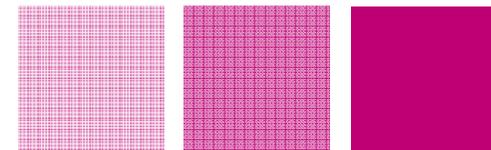
## Future Vision

**Our LMS vision is for all women to have a safe and positive birth and maternity experience and to be prepared to approach parenting with confidence. Our future offer to our women and families will include:**

- **Continuity of carer for the majority by 2021**
- **Improved personalised care and choice with parity of access**
- **Creation of Clinical Maternity Hubs to provide antenatal and postnatal care closer to home**
- **Delivery of seamless pathways across organisational and geographical boundaries**



Bath and North East Somerset, Swindon & Wiltshire  
Local Maternity System

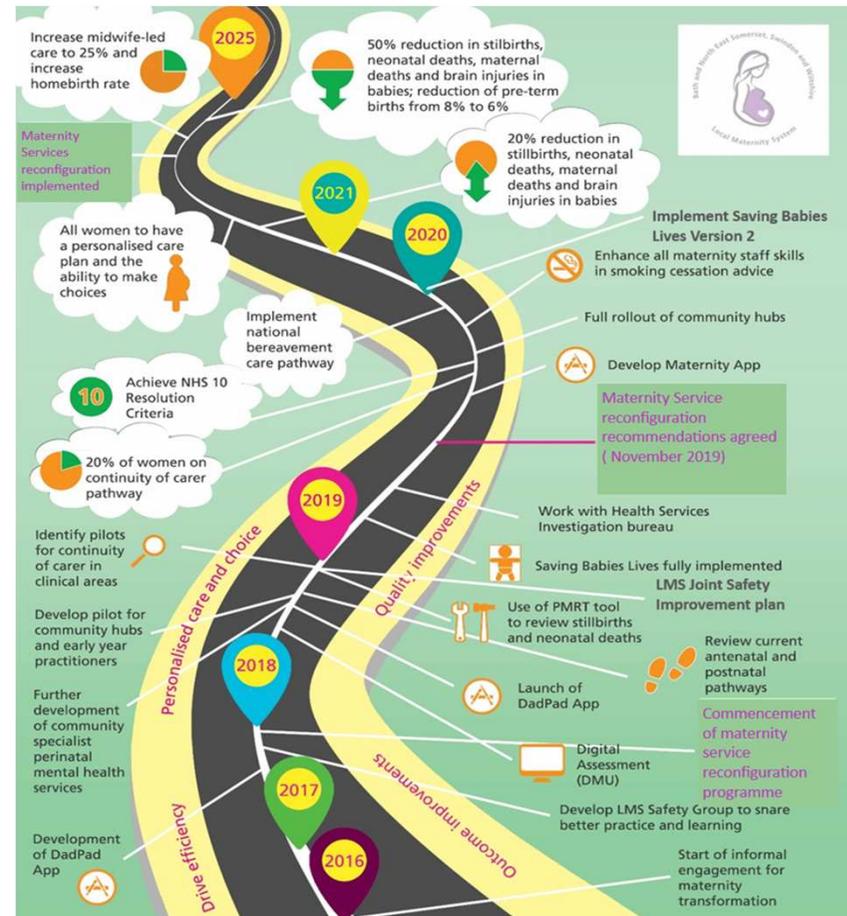


# Transforming Maternity Services Together



## Our journey so far

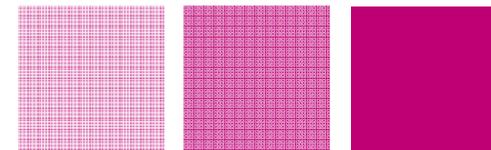
- We began talking to women about their maternity experiences in 2017
- We have now worked with over 4,000 women and families, plus our staff and partner organisations
- Their feedback, together with national guidance such as 'Better Births', has led to these recommendations for future maternity services across the BSW region
- Partner organisations include Great Western Hospital Trust, Salisbury District Hospital, Royal United Hospital Bath, and B&NES, Swindon and Wiltshire CCGs



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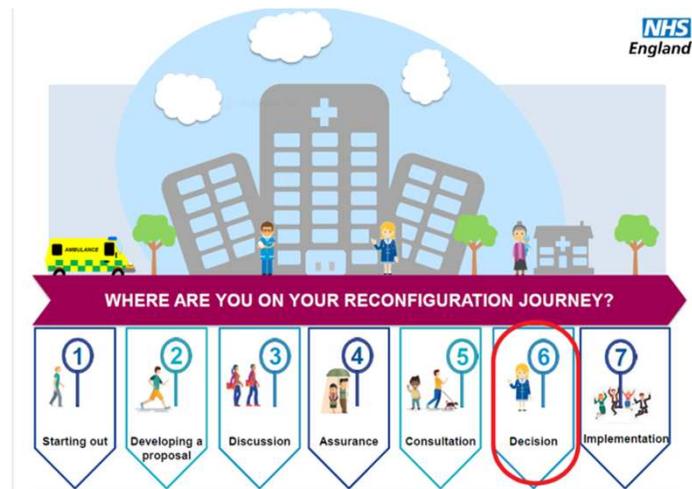
Bath and North East Somerset, Swindon & Wiltshire  
Local Maternity System



## Assurance process

- NHSE - 7 stages of assurance & 5 Key Tests for consultation
- Clinical Senate Review
- Independent Travel Impact Analysis by NHS South Central & West CSU
- Independent analysis of public consultation responses by Bath Centre for Healthcare Innovation and Improvement (CHI<sup>2</sup>) School of Management, University of Bath
- Independent Expert Panel Review

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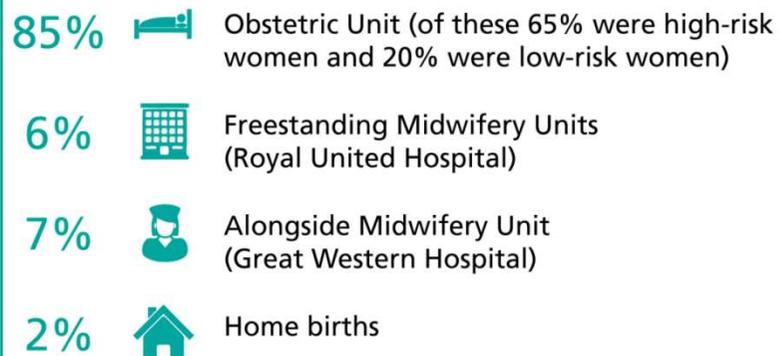


<b>Test 1</b>	Strong public and patient engagement
<b>Test 2</b>	Consistency with current and prospective need for patient choice
<b>Test 3</b>	Clear clinical evidence base
<b>Test 4</b>	Support for proposals from clinical commissioners
<b>Test 5</b>	Bed changes



Bath and North East Somerset, Swindon & Wiltshire  
Local Maternity System

## Case for change



- 11,200 births in B&NES, Swindon and Wiltshire
- Increasing pressure on services in our obstetric units at Royal United Hospital and Salisbury District Hospital
- Less women choosing our Freestanding Midwife Lead Units
- Lack of parity across the Local Maternity System

### Complexity in obstetric care:

- Increase in complexity
- Impact of safety improvements
- Patient choice and expectation
- AMU provide opportunities for more women to access midwife led care
- Enables obstetric focus
- Decrease in transfer times



### Benefits of midwifery led birth:

- Safe for mothers and babies
- Significantly fewer interventions No difference in caesarean birth rates between AMU and FMU
- Clinical evidence shows that a low risk woman birthing in an obstetric unit has a higher probability of an assisted birth



## Staff experience and satisfaction

- Low number of births in FMUs impacting on maintenance of clinical skills and confidence
- Reduced need for short notice redeployment of staff - Improved staff satisfaction
- Flexible workforce will help to support improvements in continuity of carer models
- Right staff, right place, right time
- Improved utilisations of staff resource
- Opportunity for enhanced multi-disciplinary working

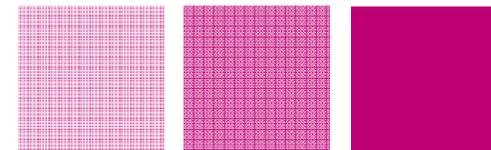


**Evidence:** *Informal engagement, Staff Survey 2017, 2018, RCM Continuity of Carer 2017, Carter Review 2016*

**HAVE YOUR SAY!**  
NHS Staff Survey 2019



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Local Maternity System

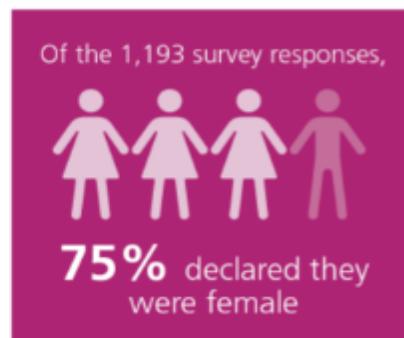
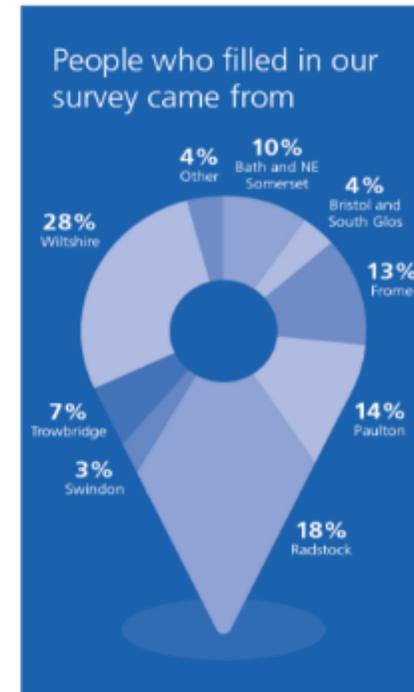
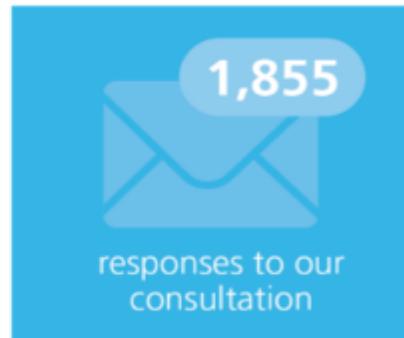


# Transforming Maternity Services Together



## Our consultation in numbers

Public feedback on our Transforming Maternity Services Together Consultation Proposal



Bath and North East Somerset, Swindon & Wiltshire Local Maternity System

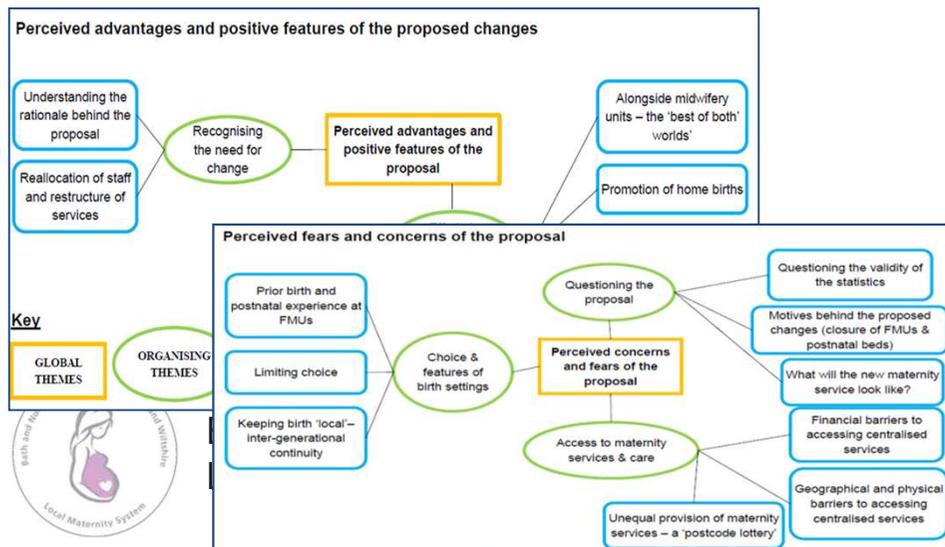
## Public Consultation - independent analysis

- 66% strongly agreed/agreed with creation of AMU
- 70% strongly disagreed/ disagreed with closure of postnatal beds
- 59% strongly disagreed/ disagreed with reduction in FMU. 40% Strongly agreed or agreed

Question	% Strongly agree (n)	% Agree (n)	% Neither agree or disagree (n)	% Disagree (n)	% Strongly disagree (n)	% Missing (n)
(3a) Providing 2 rather than 4 Freestanding Midwifery Units (FMUs) - use resources efficiently	13% (n=152)	18% (n=213)	11% (n=129)	21% (n=253)	25% (n=294)	13% (n=152)
(3b) Creating Alongside Midwifery Units (AMUs) - provide more options and reduce pressure	26% (n=314)	25% (n=294)	11% (n=128)	10% (n=123)	15% (n=179)	13% (n=155)
(3c) Enhancing provision of antenatal and postnatal care	19% (n=225)	30% (n=363)	16% (n=196)	10% (n=114)	11% (n=132)	14% (n=163)
(3d) Improving option of midwife-led home birth	17% (n=204)	26% (n=314)	21% (n=251)	12% (n=141)	10% (n=117)	14% (n=166)
(3e) Replacing 9 postnatal beds-resources used more efficiently	9% (n=112)	12% (n=144)	14% (n=166)	20% (n=243)	31% (n=368)	13% (n=160)
(3f) Fair way to ensure better birth experience	10% (n=125)	13% (n=155)	13% (n=157)	21% (n=245)	30% (n=353)	13% (n=158)

50-60% aggregate score for Strongly agree and Agree  
 50-60% for Strongly disagree and Disagree  
 No colour: no combined response received over 50%

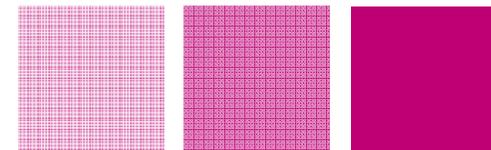
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- Perceived advantages – recognised need for change, supported enhancement of birth & postnatal care inc. breastfeeding
- Perceived disadvantages – geographical barriers to accessing services, limiting choice

## Consultation feedback themes

- Improved infant feeding support. Particular focus on night time breast feeding support. More early identification of infant feeding issues and support
- Better screening and continuity of care for mental health both in pregnancy and postnatally
- People and staff to continue to be involved in co-design of community hubs and AMUs including parking provision at RUH
- More antenatal education for mums and families around choice of place of birth
- Development of clear information for mums and families
- Development of continuity of carer models that are co-created with mums and families
- Engagement work to understand potential location of community hubs



## Decision Making Process

### Steps taken

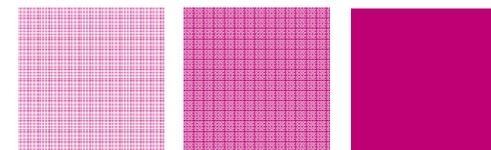
- Review of independent analysis from public consultation
- Assessment against original case for change
- Recommendation for change agreed by Acute Maternity Steering Group
- Independent Expert Panel added as additional assurance step

### Changes proposed

- Closure of post-natal beds will need to align with enhanced model of post-natal support for women
- Panel recommended spatial analysis mapping exercise to identify bed locations for community hubs.

**The Independent Expert Panel supported all Recommendations**

**As a result of feedback, recommendation that closure of post-natal beds is phased**



## Recommendations for change

Create an Alongside Midwifery Unit at the Royal United Hospital

Create an Alongside Midwifery Unit at Salisbury District Hospital

Continue to support births in two, rather than four, of the Freestanding Midwifery Units.

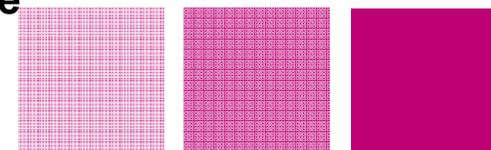
Improve and better promote the Home Birth service

Enhance current provision of antenatal and post-natal care

Replace the five community post-natal beds in Paulton FMU and the four community post-natal beds in Chippenham FMU with support closer to, or in women's homes.

**NB. Births would cease at Paulton and Trowbridge**

Bath and North East Somerset, Swindon & Wiltshire  
Local Maternity System



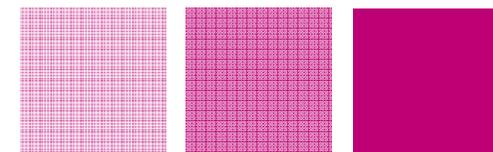
## Risks and mitigations

Key Risks	Mitigation
Capital funding for RUH AMU	<ul style="list-style-type: none"> <li>• STP priority for securing national capital funding</li> <li>• RUH Charity campaign to support funding requirements</li> </ul>
Public opinion on recommendations for change	<ul style="list-style-type: none"> <li>• Clear assurance process and governance</li> <li>• Communication plan</li> </ul>
Closure of FMUs before AMUs come on stream	<ul style="list-style-type: none"> <li>• Average of 20 births per month across both Paulton and Trowbridge</li> <li>• Robust capacity and demand modelling</li> <li>• Full transition plan included in DMBC</li> </ul>
Staff morale and impact on recruitment and retention	<ul style="list-style-type: none"> <li>• Clear staff communication plan</li> <li>• Recommendations create benefits in terms of staff competencies, reduction in staff moves, removes uncertainty of service change</li> </ul>
Postnatal support provision following closure of community postnatal beds	<ul style="list-style-type: none"> <li>• Co-creation of new pathways to commence at pace post decision</li> <li>• Interim pathways to be clarified as part of post decision engagement work</li> <li>• Community Hub pilot go live Dec 1<sup>st</sup> 2019 (Salisbury city)</li> <li>• Continuity of Carer pilots</li> </ul>

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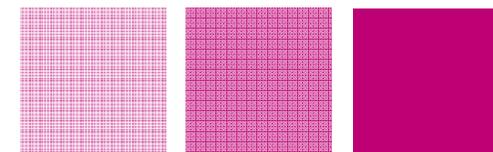


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Local Maternity System



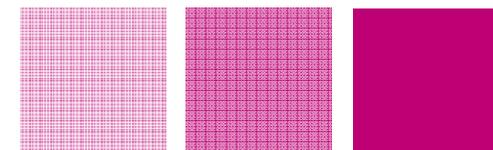
## Postnatal Care

- All FMUs to retain ante-natal and post-natal care provision
- Clarity re offer of 24/7 support for mums following removal of post natal beds
- Co-creation of new integrated community hubs – pilot site go live in Salisbury Dec 2019
- Priority co-design for Paulton footprint – Continuity of carer pilot commenced in Paulton Dec 2019. New hub to be piloted from April 2020.



## High level implementation plan

Step	Description	Proposed date
-	Sign off and communication	Nov-Dec-19
1	Move to two FMUs supporting Births	Mar-20
2	Reduce from nine to four community postnatal beds	Mar-20
3	Staff resource released / estates costs reduced	Mar-20
4	Improve birth environment in the two FMUs supporting births	2020/21
5	Improve home birth & FMUs and enhance antenatal and post-natal care	2020/21
6	Replace four community post-natal beds with care closer to home	Mar-21
7	Secure capital funding for Alongside Midwifery Units	-
8a	Create AMU in Salisbury	Sep-21
8b	Create AMU in Bath	2022/23
9	Staffing model to be changed to reflect new services	2022/23

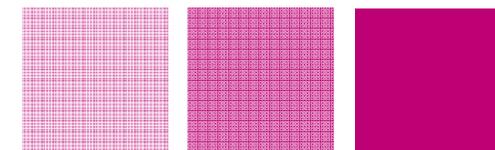
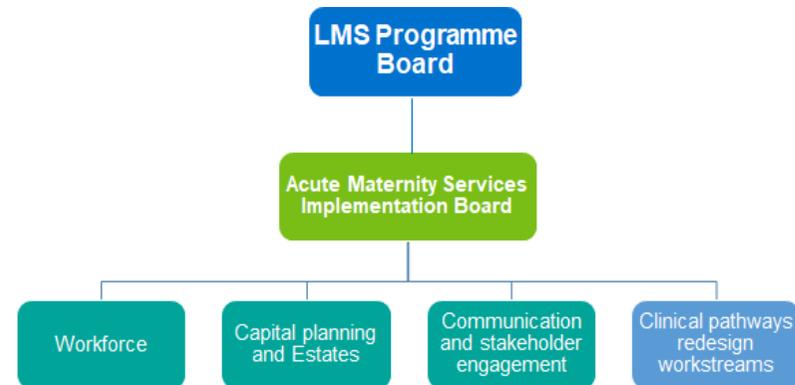


## Sign off process & Governance

Organisation	Date
NHSE Assurance Review	9 <sup>th</sup> October 2019
SFT Board	3 <sup>rd</sup> October 2019
GWH Board	Delayed to Jan 9 <sup>th</sup> 2019 ( purdah)
Somerset Governing Body	30 <sup>th</sup> Jan 2020
BSW Rapid HOSC	21 <sup>st</sup> October 2019
RUH BoD	30 <sup>th</sup> October 2019
<b>BSW Governing Body (public)</b>	<b>Delayed to Jan 16<sup>th</sup> 2020 ( purdah)</b>

The LMS Programme reports into the BSW Strategic Commissioning Board and STP Executive as part of broader assurance and oversight

Project groups will include staff, women & families and other key stakeholders.



# Transforming Maternity Services Together



## Any questions?

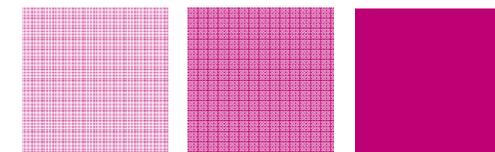


### Our Local Maternity Transformation Plan

BATH AND NORTH EAST SOMERSET, SWINDON AND WILTSHIRE LOCAL MATERNITY SYSTEM (LMS)

October 2017

1



Bath and North East Somerset, Swindon & Wiltshire Local Maternity System

<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Children, Adults, Health and Wellbeing Policy Development &amp; Scrutiny Panel</b>
MEETING:	<b>28<sup>th</sup> January 2020</b>
TITLE:	<b>Draft B&amp;NES Corporate Strategy 2020-2024</b>
WARD:	All
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b>	
Appendix One – Draft B&NES Corporate Strategy 2020-2024	

## **1 THE ISSUE**

- 1.1 This report sets out the current position on the Council's draft Corporate Strategy to the Panel for consideration and feedback.

## **2 RECOMMENDATION**

The Panel is asked to;

- 2.1 Identify any areas of specific feedback that the panel wishes to highlight within its remit relating to the draft Corporate Strategy set out in Appendix One; and
- 2.2 Note the next steps for the Corporate Strategy

## **3 THE REPORT**

### Background and engagement to date

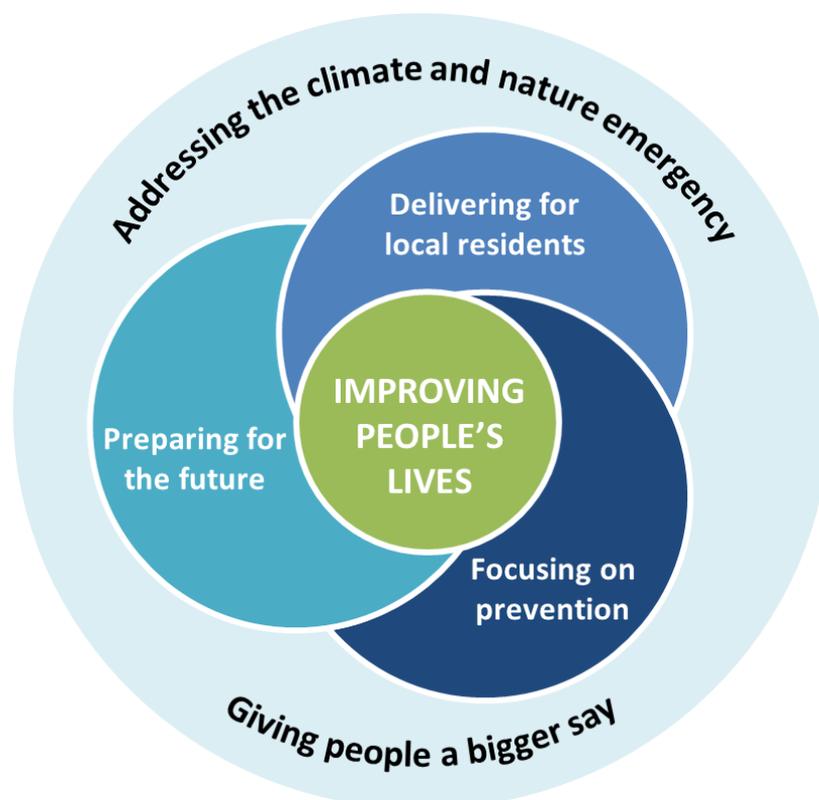
- 3.1 The Corporate Strategy is the council's overarching strategic planning document. It sets out the council's core purpose, policy focus and key commitments as well as describing the organisation's approach to monitoring performance and managing its budget.
- 3.2 A range of initial engagements were carried out to inform the development of the draft Corporate Strategy, including presentations to Area Forums and to the Independent Equality Advisory Group. The strategy is built around the emerging themes reported previously to this Panel.
- 3.3 The current draft Corporate Strategy was outlined at two public events held in December 2019. Feedback gathered from these events will be fed into the process of developing the final strategy.
- 3.4 The draft Corporate Strategy is currently subject to an online consultation period which began on 20<sup>th</sup> December 2019 and runs until 24<sup>th</sup> January 2020. This is

designed to collect comments from residents and interested stakeholders. Each PDS Panel will also be engaged during January and asked to provide feedback on the draft Corporate Strategy within their panel remits. Further engagement will also take place through upcoming Area Forums.

- 3.5 A summary of the feedback collected during this period, including from the three Policy Development and Scrutiny Panel meetings in January, will be presented to Cabinet for consideration alongside the draft Corporate Strategy at its 13<sup>th</sup> February 2020 meeting.

#### The new Corporate Strategy Framework

- 3.6 The draft Corporate Strategy proposes a new framework for what the council will focus on and how it will work:
- (1) We have *one* overriding purpose – to improve people’s lives. This brings together everything we do, from cleaning the streets to caring for our older people. It is the foundation for our strategy, and we will ensure that it drives our commitments, spending and service delivery.
  - (2) We have *two* core policies – tackling the climate and nature emergency and giving people a bigger say. These will shape our work.
  - (3) To translate our purpose into commitments, we have identified *three* principles. We want to prepare for the future, deliver for local residents and focus on prevention



- 3.7 The strategy does not include the detail of everything the council must do. However, the commitments in this strategy will guide the council and they represent the step changes that local residents in B&NES will experience. Appendix One sets out the draft strategy in full.

- 3.8 Flowing from this and underpinning the delivery of the strategy, an annual delivery programme will set out how precisely the council plans to meet its commitments, allowing for transparent and accountable progress reporting.
- 3.9 The Policy Development and Scrutiny Panels will have a key role in monitoring the delivery programme as well as carrying out their policy development role as the strategy is implemented.

#### Next steps

- 3.10 Cabinet will consider the feedback received during December and January and a final draft Corporate Strategy will be presented for consideration and agreement at Cabinet and Council in February 2020. The table below sets out the next steps:

<b>January</b>	<ul style="list-style-type: none"> <li>• 20<sup>th</sup> December – 24<sup>th</sup> January: Draft Corporate Strategy published online with a request for comments and feedback</li> <li>• Various: Further engagement carried out through Policy Development and Scrutiny Panels, Area Forums and the Independent Equality Advisory Group in order to collect feedback on the draft Corporate Strategy</li> </ul>
<b>February</b>	<ul style="list-style-type: none"> <li>• 3<sup>rd</sup> February: Corporate Policy Development and Scrutiny Panel report on draft budget proposals</li> <li>• 13<sup>th</sup> February: Cabinet meeting on Corporate Strategy and Budget</li> <li>• 25<sup>th</sup> February: Council meeting on Corporate Strategy and Budget</li> </ul>

## **4 STATUTORY CONSIDERATIONS**

- 4.1 The Corporate Strategy is the Council's overarching strategic plan and forms a key part of the Policy and Budget Framework in the council's constitution. It is an essential communication tool and provides a clear framework for officers and members to work within. It outlines the key priorities of the council and helps to guide activity and decision making.

## **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 The Corporate Strategy outlines the council's key priorities over the next 4 years. This forms a key consideration in the allocation of council resources as part of the annual budget setting process and development of its Medium-Term Financial Strategy.
- 5.2 More detailed information on the council's specific budget proposals will be presented to the Corporate PDS Panel at its meeting on 3<sup>rd</sup> February 2020.

## **6 RISK MANAGEMENT**

- 6.1 A risk assessment related to the issue and recommendations will be undertaken, in compliance with the council's decision-making risk management guidance.

## **7 CLIMATE CHANGE**

7.1 The draft Corporate Strategy establishes the climate and nature emergency as a core policy driver for the council – shaping everything the council do and how it delivers its services going forward. It is also reflected within the key commitments set out in the strategy. A report on the draft Corporate Strategy was also presented to the Climate Emergency and Sustainability PDS Panel on January 20th.

## **8 OTHER OPTIONS CONSIDERED**

8.1 None

## **9 CONSULTATION**

9.1 The Leader and Cabinet Member for Resources have been consulted on the drafting of this report as well as the S151 Officer and Monitoring Officer.

9.2 As set out in this report, a range of engagement has been carried during the development of the draft Corporate Strategy. A report summarising the feedback gathered during this engagement will be presented to Cabinet in February 2020.

<b>Contact person</b>	Andy Thomas, Head of Strategy Engagement & Marketing, (01225 394322)
<b>Background papers</b>	Presentations to December budget events
<b>Please contact the report author if you need to access this report in an alternative format</b>	

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# Bath and North East Somerset Council Corporate Strategy

2020-2024

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**DRAFT FOR COMMENTS**

## **Structure of the document:**

1. Welcome and Foreword (Leader and Chief Executive)
2. Context and Challenges
3. Our Framework
4. Our Core Policies
5. Our Principles and Commitments
6. Delivering the Strategy

Appendix – Community Engagement Charter

## **WELCOME FROM THE LEADER OF THE COUNCIL**

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The council exists for a clear purpose - to improve people's lives. Our new administration was elected in May 2019 on a bold and ambitious manifesto of change to make this a reality.

This strategy sets out how we will deliver these commitments.

We are passionate about Bath and North East Somerset. We are proud of our diverse and vibrant communities, our strong economy, our heritage, our beautiful surroundings and the people who live and work here.

There are some big challenges. We are committed to addressing the climate and nature emergency and to playing our part in the urgent action needed for this. We want to work with local people to make it easier to travel around sustainably, to build more affordable homes, to support the local economy and to secure better ways of meeting the needs of our most vulnerable.

We will work with local communities so they can have a greater say and take more responsibility for what goes on in their areas and address the issues that are most important to them. We want to listen to the views of our residents and partners and ensure that the council is operating transparently.

Achieving this will not be easy. The council faces unprecedented financial pressures. We must prioritise what we spend and be clear about what we are here to deliver. This strategy sets out this new direction.

We recognise that the council cannot do it alone. We need to continue to build strong working relationships with local communities and our partners. We also need to support our local citizens so that they can live independently and feel connected locally.

We want to get things done quickly but we also need to plan ahead. We have made a strong start and I welcome you holding us to account.

I look forward to working with you and our communities over the coming years.

**Cllr Dine Romero**

Leader of Bath and North East Somerset Council

## FOREWORD – CHIEF EXECUTIVE

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My job as Chief Executive is to ensure everyone who delivers services for the benefit of Bath and North East Somerset's residents- whether that's in social care, refuse collection or highways- work together to improve people's lives.

This corporate strategy is all about achieving this. It sets out what we plan to do, how we plan to do it, and how we will measure our performance. It will guide us as we take decisions and help us become more accountable to the communities we serve.

The council has a strong record of delivering good quality services to local people and has much to be proud of. I want us to build on these foundations and challenge ourselves to be even better. The commitments we are making to achieve this are set out in these pages.

You will also see changes in how the council works. For many of our services, we will increasingly be using new technology, including online tools so that residents can self-serve. This will free us up so we can focus our help on those who need it the most. We will also seek your views to help us shape our decisions and policies.

We recognise also that we will need to work closely with our partners on the key challenges facing the area, such as the climate and nature emergency, and ensuring our residents- particularly young people- have access to the education and skills they need to thrive.

I look forward to ensuring the council plays an active, positive and influential role in shaping our area.

**Will Godfrey**  
Chief Executive

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## CONTEXT AND CHALLENGES

## About our area

Bath and North East Somerset is thriving and diverse, with many needs, strengths, resources and assets.

As well as being our main commercial and recreational centre, the World Heritage City of Bath is an international tourist and heritage destination that provides a spectacular setting for world-class arts, culture and leisure facilities. Our market towns of Keynsham, Midsomer Norton and Radstock combine with rural communities ranging from the foothills of the Mendips, to the Chew Valley in the west and Cotswold villages around Bath.

- **Two thirds** of the area lies in Green Belt. We have **2** areas of Outstanding Natural Beauty, **37** Conservation Areas and **6,408** Listed Buildings
- Home to over **192,000** people, we expect our population to rise to **199,000 by 2037**. The most significant increases will be amongst older people, with a **124%** increase in those aged 85 and over
- Between 2001 and 2017, the growth in the 20-24 age range accounted for nearly 50% of the area's population growth, highlighting the area's **student population**

## About the council

The council has an important role in shaping the future of our area. Despite reductions in funding in recent years, we have access to skills and resources that can improve people's lives and meet our key challenges. The council provides and commissions hundreds of services to local residents. For example, in 2017/18 we:

- Issued **326,000 library items**
- Prepared **1,185** Educational Health Care Plans for children with special educational needs and disabilities
- Supported **1,551** vulnerable adults to live independently in their own homes
- Secured residential care for **1,000** people
- Considered over **1,1000** licensing and **3,000** planning applications
- Provided services supporting **521** people with learning difficulties, **348** people with mental health issues and **1,318** people with physical support
- Maintained **1250 km** of highways and **16,000** street lights

## Our key challenges

- **Tackling the climate and nature emergency.** In March 2019 the council resolved to declare a Climate Emergency. This was in response to the latest science from the Intergovernmental Panel on Climate Change and clear demands from our community.

*The council pledged to provide the leadership to enable B&NES to become carbon neutral by 2030 and make the council itself carbon neutral by the same date. This will have a significant impact on everything we do as an organisation and requires a step change across the public, private and community sectors in our area.*

- **Inequalities in life experience.** Despite our area being one of the least deprived authorities in the country, there are significant inequality gaps in education, employment and health outcomes for local residents. Life expectancy for men varies by up to 8 years between those living in our least and most deprived areas.

*Our more disadvantaged pupils often achieve lower qualifications and fewer go on to sustain education, employment or training after reaching 18. We need to do more to address inequalities in the educational attainment of our young people.*

- **Budget pressures in delivering our statutory social care duties to support vulnerable residents.** Over 80% of our funding now goes into health, social care and children's services. Our older residents are living longer with complex and combined health conditions which are costly. The number of looked after children has also risen by 40% in the past 5 years. Supporting the 21 children with the most complex needs cost over £3m in 2018-19.

*We must be as efficient and effective as possible in delivering these services. This requires some hard decisions about where our money is best spent. We also need to think about how we can help our residents to live well so that we can deliver services into the future.*

- **Working better with our local communities.** Our local communities have significant strengths and resources. This includes skills, knowledge and links which support a wide range of groups and networks. Our residents have an important contribution to make to meeting our key challenges, whether being a good neighbour, making healthy choices, or volunteering in a community project.

*We need to listen to local people about what is working well in their area and develop solutions which work for them, rather than imposing an approach from above. The council can also help local communities by using the skills and experience of our employees, as well as our buildings and other facilities.*

## OUR FRAMEWORK

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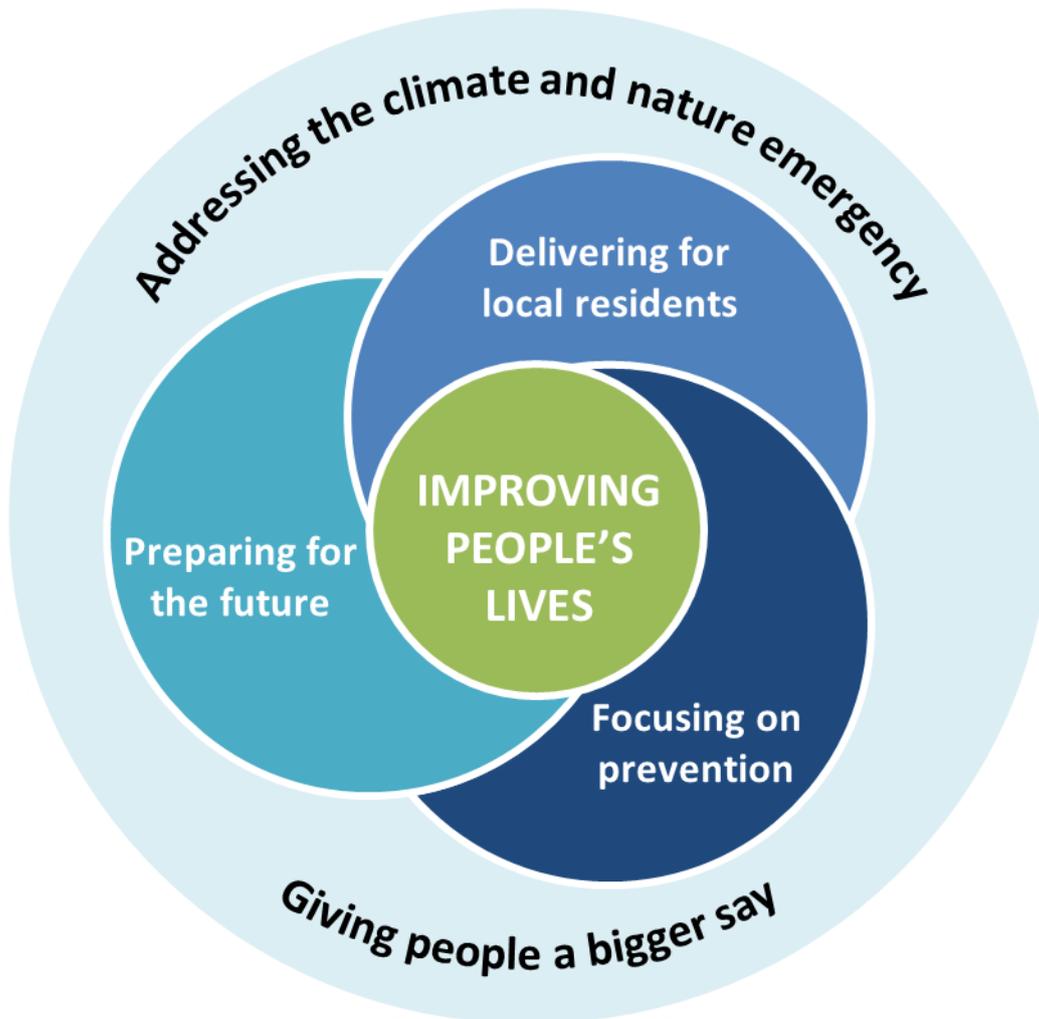
ONE: We have **one** overriding purpose – to improve people’s lives.

This might sound simple but it brings together everything we do, from cleaning the streets to caring for our older people. It is the foundation for our strategy and we will ensure that it drives our commitments, spending and service delivery.

TWO: We have **two** core policies – **tackling the climate and nature emergency and giving people a bigger say**. These will shape **everything** we do.

THREE: To translate our purpose into commitments, we have identified **three** principles. We want to **prepare for the future, deliver for local residents and focus on prevention**.

This is all set out clearly in the diagram below:



This is the “golden thread” which drives what we do. Our strategy has been developed alongside our Medium Term Financial Strategy and our People Strategy. This will ensure that setting budgets and managing our people - our most valuable resource - are guided by the council’s priorities. It also means that our commitments are realistic and achievable.

## OUR CORE POLICIES

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Being clear about **how** we will do things is just as important as what we will be doing. Our two core policies which shape everything we do are identified below.



### **Core Policy: Addressing the climate and nature emergency**

Climate change impacts on the current and future wellbeing of local resident, so we need to take urgent action. In 2019, we declared a climate emergency across Bath & North East Somerset. This means change for us all and the council is committed to playing its part. Our Keynsham Civic Centre had the largest solar panel array on a new public building in the country when it was built. We have introduced LED street lighting. Our Energy at Home scheme retrofitted 300 homes and our Plastics Pledge involves local businesses and communities. To build on this we have identified three priority areas for action:

- Energy efficiency improvements to existing buildings and zero carbon for new build
- A major shift to mass transport, walking and cycling to reduce transport emissions
- A rapid and large-scale increase in local renewable energy generation

These have been built into our strategy and are reflected in our key commitments. Our work to address the climate and nature emergency delivers other important benefits - for example, insulating homes both improves public health and creates good local jobs.

We will provide the leadership to help this happen. We will also press for the powers and resources needed from central government. 'Business as usual' is not an option and we need to work together across the public, private and community sectors as well as with our residents to develop solutions together.

Our Climate Emergency webpages have the latest information on our plans and what you can do to help. <https://www.bathnes.gov.uk/climate-emergency>



### **Core Policy: Giving people a bigger say**

Local residents should have a powerful voice in how their services are designed, funded and run. There is more we can do to be transparent and collaborative in the way that we work. We want to make sure we are involving local people, parish councils and others in our decision-making. We need to listen to all our communities, including our younger residents, about the issues that affect their future.

We know that some things are working well already. This includes our Parish Charter and our Area Forums, where public services and local communities meet and talk together.

Our new Community Engagement Charter (in Appendix One) sets out how we will engage and consult with residents in the future, involving them in a clear and meaningful way in council priorities and decision making.

Our [Have Your Say](#) webpages tell you more.

# OUR PRINCIPLES AND COMMITMENTS

Three principles drive the commitments in our strategy. These are all set out below.

PRINCIPLE	Preparing for the future	Delivering for local residents	Focusing on prevention
<p><b>AT-A-GLANCE GUIDE TO COMMITMENTS</b></p> <p>(More information in each section)</p>	<ul style="list-style-type: none"> <li>• local renewable energy</li> <li>• high-skill economy</li> <li>• new technologies</li> <li>• green local economy</li> <li>• walking, micro mobility (cycling), car-sharing, buses, and rail</li> <li>• carbon neutral development and energy efficiency retrofitting</li> <li>• natural environment carbon stores (e.g. planting more trees)</li> </ul>	<ul style="list-style-type: none"> <li>• carbon-neutral, social and affordable housing</li> <li>• energy efficient homes</li> <li>• significant improvement of the transport infrastructure</li> <li>• low traffic neighbourhoods</li> <li>• effective approach to fly-tipping and litter enforcement</li> <li>• Citizens' Juries to improve decision-making</li> <li>• tailor our approach to community engagement in Bath</li> <li>• community engagement charter</li> </ul>	<ul style="list-style-type: none"> <li>• statutory health and care services</li> <li>• preventative approaches</li> <li>• reduce health inequalities</li> <li>• provision for children and young people with special educational needs and disabilities</li> <li>• reduce waste, increase recycling and support local litter picking schemes</li> <li>• mental health services that deliver the best outcomes</li> <li>• reduce over-reliance on residential and nursing care</li> <li>• build on local strengths</li> </ul>

These commitments do not set out in detail everything we do, much of which – such as equalities, safeguarding, registrars and emergency planning - is determined by national legislation. However, the detailed proposals in this document will guide us over the life of the strategy and represent the step changes that citizens in B&NES will experience from their council.

The council will support the most vulnerable, as seen in the support for families welcomed to our area through the Syrian Vulnerable Persons Programme. We also work closely with partners to make our community safer and have made a new and significant commitment to tackling domestic abuse. We will stand up for local people and lobby central government on the things that matter most to them – for example on replacing the money that is lost through students, rightly, being exempt from council tax. We will seek to influence central government and others where we need to make changes to deliver our Corporate Strategy, for example to to address the climate emergency.



## Principle: Preparing for the future

Our area is changing. The council must change with it and help local residents prepare for the future. We want to promote high-quality, high-skill jobs, for example in the new green jobs sector and in new technologies. At Bath Quays we are creating a vibrant commercial quarter in the heart of the city which is delivering new jobs and homes.

The council will work with partners, organisations such as WECA, and local communities to secure long-term investment in our local infrastructure. Our priorities for this are sustainable transport, homes and energy. So that they can take advantage of these changes, we want to help our young people acquire and enhance the skills they need to achieve their ambitions. To do this we will also need to address inequalities of outcome in education, particularly in the Early Years.

The council also needs to make the most of new technology and be smarter and more flexible in the ways that we work. We need to be clearer about what we can and cannot provide. Increasingly, we will ask residents to self-serve for our more transactional services so that we can better support people who need our help the most.

### What we are going to do

Our key commitments
Enable a step change in <b>local renewable energy</b> schemes including solar and wind power
Promote a <b>high-skill economy</b>
Maximise opportunities from <b>new technologies</b> to improve and deliver efficient, modern services
Support the transition to a <b>green, local economy</b>
Enable a major shift to <b>walking, micro mobility (cycling), car-sharing, buses, and rail</b>
Encourage a large and rapid improvement in the energy efficiency of our area's buildings through <b>carbon neutral development and energy efficiency retrofitting</b> of the majority of existing building stock
<b>Increase natural environment carbon stores - for example, through planting more trees - and improve our bio-diversity, habitat and land management</b>

### Examples of how we are going to measure progress

- Number of buildings retrofitted with energy efficiency measures
- Amount of renewable energy locally generated,
- % population 16-64 in employment,
- % of council transactions digitally enabled



## Principle: Delivering for local residents

Access to housing and getting around our area are key local concerns. We are determined to secure more affordable and social housing, improve the quality of rented housing, make our housing stock green and tackle fuel poverty. We will also facilitate significant improvement of the transport infrastructure and encourage behaviour change to forms of transport other than the private vehicle. This will enable a major shift to walking, micro mobility (cycling), car-sharing, buses, and rail.

Alongside the introduction of the Clean Air Zone, we have wider ambitions for a more pedestrian-friendly city centre and reducing the impact of cars in residential streets through better traffic management and reductions in 'rat-running'.

To support this, we need to understand the views and needs of our local communities. We are committed to improving how we involve local people in our decision making, such as on local transport schemes, ensuring that they have a greater say in how their services are designed, funded and run.

### What we are going to do

#### Our key commitments

Deliver more **carbon neutral, social and affordable housing** and ensure that our Houses of Multiple Occupancy (HMO) policies put communities first

Ensure the council is an exemplar for low carbon, including the delivery of carbon neutral and **energy efficient homes** through our housing company

Facilitate **significant improvement to the transport infrastructure** and encourage behaviour change to forms of transport other than the private vehicle

Introduce '**low traffic neighbourhoods**' working with schools and local communities

Have an **effective approach to fly-tipping and litter enforcement** as well as to city centre cleansing and trade waste

Use new initiatives such as **Citizens' Juries to involve residents in decision making**

**Tailor our approach to community engagement in Bath** to reflect the needs of the City's residents

Build on our Parish Charter with a new **Community Engagement Charter** which outlines our commitments and framework for engaging with local residents across the whole of the Bath and North East Somerset area

### Examples of how we are going to measure progress

- Number of new additional homes
- number of council homes delivered
- % of residents who feel listened to when they put forward their views



## Principle: Focusing on prevention

To sustain our social care services, we need a clear approach to prevention and early intervention across all our services. For example, properly insulated homes are cheaper to run and help prevent cold-related ill- health as well as contributing to addressing the climate emergency.

People should receive the support they need in the most efficient, effective and timely way, reducing demand for later and more costly interventions. Our residents should be supported to live well and independently and make good choices for their own health and wellbeing. For example, the council can promote active travel such as walking and cycling.

We cannot do this alone and we will need to build on our joint working arrangements with partners, voluntary organisations, parishes and residents, through growing initiatives such as Compassionate Communities. We will always ensure that we continue to protect and support our most vulnerable residents.

### What we are going to do

#### Our key commitments

Deliver **statutory health and care services** for children and adults as effectively as possible

**Prioritise preventative approaches** so that we can tackle issues at the earliest stage and ensure a better quality of life for our local residents

Promote good health and **reduce health inequalities**

Enhance local **provision for children and young people with Special Educational Needs and Disabilities (SEND)** to reduce the need for more distant and costly specialist placements

Help our residents to **reduce waste, increase recycling and support local litter picking schemes**

Ensure we have **mental health services that deliver the best outcomes** for our residents

Support our residents to live well and independently, so we **reduce over-reliance on residential and nursing care**

Support communities who want to address issues of concern by listening to residents and **build on local strengths** and resources

### Some examples of how we are going to measure progress

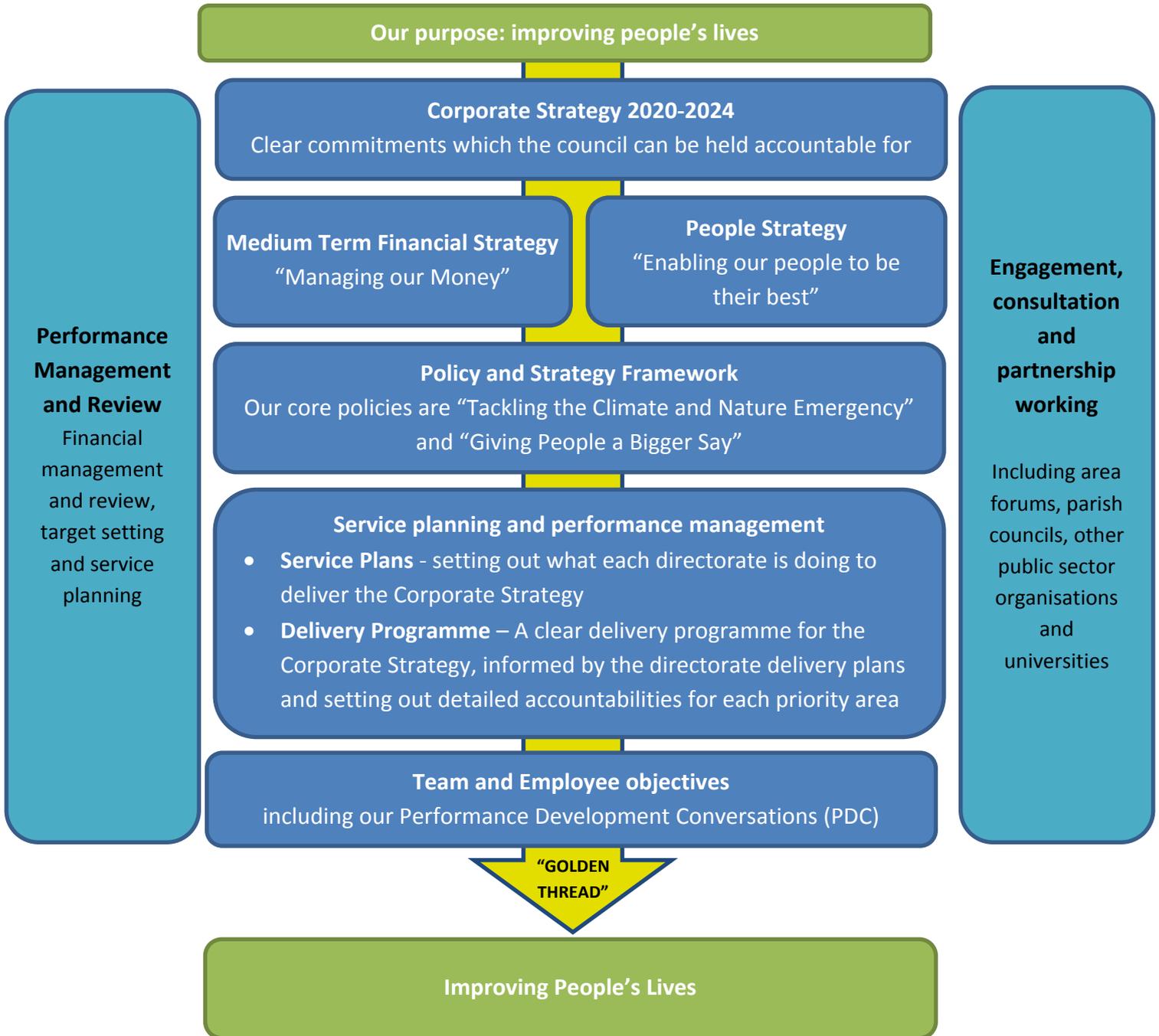
- % initial contacts resolved at first point of contact
- % clients still independent after receiving an enablement service
- number of admissions to permanent residential and nursing care for older people

# DELIVERING THE STRATEGY

## The 'Golden Thread'

The Corporate Strategy sets out our high-level commitments. But this needs to be translated into action through a 'golden thread' to our service plans and individual employee objectives.

### B&NES Council Corporate Strategy Framework



## How we will work

### Service planning and performance management

Every year a Delivery Programme will set out how precisely the council plans to deliver on this strategy. This will be available online and will also report on progress in delivering our commitments, ensuring that we are transparent and accountable.

Our Policy Development and Scrutiny Panels also have a key role in monitoring delivery of the Corporate Strategy as well as carrying out their policy development role as the strategy develops and is implemented.

### Managing our money

We have highlighted the financial challenges facing the authority. We must balance our budget every year and prioritise our spending so we can secure our services and invest in our commitments.

Our Medium Term Financial Strategy (MTFS) shows how we will do this, maximising commercial income, and reviewing our contracts to make savings. We have also launched a new corporate programme – Improving How We Work – which will:

- Simplify the ways in which services are delivered, removing costly and time-consuming processes that don't serve our citizens
- Give local people the tools to access council services online wherever possible, freeing up resources to help those who need it most
- Enable smarter, more flexible working and making sure we have the right office space and tools to do the job whilst also reducing our carbon footprint.

We are committed to being a modern council which meets the needs of people today and in the future with the funding available to us. So the MTFS also sets out the need for us to go further, managing demand and reducing costs based on Value for Money assessments of our services. Over the life of this strategy we will therefore:

- A) Develop preventative approaches which enable people to remain independent and healthy and reduce demand for high cost adult social care services, including:-
  - Working to better understand why our care costs appear higher than similar authorities and creating a strategy to tackle the pressure on our budgets
  - Exploring the best way to deliver these services
  - Strengthening our approach to reablement
- B) Re-shape the way we work with children, young people and families in order to reduce demand for high cost, specialist children's social care placements, including:-
  - Exploring the best way to deliver these services
  - Changing the service model so there is greater continuity of social worker
  - Re-uniting children in care with their families where this is the most appropriate outcome

- C) Improve our city and town centres so it works better for local residents and businesses, including:-
- Ensuring a long-term approach to car parking which meets the climate emergency
  - Reviewing the assets we own so that they generate good future income for our services
  - Ensuring our Clean Air Zone and Transport Study for Bath unlock investment to enable us to deliver our vision for walking, micro mobility (cycling), car sharing, buses and rail and cleaner, greener, safer city and town centres for everyone
- D) Establish better area-based approaches that deliver what citizens need at a local level, including:-
- Streamlining points of contact with the council so people aren't pushed from "pillar to post"
  - Bringing together different services to reduce duplication
  - Ensuring services are shaped by what people need rather than what we've always done

To deliver these changes, we may need to invest "up-front" to realise savings or generate income from new ways of working. These changes must be well-planned so that changes made in one service don't create costs elsewhere and so that local needs and concerns are met.

### Our people

The council is a people business. We deliver services for people by people, so we need to provide the right culture, leadership and environment for our staff to deliver the best outcomes for residents.

Our People Strategy supports the development and effective management of our workforce. It ensures that we are recruiting and retaining staff with the right skills and support to do their jobs. We know that our employees will perform best if they are safe, happy and engaged at work and we are committed to building an inclusive culture where everyone feels able to participate and achieve their best.

### Our partners

We cannot deliver this strategy alone as we don't control all the areas that we need to influence. Many of our ambitions, particularly addressing the climate emergency, don't stop at our boundaries.

We have a long history of collaboration with local partners, voluntary groups and communities and are proud to work with many organisations to improve people's lives. Our ground-breaking Community Safety and Safeguarding Partnership is one of the first in the country to bring together these functions to help focus resources on supporting vulnerable people. Our Third Sector Group (3SG) reflects our thriving voluntary and community sector and we are working with them on projects such as Compassionate Communities.

However, big changes have taken place in recent years. This includes the development of a West of England Combined Authority and governance changes in our health and care system. In addition, the Western Gateway reflects the key links between our area, the West of England and South Wales. We are committed therefore to being a good partner, where this helps us to deliver the Corporate Strategy and make real improvements for local people.

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### About the Charter

The views of our community are essential in helping to inform the decision-making process of Bath & North East Somerset Council. The community comprises residents, parish and town councils, third sector organisations including voluntary and community groups and businesses.

We want to ensure that we provide an extensive and meaningful programme of engagement and, when we consult on decisions, that we do this in a timely, clear and transparent way.

Our Community Engagement Charter sets out our standards for how we engage with our community.

The Charter applies to all council staff and councillors. Partner organisations and contractors of the council will also be encouraged to adopt this approach.

### 1. Our Community Engagement Charter

Building on good practice and learning from our shared past experiences, we have worked with our community partners to develop a set of reciprocal expectations. We want to ensure that we provide a genuine opportunity to work in partnership with our community. This will enable all to participate in more detailed discussions and consultations.

Our Standards:

We will:

- consult on decisions in **a meaningful way**.
- recognise the **demographic and geographical differences** across our communities.
- ensure we give full consideration to addressing the **climate emergency** when we plan our community engagement and consultation approaches.
- ensure we understand the **diverse needs** of our communities.
- identify, engage and **involve all relevant stakeholder groups**.
- work with the third sector to **engage hard to reach groups**.
- ensure we **plan and engage early** to encourage ‘**good conversations**’ and **build strong relationships**.
- **utilise existing engagement** mechanisms including the area forums and parish liaison and **explore new opportunities to engage**.
- be **clear in our communications** using plain English and avoiding jargon.
- be clear about **what we are aiming to achieve**, what decisions are being consulted on and who will make the final decision.
- ensure that there is **enough time given** for the community to consider and respond to consultations.
- **ensure feedback** is given following consultation so that the community understand why we have taken the decision.

## 2. Types of Engagement

‘Engagement’ encompasses a range of activity involving the community in issues about their local area of which consultation is only one element. We recognise the different needs of our community and therefore we will adopt a range of methods and activities for our engagement.

“The Spectrum of Public Participation” below illustrates the different levels of impact and types of engagement that could be considered.

<b>Spectrum of Participation*</b> <i>Increasing the level of participation</i>					
	<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>	<b>Empower</b>
<b>Examples of engagement methods the council may consider in its approach</b>	<ul style="list-style-type: none"> <li>• Websites</li> <li>• Social media</li> <li>• e-newsletters</li> <li>• Displays</li> <li>• Press Releases</li> <li>• CC Forums</li> <li>• Parish Liaison</li> </ul>	<ul style="list-style-type: none"> <li>• Surveys</li> <li>• Voicebox</li> <li>• Consultations (e-consult and paper)</li> <li>• Public meetings</li> </ul>	<ul style="list-style-type: none"> <li>• Workshops</li> <li>• Community Events</li> <li>• CC Forums</li> <li>• Parish Liaison</li> <li>• Advisory Groups</li> </ul>	<ul style="list-style-type: none"> <li>• Peoples Panels</li> <li>• Citizen Panels/ Advisory Committees</li> <li>• Participatory decision making</li> </ul>	<ul style="list-style-type: none"> <li>• Citizens Juries</li> <li>• Delegated decisions</li> </ul>

\*Source <https://www.iap2.org>.

## 3. When and how we will consult

It is important that when we consult we set out clearly why we are consulting, how we plan to consult and how the community can respond and that afterwards we provide feedback on our decisions.

There is a legal requirement for all councils to consult where there is a legitimate expectation for this to happen. This applies when;

- there has been a clear promise of consultation;
- official guidance or policies imply a promise to act in a way;
- there is a withdrawal of a benefit with significant impacts to be considered and;
- the nature of the relationship would create unfairness if there were to be inadequate consultation.

## 4. Constraints

Not all council decisions can be determined solely by responses from public discussion. Some are governed by statutory requirements, some are limited by financial constraints and some involve a range of other factors that require detailed consideration.

We will ensure that any consultation will last a proportionate amount of time, taking account of legislation, nature and impact of the proposal.

If any or all of these limitations are likely to apply we will undertake to make the details available at an early stage.

Those decisions that may have a specific legislative framework which exist within an individual service area or for certain proposed changes such as with Planning and Highways, these areas will have clear guidelines for consultation.

The Planning department has its own set of minimum standards; these are outlined in the planning policy called [Statement of Community Involvement](#).

### **Summary**

The council will build on-going relationships with the community and make sure its understanding of communities' views are reflected in all of its decisions. We will:-

- \* discuss a proposal when it is at a formative stage.
- \* provide sufficient information to allow intelligent consideration.
- \* ensure there is adequate time for a considered response.
- \* conscientiously taking responses into account.
- \* provide feedback on our decisions.

We want to give our residents a greater say. We need our community to tell us about issues that matter most to them and respond to consultations which will help inform our decision making.

## **5. Getting in touch**

If you have a question regarding the Charter or you feel that a consultation hasn't followed the Charter, please contact us.

In order to ensure the Charter remains up to date, we will carry out periodic reviews and ensure any feedback that we received will be considered in any future updates.

**Website:** <https://beta.bathnes.gov.uk/have-your-say>

**Phone:** [01225 394041](tel:01225394041)

**Email:** [Connecting\\_Communities@bathnes.gov.uk](mailto:Connecting_Communities@bathnes.gov.uk)

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The council would like to acknowledge and thank members of the Connecting Communities Forums and the 3SG who have participated in developing this Charter and in particular the work undertaken by members of Bath City Forum who initiated the discussions.

<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING</b>	<b>Children, Adult, Health and Wellbeing Policy Development &amp; Scrutiny Panel</b>	
<b>MEETING DATE:</b>	<b>28<sup>th</sup> January 2020</b>	<small>EXECUTIVE FORWARD PLAN REFERENCE:</small>
		<b>E</b>
<b>TITLE:</b>	<b>Food Poverty Action Plan</b>	
<b>WARD:</b>	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report: None</b>		

## **1 THE ISSUE**

1.1 Food poverty is defined by the Department of Health and Social Care as ‘the inability to afford, or have reasonable access to, food that makes up a healthy diet.’ B&NES Council passed a motion on Food Poverty on 11<sup>th</sup> July 2019 requesting:

- the Children, Health & Wellbeing Policy Development and Scrutiny Panel to work with local organisations and develop recommendations for a Food Poverty Action Plan for Bath and North East Somerset; and
- that the Cabinet investigate refreshing the Local Food Strategy for Bath and North East Somerset.

1.2 This report puts forward a process and timeline for developing a food poverty action plan for B&NES and investigating the refresh of B&NES Food Strategy

## **2 RECOMMENDATION**

**The Panel is asked to;**

### **2.1 Proposal 1**

Comment on the proposed approach and indicative timeline for developing the Food Poverty Action Plan and investigation of the refresh of the B&NES Food Strategy

## **2.2 Proposal 2**

The Panel considers ways in which elected members can support community engagement in development of the Food Poverty Action Plan

## **3 THE REPORT**

3.1 Food poverty, or household food insecurity as it is also referred to, is about the affordability and accessibility of a healthy diet.

3.2 Affordability is tied to household income and the demands on household finances including housing and fuel costs and other costs such as childcare, as well as a lack of savings.

3.3 Accessibility is about other factors combined with affordability that act as barriers to healthy eating such as local food provision, transport, food storage and preparation facilities, time and skills to prepare healthy meals and prioritisation of convenient, energy dense, low wastage foods when living on a tight budget.

3.4 People can experience food poverty for a range of different reasons including;

- changes in household circumstances affecting household income such as relationship breakdown, bereavement, not being able to work due to illness or needing to care for family
- variable income due to job insecurity or type of job making it hard to plan/budget
- income and expenditure shocks e.g. delays or changes in benefit payments, unexpected bills e.g. breakdown of car or household appliances
- Struggling with debt e.g. rent arrears, reliance on doorstep lenders
- living in a rural area or place where accessing good quality food maybe a challenge due to lack of public transport, transport costs and local choice and availability
- Parents on low income reliant on free school meals struggling to feed children in the school holidays
- Older people balancing rising fuel and food costs on a low income
- Those with complex needs or those more socially isolated who may be suffering from neglect and less able to care for themselves.

3.5 In 2016 the Government acknowledged the challenge of accurately measuring food poverty and/or insecurity and stated that there was no single commonly agreed method for doing this accurately. More recently it has started measuring food insecurity as part of the Family Resources Survey, asking 10 questions about experiences of being unable to acquire and eat enough food. This survey will provide national level data to inform national policy however there is no indication at

the moment that any information will be available at local authority level on food poverty.

3.6 Therefore it is important to also use a range of local data to assess prevalence and risk of food poverty. At a B&NES population level we have begun by including two questions in the resident Voicebox survey carried out late 2019. We will need to explore in more depth how to embed data collection on this issue more systematically through frontline services and via other partner organisations going forward.

3.7 Other indicators that can help us to understand the number of people who may be vulnerable to food poverty locally include those relating to deprivation generally, and specifically estimates of childhood poverty.

3.8 The 2019 Indices of Multiple Deprivation (IMD) shows that B&NES remains one of the least deprived areas in the country, ranking 269 out of 317 local councils, compared to 247 in 2015 (where 1 is most deprived). B&NES is however one of the most expensive places to live in the country which creates a potential cost of living challenge.

3.9 Within some areas of B&NES inequality is widening however and deprivation remains significant. Two small areas in B&NES are within the 10% most deprived in the country. The two areas are Whiteway and Twerton West LSOA's (lower super output areas) representing 3,061 people (mid 2018 estimates).

3.10 Households are defined as living in poverty if their household income (adjusted to account for household size), is less than 60% of the median. The median household income in 2019 according to ONS<sup>1</sup> was £29,400 and 60% of this is £17,640.

3.11 Approximately 12% of children are living in poverty in B&NES, before housing costs (approx. 5,193 children). This represents a slight rise of 0.4% since 16/17. After housing costs 19% of children in B&NES are living in poverty (approx. 8,154 children). This represents a 2% decline since 16/17. The areas where children living in poverty is highest (after housing costs) in B&NES are<sup>2</sup>;

Twerton	35%
Radstock	31%
Southdown	27%
Bathavon west	24%
Westfield	24%
Peasedown	24%

3.12 As of November 2019, there were 3,521 children in B&NES schools claiming free school meals. This represents 15.5% of the children on a school roll in B&NES at that time. The percentage of children claiming free school meals in B&NES schools ranges from 2% - 60%.

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1

<https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2019provisional>

<sup>2</sup> <https://www.endchildpoverty.org.uk/poverty-in-your-area-2019/>

3.13 Demand for welfare support services is an indicator of people struggling financially. The key purpose of the Welfare Support Team in B&NES is to provide emergency assistance with food and rent for people who are destitute or in poverty<sup>3</sup>.

3.14 Demand for welfare support services locally has increased in recent years. The type of support requested has shifted and is now predominantly linked to food poverty. The table below shows a breakdown of B&NES Council Welfare Support team awards/referrals to residents by type 2014 – 2018.

Year	Total Welfare Support Team Awards	Breakdown of food related awards					Other awards <sup>4</sup>
		Shopping vouchers	Foodbank referrals <sup>5</sup>	cookers	storage	Both cookers and storage	
2014	2150	751	316	41	15	191	836
2015	1833	713	308	38	13	140	621
2016	2834	1473	539	45	24	109	644
2017	3498	1449	1031	84	83	70	781
2018	3520	1406	1152	68	51	98	745

3.15 Of the total number of Welfare Support awards/referrals made in 2018, 79% were food related i.e. provision of shopping vouchers, help with purchasing cooking equipment/fridges etc. and referrals to foodbanks. This is an increase from 2014 when 61% of awards/referrals were food related. The specific increase in the award of shopping vouchers and food bank referrals is notable from 2016 onwards. B&NES Council moved to Universal Credit full service on 26th May 2016. The B&NES budget for welfare support awards in 2019 was £190,000.

3.16 Use of emergency food aid is also an indicator of significant food poverty and destitution. The Trussell Trust, the largest UK foodbank provider, reports a rise in foodbank usage across its network over the last 5 years of 76%. From April 2018 – March 2019 they reported a 19% increase in the number of 3-day emergency food parcels given to people in crisis. Locally there are Trussell Trust affiliated foodbanks covering Bath, Keynsham and the Somer Valley. The table below shows the number of people (adults and children) supported by these foodbanks during 18/19 and to date in 19/20.

<sup>3</sup> The B&NES Welfare Support Team was formed in 2013 following the abolition of the Social Fund and the introduction of localised welfare services. Whilst many councils have reduced or withdrawn their local welfare provision services, B&NES has consistently funded and promoted the work of the team, which now incorporates the council's statutory functions for Housing Benefit, Council Tax Support and Discretionary Housing Payments

<sup>4</sup> Other awards include interview expenses, other household goods e.g. carpets, washing machines, debt and travel to work expenses.

<sup>5</sup> Number of referrals does not equate to number of people helped as people can receive more than one referral to foodbank within a year. Equally this applies to the number of shopping vouchers issued as well.

Foodbank	Number of people supported 18/19	Number of people supported 19/20
Bath	4469	2490 (April – Dec)
Keynsham	816	844 (to 9 <sup>th</sup> Jan)
Somer Valley	2472	2624 (to 14 <sup>th</sup> Jan)
Total	7757 <sup>6</sup>	

3.17 Bath food bank reported a 8.9% rise in the number of people supported during 18/19 compared to 17/18 and Keynsham foodbank had already exceeded 18/19 numbers of people supported by Quarter 3 19/20.

3.18 It is important to note that food bank usage will significantly underestimate food poverty in the population as a whole, as many people will not access food aid at all or access support from other independent food banks/projects. This is likely to be the case for older people specifically, who rarely access local food banks.

3.19 Research from the Trussell Trust<sup>7</sup> in 2017 identified the key groups using emergency food aid as single working age adults without children, lone parents with children, and families with three or more children. Amongst these groups there was also a high proportion of people living with disabilities and/or long-term health conditions.

3.20 The reasons identified as needing to access the Bath foodbank in April – December 2019 are listed in the table below;

Reason stated on voucher	Number of vouchers issued
Benefit changes	162
Benefit delays	276
Child holiday meals	1
Debt	210
Delayed wages	13
Domestic violence	53
Homeless	53
Low income	778 (this incl in work and out of work)
No recourse to public funds	10
Other	154
Refused STBA*	9
Sickness	55

\*STBA = Short term benefit advance

3.21 The main reasons people give for needing to access the foodbank in Bath is low income, benefit delays, debt or benefit changes. Keynsham foodbank reports that the majority of people accessing their food bank are in work with low income.

<sup>6</sup> Bath Foodbank estimate that within the last 6 months of 2019, 70% of those supported are clients using the service up to 3 times.

<sup>7</sup> [https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/07/OU\\_Report\\_final\\_01\\_08\\_online2.pdf](https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/07/OU_Report_final_01_08_online2.pdf)

## 4 Developing a food poverty action plan

4.1 The Trussell Trust identified the chronic nature of food insecurity amongst food bank users and recommended the need to look further upstream to address the underlying drivers of insecure and insufficient income.

4.2 Sustain, the alliance for better food and farming, have produced guidance on developing food poverty action plans and identified key actions that local authorities can take to help address food poverty. These include prevention activities to address the wider structural issues including financial and non-financial barriers to healthy food and effective provision of emergency support where crises cannot be prevented. Some plans also cover the issues of food quality and nutrition.

4.3 In terms of prevention the types of actions local authorities can take include;

- Supporting financial and debt advice services and ensuring they are accessible to people experiencing food poverty
- Maximising access to local welfare provision and discretionary funds
- Ensuring maximum uptake of entitlements e.g. free school meals, healthy start vouchers, free childcare
- Recognising and addressing the inter-relation with fuel poverty and access to cooking facilities
- Raising awareness across a wide range of frontline staff of food poverty risk indicators and options to mitigate it
- Ensuring people can earn a fair income and championing the living wage across contractors and local employers including social care, retail and hospitality
- Facilitating access to more affordable, healthier foods via community hubs, markets, shops, home delivered and shared meals and addressing transport challenges

4.4 In terms of emergency food aid or more immediate provision local authority actions could include;

- Fostering greater co-operation and co-ordination, sharing of knowledge, skills and resources across assistance providers
- Seeking to improve the nutritional value of emergency food aid
- Maximising opportunities to deliver other beneficial services to users e.g. financial advice, employment skills training or peer support

4.5 In terms of taking a wider longer-term approach actions that local authorities can take include;

- Mainstreaming the reduction of food inequalities across a range of strategies and plans
- Measuring and monitoring food poverty at a local level

- Using the planning and business rate relief system to shape local areas e.g encouraging local markets, community growing and affordable fruit and veg outlets as well as discouraging the spread of unhealthy food outlets near schools for example.
- Action to reduce levels of failed tenancies

#### 4.6 Aim of the Food Poverty Action Plan

The overall aim of this activity is to work with local stakeholders and communities to identify and embed sustainable solutions to addressing food poverty in B&NES, thereby reducing the numbers of people living in food insecure households.

#### 4.7 Specific objectives of the work include;

- To set up a local steering group to scope out, direct and monitor activity
- To carry out a needs assessment to better understand the scale of the issue locally, who is affected and where there may be gaps in services and/or support
- To work collaboratively with local stakeholders and communities to identify local sustainable solutions to address household food insecurity
- To develop a food poverty action plan for B&NES with a focus on preventative activity
- To oversee implementation of the action plan through local partnerships

Indicative timeline:

#### **Nov – March 2020**

Recruitment of a fixed term Health Improvement Officer- Food Poverty post (completed)

Steering group set up and first scoping workshop held (Feb/Mar 2020)

Needs assessment - data gathering, identifying gaps and report writing (ongoing)

#### **April 2020 – June 2020**

Completion of needs assessment report

Community engagement on needs and priorities for action

Development of action plan

#### **June 2020 – August 2021**

Implementation phase of food poverty action plan

Investigate development of food policy for B&NES and refresh of B&NES food strategy

## 4.8 Stakeholder involvement

Proposed steering group membership will include representation from the following key stakeholders;

- 3SG
- Sustainable Food Partnership
- St John's Foundation
- Curo
- Foodbank representation
- Bath Christian Action Network
- Age UK
- Department of work and pensions (DWP)
- Citizens Advice Bureau (CAB)
- B&NES Council departments including the connecting families team, children's centre services, welfare support, housing, public health and preventative services, economic development and the corporate sustainability team.

## 5 STATUTORY CONSIDERATIONS

5.1 By developing a food poverty action plan B&NES Council, in partnership with a wide range of local stakeholders and partners, will strengthen collective action to support residents experiencing food poverty and through a focus on preventative action contribute towards addressing health inequalities longer term.

## 6 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

6.1 Public Health grant funding (reserves) is being used to employ a 0.6FTE Health Improvement Officer-Food Poverty fixed term for 18 months. The total cost of the post including salary, pension and national insurance will be £60,948.

6.2 The post will be based in and line managed by the Public Health team and operational budget, if required, will form part of existing resource considerations/parameters.

## 7 RISK MANAGEMENT

7.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.

## 8 CLIMATE CHANGE

8.1 This work has the potential to contribute to achievement of carbon neutrality as part of a wider food strategy for B&NES which aims to reduce food waste and increase access to fresh, seasonal local produce.

## 9 OTHER OPTIONS CONSIDERED

9.1 An alternative option considered was that public health continues to contribute, with others across the council, to the food poverty agenda through its existing work-streams including the recently launched Whole Systems approach to obesity, the B&NES Early Help strategy and B&NES Healthy Weight strategy action plans.

9.2 Whilst this option does have merit it will be limited in its impact and not respond effectively to the council motion due to a lack of any additional capacity to drive the agenda forward. It lacks a strategic and co-ordinated approach to stakeholder engagement, capacity building and development of sustainable long-term solutions.

## 10 CONSULTATION

10.1 Consultation has taken place with the Council's Corporate and Community Sustainability lead and the newly formed Sustainable Food Partnership. The following key stakeholders have also been engaged to date and stated their support for and interest in being involved in the work; Foodbanks in Bath, Keynsham and Somer Valley, St Johns Foundation, CAB, Curo, DWP, 3SG, Fare Share South West and Bath Christian Action Network/Genesis Trust. These discussions have helped to inform the portfolio of the health improvement officer post and steering group membership proposals.

10.2 The Councils S151 Officer and monitoring officer has cleared this report.

<b>Contact person</b>	Cathy McMahon <a href="mailto:cathy_mcmahon@bathnes.gov.uk">cathy_mcmahon@bathnes.gov.uk</a> 01225 394064
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	

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<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Children, Health and Wellbeing Policy Development Panel</b>	
MEETING/ DECISION DATE:	<b>28<sup>th</sup> January 2020</b>	EXECUTIVE FORWARD PLAN REFERENCE:
		<b>E 9999</b>
TITLE:	<b>Adult Social Care and Support Charging and Financial Assessment Framework</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<p><b>List of attachments to this report:</b></p> <p>Please list all the appendices here, clearly indicating any which are exempt and the reasons for exemption</p> <ol style="list-style-type: none"> <li>1. Care and Support Charging and Financial Assessment Framework.</li> <li>2. Direct Payment Policy</li> <li>3. Results report and appendices</li> <li>4. Risk assessment</li> </ol>		

## **1 THE ISSUE**

- 1.1 The Care and Support Charging and Financial Assessment Framework and the Direct Payment Policy came before the Panel on the 1<sup>st</sup> October 2019 prior to the conclusion of the public consultation. The public consultation has now concluded, and the policies have been amended with consideration of the feedback received.

## **2 RECOMMENDATION**

**Panel is asked to;**

- 2.1** Endorse the proposed Care and Support Charging and Financial Assessment Framework amended after consideration of the feedback from the public consultation.
- 2.2** Endorse the updated Direct Payment Policy amended after consideration of the feedback from the public consultation.

## **3 THE REPORT**

3.1 Please see the Results Report and appendices at annex 3 to this report.

3.2 The Draft Adult Social Care and Support Charging and Financial Assessment Framework and Direct Payment Policy has now been through the consultation which ran from the 24.09.2019 – 03.12.2019.

The Project Team (Lesley Hutchinson, Annemarie Strong and Sara Dixon) with support from Councillor Appleyard, the Senior Leadership Team, commissioning colleagues and Communications and Marketing attended 21 face to face consultation events with the public between the 25<sup>th</sup> September and the 27<sup>th</sup> November 2019 and meet with 196 people.

The consultation ensured the following key messages were at the forefront:

- Ensure people are charged fairly and receive all the financial benefits they are entitled to for the care and support they need;
- Apply the charging rules consistently to ensure those people with similar needs or services are treated the same;
- Be clear and transparent to ensure 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 to reflecting the variety of care and options available to meet individual's need;
- Be sustainable for the Council in the long term.

We received 90 responses to the consultation on line and in paper form of which 57 were standard questionnaires and 33 were Easy Read questionnaires. We also received two letters making comment on the Draft Adult Social Care and Support Charging and Financial Assessment Framework and Draft Direct Payment Policy.

3.3 There were 10 proposals consulted on and it is requested that the following be approved and form the final Care and Support Charging and Financial Assessment Framework:

**Proposal 1: accepted** (the council proposes to introduce a care and support charging and financial assessment framework that aims to provide a fairer system and make it easier to understand for those people who need care.)

Reason: in principle most people supported the proposal, however there were elements within the care and support charging and financial assessment framework that raised concern.

**Proposal 2: not accepted – amended** (when the council's client finance team become aware of a new service user, a care finance officer will make several attempts by different means to contact them or their representative. the council will require a service user or their representative to respond within two weeks of the initial contact being made to arrange a financial assessment. if there is no response, the council will deem the person to be self-funding. this would be considered on a case by case basis.)

Reason: following the level of concern expressed regarding the two-week time period for the service user or their nominated representative to make contact with the care finance officer the proposal is to extend this timeframe to four weeks.

**Proposal 3: accepted** (many service users will be entitled to claim for benefits. these benefits are included in the financial assessments. the council will take into account any benefit that it believes a service user would have an automatic entitlement to, if an application were made. this relates to pension guaranteed credit and employment and support allowance.)

Reason: the council notes individuals concerns regarding support and signposting and will review the information already available to support people and develop a guidance document explaining what the person or their representative needs to do to make an application for the designated benefit.

**Proposal 4: accepted** (in some cases, a third party (family or friend) will pay extra costs towards a more expensive service such as a larger room in a care home. the council will require any third party to enter into a formal agreement confirming they will make the required payments. the council will also carry out a basic financial assessment on the proposed third party to ensure the required payment is affordable.)

Reason: Respondents did express a level of concern, however this was mainly in regard to the principle of third-party payments and the use of the same rather than the agreement and/or financial assessment. The use of third-party payments is a matter of statute. There were a small number of people who felt it was an infringement of their rights however the decision to agree to a third-party payment is optional and therefore any person who did not wish to provide financial information would not have to do so.

**Proposal 5: accepted.** (in some cases, a service user is unable to pay for their care as their funds are tied up in a property. arrangement can be made for service users to enter into an agreement that allows for payment at a later date. this is known as a 'deferred payment agreement'. when an agreement is entered into and a yearly fee is charged. the fee covers the administration costs incurred in preparing annual statements, reviewing the equity / level of debt and the value of the property. the council proposes an initial set up fee of £105 and an annual fee of £30.00. these costs will be collected when the deferred payment agreement ends.)

Reason: Statistically, the number of respondents in favour were only marginally more than those respondents that answered 'no', however it should be noted that the fee is not payable at the outset but added to the debt and is payable when the deferred payment agreement is ended.

It was also noted that there was a general dissatisfaction with the current law in respect of property ownership and care costs, however this is a matter for central government.

Further the project team sought confirmation, via the national association of financial assessment officer's forum and from other local authorities in respect of the setup fee they charged.

This ranged between £64.00 and £397.00, however, some Local Authorities did not charge a single fee opting to charge an hourly rate or a mixture of both making comparison difficult, the £105.00 was an average of our nearest neighbouring Local Authorities. Therefore, it is proposed that the sum of £105 is reasonable.

The fees for a deferred payment agreement will increase annually in April in accordance with the Consumer Prices Index including owner occupiers' housing costs (CPIH), to allow for the increase in property prices.

**Proposal 6: accepted.** (in some cases, a service user's representatives may be in the process of applying for deputyship when the service user needs care. also, there may be times when the service user's property is currently not registered with the land registry. a new interim funding policy will be applied that allows the council to fund care for a period of time whilst deputyship is obtained and / or the property is registered. this will be subject to a four-month review (other situations will be considered). a signed contract will be required confirming the amount to be repaid to the council. the service user or their representative will be required to keep the council updated.)

Reason: the proposal is accepted, however more detail will be provided in a specific leaflet to those who may require assistance via interim funding to ensure the agreement and principle is clear.

**Proposal 7: accepted** (to ensure there is a fair approach to disability related expenditure, the council is introducing new amounts. the council will only pay for expenditure that is related to a disability. for example: additional laundry, replacement bedding, private domestic help and additional heating costs.)

Reason: some concerns were raised in respect of people's individual needs being taken into account, for example dietary requirements, the intention has always been to work with people on an individual basis to ensure genuine disability related expenditure is taken into consideration.

**Proposal 8: accepted** (the council will allow transport and education costs. these must be set out the service user's care and support plan and will only be allowed if the individual is not in receipt of disability living allowance or any disability living allowance component of personal independence payment (PIP).

Reason: the responses showed clear support for the proposal.

**Proposal 9: accepted.** (people receiving care and support at home are currently allowed £189.00 per week to cover the cost of living. the council proposes to only allow the cost of the standing charge for gas, electricity, water and sewerage within the financial assessment.)

Reason: whilst there was clear concern that people may be adversely affected due to items such as additional heating costs caused by a disability need for greater heat this would fall under proposal 8 and be a disability related need and would be considered in any care act assessment and assessed accordingly.

In addition, any person aged over 60 would be in receipt of the winter fuel allowance and those in receipt of certain benefits may be eligible for the cold weather payment.

**Proposal 10: accepted** (in some cases, the council will arrange care for people who are able to pay for their own care. a new one-off charge will be applied to any new self-funder where the council has been asked to arrange the care and support. this is to cover the administrative costs incurred by the council. it is proposed this is a one-off fee of £250.00 plus vat.)

Reason: The Project Team sought confirmation, via the national association of financial assessment officer's forum, from other local authorities in respect of administration charges for those who are deemed as self-funding but request the council to arrange care. the other local authorities confirmed a charge between £125 plus vat and £500 many also charged an annual fee in addition to the initial charge.

The Project Team acknowledges that the consultation feedback showed a response that the proposed sum of £250 plus vat was too high but given the evidence from other local authorities and that fact that the use of the service is at the persons discretion the council felt that the proposal was reasonable.

This cost will not cover the full cost to the council but will allow the council to recoup some of the costs of the officer time, social worker time, checking the appropriateness of the options of care available, negotiating on the persons behalf and setting up the package of care.

The council will provide all those who are self-funders and express they wish the council to carry out this work on their behalf with a leaflet explaining the options in respect of arranging care.

It should be noted that private agencies who provide this service charge a higher rate, the rates charged by private agencies range between £255 plus vat and £695 plus vat.

The amended direct payment policy also formed part of the consultation and the following is proposed.

#### **Direct Payment Policy: agreed**

Whilst some concerns at language and accessibility were raised, the easy read version will remain available on-line and in hard copy by request. if any individual has a concern about the implications of the direct payment policy, they can speak with their social worker or care co-ordinator.

Further following feedback in respect of pre-paid cards, to clarify, pre-payment cards will be optional if used in the future.

The policy be updated to include SEN and SCHP, the commissioner will liaise with the relevant teams to ensure the wording is correct and the information accurate.

- 3.4 The final Care and Support Charging and Financial Assessment Framework and Direct Payment Policy will be available on-line permanently and for four weeks after approval at the One Stop Shops and libraries. Hard copies can be sent by post on request.

The final Care and Support Charging and Financial Assessment Framework and Direct Payment Policy will also be made available in easy read on-line and for

four weeks after approval at the One Stop Shops and libraries. Hard copies can be sent by post on request.

The FAQ's together with the Results Report and appendices will also be made available on-line and for four weeks after approval at the One Stop Shops and libraries. Hard copies can be sent by post on request.

The current cohort of approximately 2,100 service users will be sent letters informing them of where they can view the final Adult Social Care and Support Charging and Financial Assessment Framework and how the decisions made will impact on their weekly care charge.

#### **4 STATUTORY CONSIDERATIONS**

- 4.1 The Care and Support Charging and Financial Assessment Framework and Direct Payment Policy ensures compliance with the Care Act 2014 and related statutory guidance. The proposed decisions, after consideration of the feedback from the public consultation, on the discretionary elements fall within the discretion afforded to the Council.

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 It is forecast that for 2020-21 the introduction of the framework as recommended will reduce by £500K the net cost to the Council of funding care and support through ensuring that where eligible, service users claim benefits from the correct source (ie Pension Guarantee Credit will be claimed via the welfare benefit system), at no cost to the service user. This has been made explicit throughout the consultation.
- 5.2 Some of the final project costs cannot be itemised due to the fact they cannot be appraised until the final Care and Support Charging and Financial Assessment Framework and Direct Payment Policy are approved but will include.
  - a. document costs – easy read versions of the final documents;
  - b. short term client finance staffing;
  - c. training – client finance, social work teams etc (no cost);
  - d. controcc (client finance data system) training is already provided in the existing contract with the provider;
  - e. Postage costs to inform individuals of any change to their assessed weekly care charge.

#### **6 RISK MANAGEMENT**

- 6.1 A risk assessment related to the issues and recommendations has been undertaken, in compliance with the Council's decision-making risk management guidance.
- 6.2 This Care and Support Charging and Financial Assessment Framework will provide clear guidance and procedure in relation to financial assessments. This will mitigate any risk to the Council and will be transparent for service users and carers.

6.3 The Direct Payment Policy will provide clear guidance to those in receipt of Direct Payment of their obligations and duties both to those they employ and in relation to compliance with their statutory duties and functions. It will further ensure transparency in respect of the Councils functions thus mitigate any risk to the Council.

## **7 CLIMATE CHANGE**

7.1 Fewer letters will be required to be sent after introduction of the Care and Support Charging and Financial Assessment Framework and Direct Payment Policy as there should be a reduced number of complaints in the long term resulting in lower numbers of letters required and reduced postage. The Client finance teams use the pool cars reducing the impact on the environment as these vehicles are environmentally friendly.

7.2 If the final Care and Support Charging and Financial Assessment Framework and Direct Payment Policy are approved by Full Council. Consideration has been given to limiting the number of paper copies the final documents by making the same available on-line and in the one-stop shops and library for a period of 4 weeks after approval by Full Council. However it must be recognised that the service users affected by these changes may not be able to access information via the website or be able to access the one-stop shops or library.

## **8 OTHER OPTIONS CONSIDERED**

8.1 None

## **9 CONSULTATION**

9.1 Please see appendix 3 to this report which includes an equalities impact assessment. The Care and Support Charging and Financial Assessment Framework and Direct Payment Policy were extensively and widely consulted on, ensuring as many people as possible were given the opportunity to participate and comment.

9.2 Subject to approval by Full Council Social Workers and Teams will receive briefings on the final versions of the Care and Support Charging and Financial Assessment Framework and Direct Payment Policy to ensure they can provide support to Service Users, Families and Carers.

9.3 Subject to approval by Full Council all current Service Users will receive a letter notifying them of how to access the final Care and Support Charging and Financial Assessment Framework and Direct Payment Policy and any change (or not) to their assessed weekly care charge and information on how to contact the Care Finance Team to challenge this.

9.4 Subject to approval by Full Council the project team will provide further events with third parties to appraise them of the final decisions taken by the Council.

<b>Contact person</b>	Annemarie Strong 01225 395005
<b>Background</b>	

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<b>Please contact the report author if you need to access this report in an alternative format</b>
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## Bath and North East Somerset Council

# Care and Support Charging and Financial Assessment Framework

<b>Effective date</b>	<b>06.04.2020</b>
<b>Approved by</b>	<b>Full Council</b>
<b>Date approved</b>	<b>25.02.2020</b>
<b>Service</b>	<b>Adult Social Care</b>
<b>Last Updated</b>	
<b>Review Date</b>	

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## 1. Summary

The document is designed to be used by you, the service user, or your representative. The Council has, where possible, used plain English. Care and Support is not a free service and many services are subject to charge. Local authorities are required to carry out a financial assessment to calculate what an individual can afford to pay towards their care, although The Council does retain a general discretion in respect of charging.

Payments towards the cost of care are paid to the care provider if you are assessed as self-funding and paid to the Council if you are assessed as making an assessed care charge towards the cost of your care (unless you receive a Direct Payment when you will pay the care provider directly.)

This Framework sets out the Council's policies for charging for care and support and follows the Care Act 2014, Care and Support Statutory Guidance issued by the Government under the Care Act 2014, Care and Support (Charging and Assessment of Resources) Regulations 2014, Care and Support (Deferred Payments) Regulations 2014, Care and Support (Direct Payments) Regulations 2014, Care and Support and Aftercare (Choice of Accommodation) Regulations 2014 and the Care and Support (Preventing Needs for Care and Support) Regulations 2014.

## 2. Legal Context

### The Care Act 2014 – Charging and Financial Assessment

Section 14 of the Care Act 2014 gives the Council the power to charge adults for care and support. This applies where adults are being provided with care and support to meet needs identified under Section 18, Section 19 or Section 20 of the Care Act 2014. These needs can be referred to as 'identified needs' or 'eligible needs'.

When developing and applying policies the Council must take note of the following documents;

- Care and Support Statutory Guidance; issued by the Department of Health giving detailed guidance to Councils on all aspects of the Care Act 2014, including Charging and Financial assessment (Chapter 8), Deferred payments (Chapter 9) and associated annexes to the guidance, for example: <https://www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance>
  - Annex A: Choice of Accommodation and Additional Payments
  - Annex B: Capital Limits, Financial Assessment and Treatment of Capital and Income
  - Annex C: Deprivation of Assets
  - Annex D: Deferred Payment Agreements
  - Annex E: Recovery of Debts
  - Annex F: Temporary and Short term residents in Care Homes

- The Care and Support (Charging and Assessment of Resources) Regulations 2014; which sets out: <http://www.legislation.gov.uk/uksi/2014/2672/contents/made>
  - The power to charge for certain types of care and support (Part 2);
  - The duty under Section 17 of the Care Act to carry out a financial assessment (Part 3);
  - Rules on the treatment and calculation of income and capital (including notional income and capital and deprivation) (Part 4 and 5);
  - Rules on sums to be disregarded (Schedule 1 and 2).
  
- The Care and Support (Deferred Payments) Regulations 2014; which sets out: <https://www.legislation.gov.uk/uksi/2014/2671/contents/made>
  - The rules on when the Council must enter into a deferred payment agreement (regulation 2);
  - The rules on when the Council may enter into a deferred payment agreement (Regulation 3);
  - The rules on the security required and equity limit (Regulations 4 and 5);
  - The power to charge interest and administration costs (Regulation 9 and 10).
  
- The Care and Support (Direct Payments) Regulations 2014; which sets out: <https://www.legislation.gov.uk/uksi/2014/2871/contents/made>
  - Conditions for making a Direct Payment (Regulation 3 and 4);
  - Steps the Council must take before making a Direct payment under Section 32 of the Care Act (Regulation 5);
  - Direct payment and Care Home accommodation (Regulation 5);
  - The Councils obligation to review Direct Payments (Regulation 7);
  - The Rules on Capacity (Regulation 8 and 9).
  
- The Care and Support and Aftercare (Choice of Accommodation) Regulations 2014; which sets out: [http://www.legislation.gov.uk/uksi/2014/2670/pdfs/uksi\\_20142670\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/2670/pdfs/uksi_20142670_en.pdf)
  - The Councils obligation on respect of the choice of accommodation (Regulation 2);
  - The preferred accommodation conditions (regulation 3);
  - The payment of additional costs for the preferred accommodation (Regulation 5).
  
- The Care and Support (Preventing Needs for Care and Support) Regulations 2014; which sets out: [http://www.legislation.gov.uk/uksi/2014/2673/pdfs/uksi\\_20142673\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/2673/pdfs/uksi_20142673_en.pdf)
  - The Councils obligations in respect of prevention of care and support
  - Community equipment (Regulation 2)
  - Providing care and support for reablement and intermediate services (Regulation 4)

#### Future Changes to care Funding (2020)

The Care Act (Section 15 and 16) proposes a cap on care costs which limits how much a person would be required to pay towards their support needs over their

lifetime and increases the level of capital a person can have and still receive financial assistance with care and support costs.

In July 2015 the government announced the implementation of Funding Reforms would be delayed until 2020. However the Government have since announced proposals<sup>1</sup> for long-term social care reforms to be published for public consultation and will not take forward the proposed cap on care costs set out in the Care Act.

The Government continues to review social care funding, the latest report was published on the 19<sup>th</sup> June 2018.<sup>2</sup>

### **3. Principles Of This Framework**

#### The Development and Review of this Charging and Financial Assessment Framework

When the government introduced the Care Act 2014 the Council as part of implementing this new legislation developed a Charging and Financial Assessment Framework.

The Framework will be reviewed regularly as set out later in this document – Reviewing this Charging and Financial Assessment Framework.

#### National Principles of Charging and Financial Assessment

This Charging and Financial Assessment Framework has been developed to meet national principles to;

- Ensure that people are not charged more than is statutorily permissible for them to pay for care and support;
- 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 options available to meet needs;
- Apply the charging rules consistently – so those people with similar needs or services are treated the same and anomalies are minimised;
- Be sustainable for the Council in the long term.

<sup>1</sup> In November 2017 the Government announced proposals to reform social care and support. In December 2017 the Parliamentary Under-Secretary of State for Health announced that the Government would not be taking forward the cap on care costs set out by the previous Government. This announcement can be viewed at <https://hansard.parliament.uk/commons/2017-12-07/debates/F7AD5D1D-C8D6-411D-BF42-B432955B2A8E/SocialCare>

<sup>2</sup> <https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/768/768.pdf>

#### 4. Care and Support Services Provided Free Of Charge

Assessments of needs and care are always provided free of charge, and Councils are not permitted to charge for any service or part service which the National Health Service (NHS) is under a duty to provide – this includes Continuing Healthcare and Funded Nursing Care.

All Councils must provide the following care and support services free of charge:

- Care from the integrated reablement and Intermediate service – a short period of intensive therapies and support from health and social care professionals to assist and promote regaining independence. Intermediate care services may continue for up to 6 weeks without charge<sup>3</sup>.
- Through the Councils partnership with VirginCare all community equipment and minor adaptations services where the minor adaptation costs up to £1,000 to help with independent living<sup>4</sup>
- Care and Support provided to people with Creutzfeldt-Jacob Disease<sup>5</sup>
- After-care services / support provided under Section 117 of the Mental Health Act 1983  
<https://www.legislation.gov.uk/ukpga/1983/20/part/VIII/crossheading/aftercare>

The Council has also chosen to provide the following service free of charge:

- Payment to a carer of an adult in receipt of care, this payment will be based on a care and support assessment

#### Failure To Allow A Care And Needs Assessment

The assessment and eligibility process is one of the most important elements of the care and support system. The assessment is one of the key interactions between you the Council<sup>6</sup>.

The assessment is collaborative and the Council will aim to make the process transparent and understandable<sup>7</sup>. You may refuse a care and needs assessment but if you chose to do so, or do not engage in the assessment<sup>8</sup> the Council will not provide funding and you will need to arrange your own care and support.

#### 5. Chargeable Care And Support Services

Charges for the following services are based on an assessment of your financial circumstances – for details see below and the Council Guides available on-line.

<sup>3</sup> Clause 4 of the Care and Support (Preventing Needs for Care and Support) Regulations 2014

<sup>4</sup> Clause 2 of the Care and Support (Preventing Needs for Care and Support) Regulations 2014.

<sup>5</sup> Clause 8.41 of the Care and Support (Statutory Guidance)

<sup>6</sup> Clause 6.1 – 6.8 of the Care and Support (Statutory Guidance)

<sup>7</sup> Clause 6.35-6.43 of the Care and Support (Statutory Guidance)

<sup>8</sup> Clause 6.20 and 6.21 of the Care and Support (Statutory Guidance)

The Council will carry out a financial assessment. If the Council is aware (when your need for care and support arises) that you have capital above the Upper Capital Limit<sup>9</sup>, the Council will not carry out a financial assessment and will assess you as able to pay the full charge for your care home accommodation or provision of care service.

If your capital is mostly due to ownership of a property there are rules around whether this counts within the financial assessment see part 10.

If your capital is below the Upper Capital Limit<sup>10</sup> or the Council cannot identify the level of capital you hold, the Council will carry out a financial assessment to work out your assessed weekly charge you will need to pay towards your care home accommodation or provision of care services.

Currently, your weekly assessed care charge is paid every week at the same amount as per your financial assessment. It is possible, in the future, that the Council may alter the charging framework to allow a more flexible approach to the provision of care and meet outcomes. This will mean that you will have a financial assessment to calculate your weekly care charge but this charge will be invoiced over a 4 week period.

If the Council alters the invoicing period to 4 weekly you will never be charged more than your assessed weekly care charge but you might be charged less.

For example if your assessed weekly care charge is £100 per week over 4 weeks this is £400, if you total cost of care over the 4 weeks is £800 you will pay £400, if your total cost of care over 4 weeks is £350 you will pay £350.

### Young persons

Prior to a young person reaching 18 they are entitled to a Transitions Assessment by a social worker, Where a Transition Assessment identifies needs that are likely to be eligible, local authorities should consider providing an indicative Personal Budget so that young people have an idea of how much their care and support will cost when they enter the adult system.

During this assessment their family or carer(s), as part of the preparation for the young person to transition to adulthood, will be given the opportunity to start to explore and discuss some of the changes to the provision of the care and support the young person may encounter as they transition to adulthood.

When a young person reaches 18 they will be assessed by a social worker under Section 18, Section 19 or Section 20 of the Care Act 2014 and their eligible needs will be identified.

Section 14 of the Care Act 2014 gives the Council the power to charge adults for care and support.

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<sup>9</sup> See Annex B – Capital Limits Schedule

<sup>10</sup> See Annex B – Capital Limits

So that the transition from child services to adult services, in respect of charging, is as straightforward as possible the social worker will establish prior to the young person's 18<sup>th</sup> birthday if they have capacity.

If the young person has capacity a referral will be made to the Client Finance team and a Care Finance Officer will arrange to meet with the young person and their parent or carer, the Care finance Officer will bring to this meeting a Calculation of Financial Charge form for completion and will also assist with signposting the young person and parent or carer to possible benefit entitlement. If a meeting is not possible the Care Finance Officer will post the Calculation of Financial Charge form.

The Care Finance Officer will use the Calculation of Financial Charge form to calculate the assessed weekly charge. This form can be signed by the parent or carer but will be left with the young person for signature and return on or after their 18<sup>th</sup> birthday (this can be returned by post or electronically). Upon receipt of the signed Calculation of Care Charge form the Care Finance Officer will confirm the assessed weekly charge amount to the young person by letter.

If the young person has capacity but wishes to appoint a parent or carer to act on their behalf they can indicate this on the Calculation of Financial Charge form.

If the young person lacks capacity a referral will be made to the Client Finance team and a Care Finance Officer will arrange to meet with the young person's family or carer. The Care Finance Officer will bring to this meeting a Calculation of Financial Charge form for completion and will also assist with signposting the family or carer to possible benefit entitlement. If a meeting is not possible the Care Finance Officer will post the Calculation of Financial Charge form.

The Care Finance Officer will use the Calculation of Financial Charge form to calculate the assessed weekly charge, this form can be signed by the parent or carer subject to the parent or carer having a DWP appointee notice. The Care Finance Officer will confirm the assessed weekly charge amount to the parent or carer by letter.

If the young person lacks capacity the parent or carer will need to apply for Deputyship as soon as possible after the young person's 18<sup>th</sup> birthday, this process can take up to 6 months to complete, to allow the financial assessment to be carried out the Care Finance Officer will accept, whilst the Deputyship Order is awaited, evidence that the parent or carer has been appointed as a DWP appointee. The Care Finance Officer will require the Deputyship order to be provided within 9 months of the young person's 18<sup>th</sup> birthday.

Some young people may be in receipt of an Education, Health and Care plan; this plan can remain in place up to the age of 25, subject to the Local Authority agreeing that the young person can remain in education and it can be shown that the young person will make progress.

For most young people any social care support will be provided by their home local authority<sup>11</sup>. The young person has the right to request a transition assessment for

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<sup>11</sup> Chapter 8 of the Care Act 2014 and page 134 of the SEN Code of Practice.

adult care that will enable them to see whether they are likely to have eligible needs that will be met by adult services once they turn 18.

Young people with Special Educational Needs turning 18, or their carers, may become eligible for adult care services, regardless of whether they have an Education Health and Care Plan or whether they have been receiving care services under section 17 of the Children Act 1989.

If the young person with Special Educational Needs or an educational Health and Care Plan is identified as having eligible needs a financial assessment for the social care element of any funding will be carried out. The process will be the same as that outlined above.

### Residential Care

You will pay your assessed care charge towards the costs of your care and support from the date you enter the care home (subject to your financial assessment and your capital assets).

If you have capital above the Upper Capital Limit<sup>12</sup> the Council will assess that you are able to pay the full cost of your care in the care home.

If your capital is below the Upper Capital Limit or the Council cannot identify the level of capital you hold, the Council will carry out a financial assessment. The rules for this assessment will be those used for permanent residence.

### Short term / Respite stay(s) in care home accommodation

Short term stays are up to 56 nights in any 12 month period<sup>13</sup>

Respite stays up to 4 consecutive weeks in any 12 month period and provide a break for informal carers. These costs can be paid using a direct payment<sup>14</sup>

If you have capital above the Upper Capital Limit<sup>15</sup> the Council will assess that you are able to pay the full cost of your short term / respite stay in a care home.

If your capital is below the Upper Capital Limit or the Council cannot identify the level of capital you hold, the Council will carry out a financial assessment. The rules for this assessment will be those used for temporary stays (see below)<sup>16</sup>.

If your placement is an emergency the Council will still carry out a financial assessment. The rules for this assessment will be those used for temporary stays (see below)<sup>17</sup>.

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<sup>12</sup> See Annex B – Capital Limits

<sup>13</sup> See Clause 8.34 of the Care and Support Statutory Guidance

<sup>14</sup> See Clause 12.41-12.43 of the Care and Support Statutory Guidance

<sup>15</sup> See Annex B – Capital Limits

<sup>16</sup> See Clause 8.34 of the care and Support Statutory Guidance

<sup>17</sup> See Clause 8.34 of the care and Support Statutory Guidance

If the respite / short term stay exceeds 28 / 56 nights during a year the Council will carry out a financial re-assessment using the Financial Assessment and Charging Rules for temporary stays (see below).

### Temporary stays(s) in Care home accommodation

Temporary stays are intended to last for a limited period where there is a plan to return home. The stay should be unlikely to exceed 52 weeks<sup>18</sup>.

If you have capital above the Upper Capital Limit<sup>19</sup> the Council will assess that you are able to pay the full cost of your temporary stay in a care home.

If your capital is below the Upper Capital Limit or the Council cannot identify the level of capital you hold, the Council will carry out a financial assessment to calculate your assessed weekly charge.

This assessment will be carried out using the rules for temporary stays in care homes<sup>20</sup>

The rules include but are not limited to the following:

- Your main or only home will be disregarded where you intend to return to the property or you have taken steps to dispose of the property to acquire a property that is more suitable.
- The assessment will be carried out in accordance with the rules for permanent residents<sup>21</sup> but an allowance is made for any additional amounts required to maintain the home:
  - Gas (standing charge only – non-mains: Oil only delivery costs)
  - Electricity (standing charge only)
  - Water (standing charge only)
  - Council tax
  - Mortgage (if applicable)
  - Rent
  - Ground rent (if applicable)
  - Service charge (if applicable)
  - Home Buildings and contents insurance<sup>22</sup> (subject to evidence being provided of the amount being paid)

### Non-Residential Care and Support

Non-Residential care and support means care and support services provided to help you stay in your own home and involved in the community.

Depending on your financial circumstances you may be asked to pay a charge towards your non-residential care and support costs.

<sup>18</sup> See Annex F Clause 4 of the Care and Support Statutory Guidance

<sup>19</sup> See Annex B – Capital Limits

<sup>20</sup> See Annex F Clauses 10-20 of the Care and Support Statutory Guidance

<sup>21</sup> See Annex C of the care and Support Statutory guidance

<sup>22</sup> See Annex C Clause 49 of the care and Support Statutory guidance

If you have capital above the Upper Capital Limit<sup>23</sup> the Council will assess that you are able to pay the full cost of your care services.

If your capital is below the Upper Capital Limit or the Council cannot identify the level of capital you hold, the Council will carry out a financial assessment to calculate your assessed weekly charge.

If your social care assessment shows you have ongoing eligible care and support needs you will be allocated a Personal Budget.

Your Personal budget may be used to purchase a range of care and support services. This includes commissioned services and services purchased through Direct Payments<sup>24</sup>.

Services include:

- Personal Assistants – People employed to assist with all aspects of daily living including personal care and social activities
- Home / Domiciliary care – personal care in person's own home to help with washing, dressing, eating / drinking to maintain independent living
- Day care – an opportunity to meet other people and take up new opportunities
- Transport – To and from social care / day centres if this is included in your care and support plan (unless you are in receipt of Disability Living Allowance or any Disability Living Allowance component of PIP)
- Telecare – helps people to live independently in their homes by providing technological help for example sensors and alarms
- Supported living – a combination of all of the above usually provided by a single service provider
- Other types of support – some people may choose to use their personal budget to meet their social care needs in a different way eg by buying a computer to assist with on-line shopping (to replace the need for domestic help) or a piece of assistive technology to prevent the need for home care intervention.

## **6. Care And Support Financial Assessment Policy**

This Financial Assessment Policy sets out the national and internal local Council rules that we use to work out how much an individual can afford to pay towards the costs of the Care and Support services provided to them.

It has been drawn up in accordance with the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance which are issued under Section 17 of the Care Act 2014.

Information that applies to all financial assessments for all care and support settings.

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<sup>23</sup> See Annex B – Capital Limits

<sup>24</sup> See Part 9

What is a Financial Assessment for care and support?

A financial assessment is a calculation of the charge you will be required to pay towards the costs of your care<sup>25</sup>

If you have capital assets above the Upper Capital Limit<sup>26</sup> you will be required to pay the full costs of your care and support.

If your capital assets are below the Upper Capital Limit or the Council cannot identify the level of capital you hold we will carry out a financial assessment and ask you to tell us about:

- Your income – how much money you have coming in
- Your capital assets – your savings, investments, land and property

We then work out how much you can statutorily keep for personal use<sup>27</sup>.

We use this information to calculate your Assessed Weekly Charge. This is the most you would be asked to pay towards your care and support and is subject to review. If your care and support costs are less than your Assessed Maximum Weekly Charge you will be required to pay the full costs of your Care and Support.

Your Assessed Weekly Charge will change when your financial situation changes, for example if your income or savings change. We will review your financial assessment in line with any changes in your circumstances.

If the service you receive is an after-care service under Section 117 of the Mental Health Act 1983 you will not require a financial assessment.

If your care and support service is fully paid for by the NHS under Continuing Healthcare you will not require a financial assessment.

### Capital Limits

The Government sets Upper and Lower Capital Limits to provide statutory guidance to Councils on when a person can afford to pay a charge towards their care and support. Annex B – Capital Limits Schedule shows the current Upper and Lower Capital Limit. The Limits are reviewed by the Government every year.

### What is Capital

Capital resources are assets such as money in a bank or building society account, investments, stocks and shares, buildings, land etc.

Some capital is disregarded by the financial assessment and the details of this are set out in the Care Act, Regulations and Guidance<sup>28</sup>

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<sup>25</sup> Section 14 of the Care Act 2014

<sup>26</sup> See Annex B Capital Limits

<sup>27</sup> See Annex B Calculating Your Charge

If your total capital is less than the Lower Capital Limit you will pay any assessed charge based on your income only.

If you have a partner and you hold a capital asset in joint names you will be treated as having a 50% share of that capital asset.

If your capital assets are above the Upper Capital Limit you will be treated as self-funding and will be required to pay the full cost of your care and support. We can support you to arrange your own care.

If you do not live in a care home, you have the right to ask the Council to arrange your care and support. The Council will charge you the full costs of your care and support.

If after a financial assessment the value of your assets is assessed to be below the Upper Capital Limit but more than the Lower capital Limit you will be required to pay a charge from your capital, this is called tariff income Annex B – Capital Limits Schedule shows how the tariff income is calculated.

If after a full financial assessment or where the Council has already concluded your assets are below the lower capital Limit you will be required to pay a charge based on your income.

#### Notional capital

If you deprive yourself of capital assets in order to reduce or avoid charges for care and support we may complete your financial assessment as if you still had those assets. The value of those assets is known as notional capital. For more information see Deprivation of Assets.

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<sup>28</sup> The Care and Support (Charging and Assessment) Regulations 2014 Part 3(12), Part 5, Schedule 1, Care and Support Statutory Guidance Annex B and Annex C, also See Annex B

## How is a Financial Assessment carried out<sup>29</sup>

1. If your care and support assessment shows that you need an ongoing care service, your Adult Social Care social worker will refer you to our Client Finance Team to request a financial assessment to be carried out with you (or your financial representative if you have one – such as a lasting power of attorney or deputy).



2. A Care Finance Officer will contact you, usually by phone, to arrange a visit to ask you about your financial situation. See example of information needed for your financial assessment (Annex C).
3. The Care Finance Officer will use the Councils Charging and Financial Assessment policy and the national Care and Support (Assessment of Resources) Regulations to work out a maximum amount you can afford to pay towards your care and support. The Care Finance Officer will ask you to sign the Financial Assessment form to confirm that the information provided is correct.

If the Client Officer cannot contact you or a visit cannot be arranged the Council will take the view that you are self-funding and you will be required to pay the full charge of your care and support.



4. The Care Finance Officer will explain to you if any further information is required and agree with you when this will be provided. The Care Finance Officer will check that you are receiving the benefits you are entitled to.



5. If you are moving into a care home permanently and you have a property the capital in that property will be taken into account in the financial assessment. The Care Finance Officer will ask you to provide details about the property and explain the possible funding arrangements, including the Councils Deferred Payment Agreements (see Section 10.) You should always seek independent advice before making a decision on how to use your capital assets.



6. The Care Finance Officer will send you a letter with the outcome of the financial assessment confirming what you will need to pay towards your care and support costs (if any). If you disagree with the outcome, you can appeal. See Appeals, Exceptional Circumstances and Waivers.

<sup>29</sup> See the Councils Guide Working Out Your Care charges Annex A and Sample form Annex C

## Light Touch Financial Assessment

There are some situations where the Council will not need to carry out a full financial assessment of your ability to pay towards your care and support. Instead a 'light touch' financial assessment will be completed (a Care Finance Officer will contact you to confirm this). You can still ask the Council to carry out a full financial assessment.

Examples of when a 'light touch' assessment may be carried out:

- Your capital assets are above the Upper Capital Limit – if you know that your capital assets are above the Upper Capital Limit you will not need a full financial assessment. A Care Finance Officer will contact you to confirm that you are assessed to pay the full charge of your care and support.
- You have declined to provide information about your financial situation- if you do not wish to provide information about your financial situation you do not have to. A Care Finance Officer will contact you to confirm that you will be assessed to pay the full charge of your care and support.

If your financial assessment is a 'light touch' financial assessment, the Care Finance Officer will write to you to confirm;

- What you have been assessed to pay towards your care and support and the basis of the financial assessment
- That you can ask them to complete a full financial assessment at any time

## Start date of Charges

Your charge will start from the date your care and support services commenced.

Your care charge will be backdated to the date your placement commenced; you should ensure you retain sufficient monies to pay this sum.

See also Financial Assessment Reviews.

## Welfare Benefit Entitlements

As part of the financial assessment our Client Finance Officers will offer you a full benefits check.<sup>30</sup>

What happens if you are possibly entitled to additional welfare benefits? The Care Finance Officer will signpost you to contact the Department of Work and Pension (DWP) or a third party agency (such as Age UK) who can then assist you with applying for any additional benefits to which you may be entitled.

What happens if you already receive welfare benefits? The Care Finance Officer will check the amount you are receiving and the breakdown of the benefits.

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<sup>30</sup> In accordance with The Social Security (information-sharing in relation to Welfare Services etc.) Regulations 2012, made using powers under sections 130 and 131 of the Welfare Reforms Act 2012.

What happens if you are entitled to additional welfare benefits or a reassessment of welfare benefits? If you become entitled to additional benefit this will affect your financial assessment. The Care Finance Officer will confirm to you in writing the new charge you will be required to pay towards your costs of care and support. If your entitlement to the new welfare benefit is backdated the charge will be backdated to the same date or to the date your care and support started if this is later.

What happens if you choose not to apply for benefits you are entitled too? If you decide not to apply for a welfare benefit that you are entitled to and the Council is satisfied that the benefit income would have been available to you if you had made the application for that benefit we will consider that benefit income as 'notional income' in your financial assessment<sup>31</sup>. The Care Finance Officer will confirm this to you in writing and confirm your care charge based on your financial assessment including the notional income.

### Deprivation of Assets

Deprivation of assets is where someone deliberately reduces their overall assets in order to reduce the amount that they are charged towards their care and support.

If the Council decides that you have deliberately given away or disposed of some or all of your savings or other capital asset or income in order to reduce the amount of your assessed care and support charge the Care Finance Officer will complete your financial assessment as if you still had those savings, asset or income. The asset or income would show on your assessment as notional income or notional capital.

If savings, asset(s) or income have been transferred to a third party in order to reduce your care and support charges the Council has the legal power<sup>32</sup> to recover care and support charges from that third party where those charges relate to the value of the transferred asset or capital or to treat you as though you still had that asset or capital and show the asset or capital as notional income or notional capital on your financial assessment.

A person can deprive themselves of capital in many ways, but common approaches may be:

- a lump-sum payment to someone else, for example as a gift
- substantial expenditure has been incurred suddenly and is out of character with previous spending
- the title deeds of a property have been transferred to someone else
- assets have been put in to a trust that cannot be revoked
- assets have been converted into another form that would be subject to a disregard under the financial assessment, for example personal possessions
- assets have been reduced by living extravagantly, for example gambling
- assets have been used to purchase an investment bond with life insurance

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<sup>31</sup> Annex B Clause 29(a) of the Care and Support Statutory Guidance

<sup>32</sup> Section 70 of the Care Act 2014

However, this will not be deliberate in all cases. Questions of deprivation therefore should only be considered where the person ceases to possess assets that would have otherwise been taken into account for the purposes of the financial assessment or has turned the asset into one that is now disregarded.

It is up to the person to prove to the local authority that they have not deprived themselves of the asset. If they are not able to, the local authority will assess you as if you still had the asset.

### What must the local authority consider

There may be many reasons for a person depriving themselves of an asset. A local authority should therefore consider the following before deciding whether deprivation for the purpose of avoiding care and support charges has occurred:

- (a) whether avoiding the care and support charge was a significant motivation in the timing of the disposal of the asset; at the point the capital was disposed of did you have a reasonable expectation of the need for care and support?
- (b) did you have a reasonable expectation of needing to contribute to the cost of their eligible care needs?

For example, it would be unreasonable to decide that you had disposed of an asset in order to reduce the level of charges for your care and support needs if at the time the disposal took place you were fit and healthy and could not have foreseen the need for care and support.

Your intention to avoid your care charges must be a **significant factor, or the only reason**, you have dispossessed of an asset, in order to be found to have deprived yourself.

When deciding whether a deprivation has occurred the local authority should take into account:

Whether avoiding care and support charges were a significant motivation timing of the disposal.

When the asset was disposed of, could you have a reasonable expectation of the need for care and support?

Did you have a reasonable expectation of needing to contribute to the cost of your eligible care needs?

We may conduct our own investigations into whether deprivation of assets has occurred, rather than relying solely on information that you provide.

### What is capital/ Asset

Capital can mean many different things and this is not a definitive definition. The local authority will consider the individual asset on its merits. In general it refers to

financial resources available for use and can be from sources that are considered more durable than money in the sense that they can generate a return.

The following list gives examples of capital. This list is intended as a guide and is not exhaustive:

- buildings
- land
- If you own multiple properties any property that is not your main home will be taken into account if you have non-residential or residential care.
- Your main home will be taken into account after the first 12 weeks of residential care.
- If your main home is jointly owned your equitable share of the property will be taken into account if you need residential care.
- National Savings Certificates and Ulster Savings Certificates
- Premium Bonds
- Stocks and shares - the market value of the shares will be taken into account less 10% even if the shares were purchased before you had knowledge of a need for care.
- capital held by the Court of Protection or a Deputy appointed by that Court
- any savings held in:
  - a. building society accounts
  - b. bank current accounts, deposit accounts or special investment accounts. This includes savings held in the National Savings Bank, Girobank and Trustee Savings Bank.
  - c. save as you earn (SAYE) schemes
  - d. unit trusts
  - e. co-operatives share accounts.
  - f. Cash
- trust funds

### Common approaches to deprivation

Deliberate reduction of your assets when you have knowledge of a need for care will be considered a deprivation. This list is intended as a guide and is not exhaustive:

This may include;

- Transferring a property to a family member / friend /third party at undervalue or for no value.
- Selling a property at undervalue.
- Putting a property into multiple names.
- Creating a trust to avoid a property being taken into account.
- Investing the proceeds of sale or spending the proceeds of sale of a property.
- Placing the proceeds of sale in an account not belonging to you.

### Payments / gifts

This list is intended as a guide and is not exhaustive:

This may include;

- Lump sum payments to a family member / friend / third party.
- Large gifts – a large total sum gifted accumulatively over a year may be considered a deprivation.
- Reasonable gifts such as birthday or Christmas presents would not be considered a deprivation.
- Allowing a family member / friend / third party to access your bank account and withdraw funds with or without your consent.
- Where you chose to withdraw funds from your pension on retirement so that you can manage it directly, this may be treated as assessable capital. If the funds released from the pension are invested in assets that are disregarded, the fund could still be assessable capital if the reinvestment is treated as deliberate deprivation of capital to avoid care charges.
- Expenditure deriving from capital from a pension lump sum may be regarded as a deliberate deprivation of assets in some circumstances.

## Assets

This list is intended as a guide and is not exhaustive:

This may include;

- Buying expensive assets, for example art work or cars.
- Living beyond your means or spending out of character.
- Buying Investment bonds with life insurance.
- Putting funds aside for funeral costs without buying a funeral plan.

There is further information about Deprivation of Assets in the Care and Support Statutory Guidance Annex E.

## Delays to the Financial Assessment Process

If you (or your financial representative) unreasonably delay completing the financial assessment the Council will apply a Light Touch Financial Assessment and you will be assessed to pay the full costs of your care and support from the start date of the service provision.

If you then provide information for a full financial assessment within four weeks, which results in a lower charge, any reduction in charge will be reimbursed or credited against future Care and Support charges. If you provide the information after four weeks consideration will be given to refunding the difference – depending on the circumstances of the case and the reasons for the delay. The Director of Adult Care holds discretion in this matter. <sup>33</sup>

'Unreasonable delay' will be determined on an individual basis; as a general rule, however, the Council expects you (or your representative) to be available to

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<sup>33</sup> See the Councils Guide Working Out Your Care charges Annex A

complete a financial assessment within four weeks of contact from the Care Finance Officer.

If the Care Finance Officer asks you for further information to support or complete your assessment, the Council would expect you to provide this within two weeks of the date it was requested.

### Financial Assessment Reviews

You can ask the Care Finance Officer to review your financial assessment at any time.

The Council will periodically review your financial assessment – usually annually – either when your care and support assessment is completed or when pensions, benefits and allowances change in April.

Your financial assessment review may be completed automatically when pensions, benefits and allowances change or a Care Finance Officer may contact you to carry out a full review of your financial circumstances. If your financial review changes what you are charged the Care Finance Officer will confirm this to you in writing.

If you disagree with your financial assessment you should contact the Care Finance Officer in the first instance to try and resolve any issues as soon as possible. We will go through the information to check that the assessment is correct and that the calculation or decisions have considered all your relevant information in line with the policy.

If you still do not agree with the Council's decision you can make a formal complaint to the Complaints and Data Protection Team Manager  
[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Council's complaints procedure can be viewed at  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Council's complaints team you can refer the matter to the Local Government and Social Care Ombudsman  
<https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

### Change in Circumstance

If your financial circumstances change at any time you must let us know immediately about these changes as they may affect your assessment and the amount you need to pay. If you do not let us know and we find out at a later date, you may have to pay a backdated charge if your assessment has changed.

If you fail to notify us and the Council becomes aware of a change to your financial circumstances, the Council will, at their discretion, take the change into account in

your financial assessment. This may result in a change to your assessed charge, if there is an underpayment of your assessed charge the Council will seek payment of this sum from you. If this means there is a change to your assessed charge and the Council has overcharged you, the Council will refund you the sum of the overpayment.

### Use of Financial Information

The information collected and stored about your financial assessment is collected and store in compliance with the General Data Protection Rules<sup>34</sup>. The Council will only share this information in accordance with the General Data protection Regulations. The Council and/or VirginCare will provide you with a privacy notice either via the Councils website or in paper format at your request. The Regulations also give you the right to see the information that the Council keeps about you.

### Appeals

The Council wants to ensure that any charge you are asked to pay is fair and reasonable. Sometimes people using care and support services may experience exceptional circumstances which the Council will consider on an individual basis.

If you disagree with the outcome of your financial assessment or deferred payments / Interim Funding Decision you should contact the Care Finance Officer in the first instance to try and resolve any issues as soon as possible. The Care Finance Officer will go through the information with you and check the assessment / decision has considered all of the relevant information in line with the Charging and Financial Assessment rules.

If you are still dissatisfied with the outcome the Care Finance Officer will advise you how you can lodge an appeal with the Team leader for Care Finance.

If you still do not agree with the Councils decision you can make a formal complaint to the Complaints and Data Protection Team Manager  
[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman  
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Telephone: 0300 061 0614

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<sup>34</sup> GDPR Clause 6.1(c) and 6.1(e) and 9.2(b) and 9.2(g)

## Debt Recovery

If you are unable to pay your charge for care and support when they are due, either in full or in part, you must tell us as soon as possible so that we can discuss this with you and attempt to find a resolution.

You will be sent two reminders the first will be sent 28 days after the initial invoice and the second will be sent 42 days after the initial invoice.

If your care and support charges remain unpaid and there is no good reason why you (or your financial representative) are unable to pay your charge, the Council will start debt recovery action<sup>35</sup>

The Council may consider allowing payment of the debt by instalments, we will require the full debt to be repaid within a short period depending on your financial circumstances and you will be asked to sign an undertaking confirming the terms of any agreement reached.

If your care and support charges remain unpaid despite the Council's reasonable attempts to recover the debt, we will consider making an application to the County Court to issue a claim to seek a judgment against you, if we do this you could also be liable to pay the Council's legal costs and interest on the debt at a rate agreed by the Judge.

## Financial Assessment and Charging for Care Home Accommodation

If you have care and support needs identified that can only be met in a care home, you will need to pay a charge towards your accommodation fees in the care home.

- If your capital assets (such as savings and investments) are above the Upper Capital Limit, you will need to pay the full costs of your care home fees, usually, directly to the care home.
- If your capital assets are below the Upper Capital Limit, the Council will carry out a financial assessment with you to work out how much your charge towards the costs of the weekly care home fees will be.<sup>36</sup>
- If you own a property, or part of a property, or have a beneficial interest in a property, there are rules around whether this is counted within your Capital assets or disregarded. See if you own a property below.
- If you qualify for Funded Nursing Care part of your weekly care charge will be paid through the NHS.<sup>37</sup>

There are exceptions to being charged for care and support:

- If your care home placement is an 'After-care' support service provided under section 117 of the Mental Health Act 1983, you will not need to have a financial assessment as you will be exempt from charge.

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<sup>35</sup> Care and Support Statutory Guidance – Annex D: Recovery of Debts

<sup>36</sup> See Annex B

<sup>37</sup> See Annex B

- If your care home placement is fully paid by the NHS through Continuing Healthcare you will not need to have a financial assessment as the care and support is provided free by the NHS.<sup>38</sup>
- If you are placed in a Step Down bed
- If you are receiving services from the integrated reablement service for a short period of intensive therapies and support from health and social care professionals to promote regaining independence<sup>39</sup>. (Please note that once the reablement service confirms that your short term reablement goals have been met, you may become charged for any additional services if the reablement service continues to meet your ongoing care needs while a long term care provider is found)

If you are responsible for the full charge of your care home because your savings and investments are above the Upper Capital Limit the Social Worker can arrange advice and support to help you choose a suitable care home that will meet your needs, You should consider:

- Find out from the care home what happens if your savings / investments fall below the Upper Capital Limit. For example would the home accept local authority payment rates or would they require you to nominate someone to pay a third party top-up. If you do not have anyone who could pay a third party top up you should ensure you chose a home that will accept local authority payment rates.
- You are responsible for paying the care charges directly to the care home
- If your savings / investments reduce and approach the Lower Capital Limit, you should contact the Council and request help with the care home costs. The Council will also review your care and support needs at the same time to make sure that the care home still meets your identified needs.

If you ask the Council to arrange your Care Home placement you will be charged an arrangement fee of £250.00 plus VAT.<sup>40</sup>

If your capital assets are below the Upper Capital Limit, and you do not own any property, the Council will carry out a financial assessment of your income and capital assets to work out your 'calculated weekly care charge'. The Council use national rules to do this called the 'Care and Support (Assessment of resources) Regulations 2014' which are issued under section 17 of the Care Act 2014.

If you have chosen to move to a care home that is more expensive than the care homes that the Council have identified to meet your needs, you will need to identify a person who is willing and able to make top up payments – to pay the shortfall, this is called a third party top-up. See third party top-ups.

Your financial assessment will always make sure you are left with an amount for you to use for your day-to-day personal expenses in the care home. There is a standard amount for this Personal Expense Allowance set out in the Care and Support (Charging and Assessment Resources) Regulations 2014 which is reviewed each year by the Government. The current rate is shown in Annex A.

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<sup>38</sup> You will need to request an assessment and meet the criteria

<sup>39</sup> Clause 4 of the Care and Support (Preventing Needs for Care and Support) Regulations 2014

<sup>40</sup> Clause 8.58 and 8.59 of the Care and Support Statutory Guidance

### If you own a property

If you own a property, or have a beneficial interest in a property, the Care Finance Officer will check whether the property capital is disregarded.

The Care and Support (Charging and Assessment of Resources) Regulations 2014 and the Care and Support Statutory Guidance set out the circumstances in which property capital is always disregarded.

For example:

- If your spouse or partner still lives in the property your property capital would be disregarded in the financial assessment for as long as they continue to live at the property
- If you have a relative aged over 60, or a disabled relative who resides at the property the property would be disregarded for as long as they remain residing at the property.

The regulations state who counts as a 'relative' and the Statutory Guidance gives more information<sup>41</sup>.

Your property capital is disregarded for the first 12 weeks of moving permanently to a care home.<sup>42</sup>

The purpose of the 12 week property disregard is to provide time to allow a long term decision about the property to be made.

The 12 week property disregard applies if:

- You move into a care home for the first time, and, as a result of the ownership of your home, you are responsible for the full charge of the care home fee.
- You are already living in a care home, and your property was previously disregarded in your financial assessment under a statutory disregard or a discretionary disregard, but, due to a change of circumstance those disregards are no longer relevant and the value of the property means you would be responsible for the full charge of the care home fees. A change of circumstance could, for example, be where a partner or relative living in the property goes into a care home themselves, or moves house or passes away.

The 12 week property disregard only applies to your sole or main residence prior to moving into a care home. It does not apply to any other property or land you own.

If you have savings and capital above the Upper Capital Limit at the start of your placement in a care home, and you own a property, you have the opportunity to make decisions about what to do with your property during the period you are able to self-fund – unless this is less than 12 weeks. In this event you will be entitled to the remaining period of the 12 week property disregard from the start of your placement. For example if you can self-fund for a period of 6 weeks from the start of the care

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<sup>41</sup> Annex B Clause 35 of the Care and Support Statutory Guidance

<sup>42</sup> The Care and Support (Charging and Assessment of Resources) Regulations 2014 Schedule 2 Paragraph 2.

home placement you would be entitled to a further 6 weeks property disregard period.

Your financial charge during the property disregard period will be based on a financial assessment of your income. The Care Finance Officer will carry out the financial assessment based on your financial circumstances excluding the value of your main property. The financial assessment will take account of your income and any savings or assets above the Lower capital Limit and leave you with your personal expense allowance.

In addition to your personal expense allowance during the 12 week property disregard period you will be allowed the costs of<sup>43</sup>:

- Rent / mortgage
- Buildings insurance (subject to evidence being provided of the amount being paid for building insurance only)
- Council tax
- Utility standing charge
- Basic property maintenance

Your income based charge will be paid directly to the care home and the Council will pay the difference between your payment and the total weekly care home charge, with the following exceptions:

- If the care home is Council owned your weekly care charge will be paid directly to the Council
- If the Council has agreed with the care home under their contract to make full payment your weekly care charge will be paid directly to the Council

If the Council pays your weekly care charge the assessed weekly charge is due for payment at the time we raise an invoice. See how to pay your Charges for Care and Support.

If you receive Attendance Allowance, Disability Living Allowance (Care Component) or Personal Independence Payment (Daily Living Component) these benefits will continue to be paid to you by the Department of Work and Pensions for the first four weeks that you are in the care home or hospital. After the first four weeks these benefits are not payable to you whilst the Council provides funding towards your care home costs.

At the end of the 12 week property disregard period, if you have not entered into a deferred payment agreement, you will become responsible for the full cost of your care home placement.

If you ask the Council to arrange your Care Home placement you will be charged an arrangement fee of £250.00 plus VAT.<sup>44</sup>

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<sup>43</sup> Annex C Clause 46(d) the Care and Support Statutory Guidance

<sup>44</sup> Clause 8.58 and 8.59 of the Care and Support Statutory Guidance

## Discretionary Disregard of Property

The Care Act 2014 sets out a number of situations where the property you live in and have a beneficial interest in, must be disregarded<sup>45</sup>.

However there may be circumstances where the Council considers it appropriate to disregard your interest in the property, even though we are not required to by the national Regulations, this is a discretionary disregard<sup>46</sup>.

The Council must balance the use of this discretion with the need to ensure that public funds are not used inappropriately.

If you ask us to consider disregarding your property on a discretionary basis, in making this decision we will consider our financial resources, and the following factors:

- The reason for the occupation of the property by any third party
- The timing of the move to the property by any third party
- How long has the third party resided at the property
- What is your relationship with the third party
- Has the third party cared for you and if so for how long and what was the main reason for the move to your property
- Where did the third party reside before moving to the property
- When did you first have identified care needs
- When was care home accommodation first considered as an option for you
- Has the third party made any financial contribution to the property and if so how much and why.
- How is the property owned

The weight placed against each factor in considering the request will depend on the individual circumstances and actions taken. The decision will be made by a Senior Manager or the Councils Panel.

You can ask your Care Finance Officer if you would like the Council to consider a discretionary property disregard.

The Council will require you to provide all the information relevant to your request, once this information has been gathered the request will be considered by the Team Manager for a decision.

In difficult cases advice may be sought from the Council's legal advisers.

If your request is turned down you will be informed of the reasons in writing and the Council will inform you how you can make a complaint if you disagree with the decision.

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<sup>45</sup> See Clause 34-41 Annex B of The Care and Support Statutory Guidance

<sup>46</sup> See Clause 42-44 Annex B of The Care and Support Statutory Guidance

## Financial Assessment and Charging for Non-Residential Care and Support.

If you have care and support needs whilst living in supported accommodation or at home you may need to pay something towards your care and support.

If your savings and capital assets are above the Upper Capital Limit, you will need to pay the full cost of your care and support. We can help you arrange your care and support or we can make the arrangements for you.

If you ask us to arrange the care and support on your behalf you will need to pay the full cost of your care and support.

If your total savings and capital assets are less than the Upper Capital Limit, we will carry out a Financial Assessment to work out your 'calculated weekly care charge'.

To calculate your weekly care charge we carry out the following assessment:

Weekly income + Tariff income on savings

- Housing expenses
  - Minimum income guarantee
  - Disability related expenditure
  - Allowable expense commitments
- = calculated weekly care charge

Weekly income is the amount of income you receive<sup>47</sup> that is included in your financial assessment (any earned income is disregarded<sup>48</sup>). Your income is converted into a weekly figure in the financial assessment.

Tariff income on savings is a weekly amount calculated from capital assets that are not disregarded. If you have capital assets above the Lower Capital Limit but less than the Upper Capital Limit we will include £1 for every £250<sup>49</sup>.

Housing expenses – see 'Housing Expenses' for what costs are allowed in your Financial Assessment.

Minimum Income Guarantee is an allowance given in the assessment by the Government to cover living costs – see Minimum Income Guarantee for further information.

Allowable expenses commitments – see allowable expense commitments.

Disability Related Expenditure (DRE) the Council may make an allowance in your financial assessment for expenses in relation to disability or medical conditions – see Disability Related Expenditure.

If you live with a partner:

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<sup>47</sup> This may include notional income if you are entitled to income that you have chosen not to receive. For example, if you have a pension fund that you have chosen to draw a lower amount than you are entitled to, your weekly income will include the full amount of income you were entitled to draw from an annuity product.

<sup>48</sup> Clause 8.21 of the Care and Support Statutory Guidance

<sup>49</sup> Clause 8.20 of the Care and Support Statutory Guidance

You will need to identify:

- Your own income
- Your own capital
- Your own expenses
- AND any income, capital and expenses that both you and your partner are entitled to or incur jointly (this could be income received, and/or capital held, and/or expenses incurred by either you or your partner on behalf of both of you). The Council as a starting point will assume that joint income and capital are owned in equal shares; however it is for you to produce evidence of any assertion that income and/or capital are held in unequal shares.

Examples of income that are treated as received jointly for couples include but are not limited to:

- Pension Guarantee Credit
- Pension Saving Credit
- Income related Employment Support Allowance
- Universal Credit

The Council will assume that the payment of benefits and credits such as these are shared equally between both members of the couple, regardless of who the payment is made to.

The Minimum Income Guarantee (MIG) allowance that will be used in the financial assessment where the individual is part of a couple will be that shown in the Care and Support (Charging and Assessment of Resources) Regulations 2014<sup>50</sup> relating to an adult who is part of couple.

### Calculation of Income

In the Financial assessment process your sources of income will be included, disregarded or partially disregarded. The Government provides guidance on which sources of income the Council must disregard and gives the Council discretion in respect of other sources of income.

The table below shows how sources of income are treated by the Council.

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<sup>50</sup> Clause 7.4 of the Care and Support (Charging and Assessment of Resources) Regulations 2014 as amended by [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/677736/Local\\_authority\\_circular\\_-\\_charging\\_for\\_care\\_and\\_support\\_LAC\\_DHSC\\_2018\\_1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/677736/Local_authority_circular_-_charging_for_care_and_support_LAC_DHSC_2018_1.pdf)

Key –

I Included

D Disregarded

PD partially disregarded

SOURCE OF INCOME	HOW THE CARE FINANCE OFFICER TREATS
Armed Forces Independence Payment	D
Attendance Allowance	I
Boarders	PD <sup>51</sup>
Carers Allowance	I
Child Benefit	D
Child Tax Credit	D
Child Maintenance	D
Charitable Income	D/PD <sup>52</sup>
Constant Attendance Allowance	I
Court Order Payments or Settlements	I
Disability Living Allowance (Daily Living)	I
Disability Living Allowance (Mobility)	D
Earnings	D
Employment and Support Allowance *	I
Equity Release Scheme Income	I
Exceptionally Severe Disablement Allowance	I
Guaranteed Income Payments (paid under Armed Forces Compensation Scheme)	D
Housing Benefit	D
Incapacity benefit	I
Income Support *	I
Industrial Diseases Benefit	I
Interest from Capital (such as savings and investments)	D or I <sup>53</sup>
Income from Trade Unions and Friendly Societies	I
Job Seekers Allowance *	I
Lodgers and self-supporting children living at home	I
Maintenance Payments specifically relating to children	D
Nationalist Social Persecution Payments	D
Notional income - this may include notional income from pension funds where a lower amount is being drawn, or where a pension income has been deferred	I <sup>54</sup>
Occupations Pension – Personal Pensions	I
Pension Guaranteed Credit	I

<sup>51</sup> Annex F clause 20 of the Care and Support Statutory Guidance

<sup>52</sup> This may be fully disregarded or partially disregarded in line with Part 4 Clause 16, 22 and Schedule 1 of the Care and Support (Charging and Assessment of Resources) Regulations 2014.

<sup>53</sup> If the capital has been included in the financial assessment, the income received from the capital is usually disregarded. If the capital is not included in the financial assessment, the income received from the capital is usually included. The Care and Support Guidance (Annex A and B) has further examples.

<sup>54</sup> Notional income is an amount of money that is counted in the financial assessment where the individual could access (or could have accessed) that money as income if they chose to, but have chosen not to.

Personal Injury Payments	D subject to investment <sup>55</sup>
Personal Independence Payment (Daily Living)	I
Personal Independence Payment (Mobility)	D
Severe Disablement Allowance	D
State Pension	I
Social Fund Payments	I
Sub Tenants	D
Trust Fund Income	I/D <sup>56</sup>
Universal Credit *	I
War Pension paid to Veterans	I
Widows Benefit	D
Winter Fuel and Cold Weather Payments	D
Working Tax credit	D

\* Personal Injury payments will be disregarded for 52 weeks<sup>57</sup> from the date of receipt and then taken into account in any financial assessment unless the sum received is placed in a trust fund or Deputyship account.

\* Income from means-tested benefits paid to one member of a couple are considered as shared equally between both members of the couple:- 50% of a couple's income-related Employment and Support Allowance; Pension Credit; and Universal Credit is considered within the financial assessment for the member of the couple who receives the care and support.

All other income not listed in the table will be considered in the Financial Assessment in line with the Care and Support (Assessment of Resources) Regulations 2014, along with any tariff income from savings and capital.

Tariff income is a weekly amount calculated from capital assets that are not disregarded. The weekly amount is added to your income in your financial assessment. This is calculated as follows:

LEVEL OF CAPITAL OR SAVINGS	HOW THIS IS CONSIDERED IN THE FINANCIAL ASSESSMENT
£0 - £14,250	Disregarded
£14,251 - £23,249	Tariff income is calculated at the rate of £1 for every £250 or part thereof <sup>58</sup>
£23,250 +	Full cost of care and support applies at or above this level

<sup>55</sup> Clause 15(3)(c) and 22 of the Care and Support (Charging and Assessment of Resources) Regulations 2014 and Schedule 10 Para 12 and 12(a) of the Income Support (General) Regulations 1987.

<sup>56</sup> Treatment of Trust Funds income depends on the situation and are detailed in the Care and Support (Assessment of Resources) Regulations 2014 Part 1 Clauses 22 and 27

<sup>57</sup> Paragraph 12 of Schedule 10 of the Income Support Regulations (personal Injury Trusts)

<sup>58</sup> Clause 8.20 of the Care and Support Statutory Guidance

## Housing Expenses

The Council will make allowance in the non-residential financial assessment for your housing costs. Sharing costs – if you share a household with other adults, the amount of the housing costs item that is allowed in your financial assessment will be on the basis that costs are shared equally by the number of adults in the household, unless the Council has information to show that a different way of sharing the costs should be considered.

Allowances are made depending on your housing tenure and circumstances, including:

- Rent (net of housing benefit). If you are entitled to receive full housing benefit or Universal Credit Housing Allowance but you have your benefit reduced by a 'non-dependent deduction', your financial assessment will not show an allowance for the non-dependent deduction amount.
- Mortgage (net of assistance through benefits such as Pension Credit, Employment and Support Allowance and Universal Credit)
- Council Tax (net of Council Tax Support). If you are entitled to receive full Council Tax Support but have your support reduced by a 'non-dependent deduction', your financial assessment will not show an allowance for the non-dependent deduction amount.
- Essential service charge and ground rent net of funding through benefits
- Water – the Council will allow the costs of the standing charge
- Gas and electricity - the Council will allow the costs of the standing charge
- Home Buildings insurance<sup>59</sup> (subject to evidence being provided of the amount being paid for building insurance only)

### Allowable Expense Commitments

An allowance for the following expense commitments may also be made in your financial assessment, if they apply to you:

- Payments under a Court Order (e.g. child maintenance)
- Educational expenses at the discretion of the Council and if they are identified in your care and support plan (these are costs associated with a registered education or training course at University or College). Costs are apportioned across the year, and a weekly allowance is calculated. Allowable expenses include tuition and study materials (e.g text books) subject to the course being appropriate to assist with obtaining work and may include tools required for an apprenticeship, if you have to pay for them. You should retain receipts of expenses as proof.

### Minimum Income Guarantee (MIG) for Basic Living Costs

This is the level of income that national rules state you must be left with before any charge can be made for non-residential care and support services. This Minimum Income Guarantee is to ensure that you are left with money to cover your day-to-day

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<sup>59</sup> See Annex C Clause 49 of the care and Support Statutory guidance

basic living expenses. The level of the Minimum Income Guarantee varies depending on your age and other circumstances at the time of your financial assessment.<sup>60</sup>

If you live with a partner who is on a low income<sup>61</sup> you and your partner can request that the Council carries out an affordability check of your joint situation to ensure that your level of Minimum Income Guarantee f(or basic living costs) maintains your joint financial resources above Department for Work and Pensions minimum levels.

### Disability-Related Expenditure (DRE)

This is an allowance that is made in your financial assessment for additional expenses due to disability or medical condition if you receive Attendance Allowance or Personal Independence Payment, Disability Living Allowance (Care component) or Health Allowance component of Universal Credit. Your Social Worker will as part of the care and support assessment refer any request related to a disability and/or medical condition to their Social Work Team Manager who will decide if this cost will be allowed as part of your financial assessment.

DRE will be considered when:

- The extra cost is needed to meet your specific need due to a medical condition and/or disability, as identified in your care and support plan<sup>62</sup>.
- The cost is reasonable and verified
- It is not reasonable for a lower cost, free alternative item or service to be used. If a lower cost alternative could have been used, the expense considered will be capped at the cost of the lower item.

DRE Allowance is not allowed for

- General items or services required for daily living, which would be used by the general population;
- Any item or service met by payment from a grant (e.g. Disability Facilities Grant) or where another funding source has been provided;
- The difference between the actual cost and the lower cost alternative where the Council considers it reasonable for a lower cost alternative;

Where a particular item of expenditure combines more than one item or service the Council will only consider the part of the expense that is meeting the specific disability or medical condition. For example, if you pay a hairdresser the hair washing cost would be considered if you could not do this task yourself, however, hair cutting costs would not be allowed, as this is a service used by the general population and is not a disability related expense.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/677736/Local\\_authority\\_circular\\_-\\_charging\\_for\\_care\\_and\\_support\\_LAC\\_DHSC\\_2018\\_1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/677736/Local_authority_circular_-_charging_for_care_and_support_LAC_DHSC_2018_1.pdf)

<sup>61</sup> 'Low Income' relates to income (including tariff income from savings) below Department for Work and pensions minimum allowance/personal allowance levels of benefit.

<sup>62</sup> Annex C Clause 39-41 of the care and Support Statutory Guidance.

Sharing costs – if you share a household with other adults, and the additional disability-related expense item relates to a service that supports the household as a whole (for example payments to a cleaner) the amount of the expense item that is allowed in your financial assessment will be on the basis that costs are shared equally by the number of adults in the household, unless the Council has information to show a different way of sharing the costs should be considered.

### Assessed Weekly Charge

Your assessed weekly care charge is the amount you are required to pay towards the costs of your non-residential care and support. You will not be asked to pay more than your assessed weekly care charge.

- a. if your assessed weekly care charge is nil, you will receive your non-residential care and support service free of charge.
- b. If your assessed weekly care charge is more than the cost of your agreed care and support, you will pay the full cost of your care and support.
- c. if your assessed weekly charge is less than the cost of your care and support, you will pay only your assessed weekly charge towards your care and support.

### Annual Review

We will review your charge annually. This usually happens around the time that pensions, benefits and allowances change in April.

If you disagree with your financial assessment you should contact the Care Finance Officer in the first instance to try and resolve any issues as soon as possible. We will go through the information to check that the assessment is correct and that the calculation or decisions have considered all of your relevant information in line with the policy.

If you still do not agree with the Councils decision you can make a formal complaint to the Complaints and Data Protection Team Manager  
[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman  
<https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

## How to pay your charges for Care and Support

You will be required to pay your assessed weekly charge directly to the Care provider if you are assessed as self-funding. This will be either the Care Home or the agency providing the care and support in other settings.

If the Council pays your assessed weekly charge you will be sent an invoice 4 to 8 weeks in arrears and payment is due immediately. If you make payment by direct debit payment will be made by the 5<sup>th</sup> of the month following the date of the invoice.

### **7. Section 117 And Social Care Packages Of Care**

If the service you receive is an after-care service under Section 117 of the Mental Health Act 1983 you will not require a financial assessment and you will be exempt from charge for the care and support provided under your Section 117 after care plan.

Your care and support plan may show that only a percentage of your care and support is funded under Section 117 and the remainder is funded by social care.

For the percentage of the care and support plan that is social care funded you will have a financial assessment carried out to assess what you can afford to pay towards the social care element of the identified care and support needs.

The financial assessment will be on the same basis as that for non-residential or residential care and support dependant on where you receive your care and support.

You will be required to pay your assessed weekly care charge:

- a. if your assessed weekly care charge is nil, you will receive your non-residential care and support service free of charge.
- b. If your assessed weekly care charge is more than the cost of your agreed care and support, you will pay the full cost of your care and support.
- c. if your assessed weekly charge is less than the cost of your care and support, you pay only your assessed weekly charge towards your care and support.

### **8. Mental Capacity To Manage Finances**

If you have mental capacity but would like another person to manage your finances for you, you can nominate that person on the finance assessment form and the Council will deal with this person on your behalf, the Council will continue to keep you informed and consult with you where appropriate.

If you have capacity but would like another person to be able to sign legally binding documents on your behalf, you will need to appoint a Lasting Power of Attorney. The Council will deal with the appointed attorney on your behalf, the Council will continue to keep you informed of all decisions and consult with you where appropriate.

If you are legally appointed to act for someone the Council is arranging care and support for, who lacks mental capacity<sup>63</sup> to manage their finances you must provide us with:

- Evidence of your legal authority to act as the financial agent for that person such as-
  - A registered Lasting Power of Attorney: or
  - A registered Enduring Power of Attorney: or
  - A deputyship Order from the Court of Protection<sup>64</sup>

You will need to provide any financial information required to carry out the financial assessment for the person needing care and support.

The Care Finance Officer will then:

- Send you any correspondence addressed to the person you represent.
- Require you to sign any financial documents or contracts on behalf of the person you represent.
- Require you to settle any invoices for care charges raised in the name of the person you represent.

If you act for a person who lacks mental capacity you should ask the Department for Work and Pensions (DWP)<sup>65</sup> to appoint you to deal with the state benefits for that person (an 'appointee for benefits').

An 'appointee for benefits' has authority to deal with state benefits only for that person and may not have access to other financial information or assets records belonging to that person. Where state benefits are the only source of income, and there are no other financial assets (such as savings, investments, property) it will usually be possible for the financial assessment to be completed.

If the person who lacks capacity has other assets (such as a private home, savings, investments, and private income) a suitable representative will need to make an application to the Court of Protection to become Deputy so they can deal with the person's finances and affairs.

The Deputy can be a family member, friend or solicitor. If no suitable representative can be identified, the Council will make the application to the Court of Protection to become Deputy or to have a panel Deputy appointed (usually a solicitor).

If you have applied to the Court of Protection, or you intend to apply, to become Deputy you should inform the Council and Department of Work and Pensions.

While your application is in process:

The Court of Protection can take a long time to process the application for Deputyship; the usual timeframe from when the application is sent to the Court of

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<sup>63</sup> Clause 2 Mental Capacity Act 2005

<sup>64</sup> Clause 19 Mental Capacity Act 2005

<sup>65</sup> For further information see [www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant](http://www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant)

Protection is around 5 months. During this time if you are able to provide sufficient information about the persons finances the Council will carry out the financial assessment and the Council will give you information about any potential charges for the care and support.

If the Council can complete a financial assessment we will send you invoices for the care and support charges but allow for payment to be delayed until you receive legal authority to access the necessary accounts.

If the Council cannot complete a financial assessment we will defer the assessment until you have the legal authority to access the financial information and backdate any assessed charges to the date the person started receiving the care and support. The Council may work out an interim charge based on state benefits and send an invoice for that amount, once you have authority to access the person's financial information the Council will complete the financial assessment and backdate the assessment to the date the person started receiving care and support making any required adjustment for payments made.

If the person you represent clearly has capital above the upper capital threshold that would not be disregarded the Council will consider the person to be a self-funder and will not provide financial assistance.

You can find information on becoming a financial representative see:

- Make decisions on behalf of someone [www.gov.uk/make-decisions-for-someone](http://www.gov.uk/make-decisions-for-someone)
- The Mental capacity Act 2005 [www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant](http://www.gov.uk/government/publications/making-decisions-who-decides-when-you-cant)
- Setting up and registering Lasting Power of Attorney [www.gov.uk/lasting-power-of-attorney-duties](http://www.gov.uk/lasting-power-of-attorney-duties)
- Registering existing Enduring Power of Attorney [www.gov.uk/enduring-power-of-attorney-duties](http://www.gov.uk/enduring-power-of-attorney-duties)
- Applying to the Court of Protection to become a Deputy [www.gov.uk/become-deputy](http://www.gov.uk/become-deputy)
- Being appointed by the Department of Work and Pensions to manage state pension and benefits [www.gov.uk/become-appointee-for-someone-claiming-benefits](http://www.gov.uk/become-appointee-for-someone-claiming-benefits)

You can also find information on the NHS website [www.nhs.uk](http://www.nhs.uk) – on the Guide to Care and Support pages.

## **9. Residence When Moving To Accommodation Outside Bath And North East Somerset Council**

If you move to accommodation outside of Bath and North East Somerset while we are responsible for funding your care (because of the availability of suitable accommodation) to meet your care and support needs, you still remain a Bath and North East Somerset resident.

The Council will keep the same responsibility for you that they have for someone living in the Bath and North East Somerset area. Only if you later choose to move by

private arrangement may you become 'ordinarily resident' in your new area. If this happens, your new Council becomes responsible for any future care and support assessment and/or funding<sup>66</sup>.

If you fund your own care and support and choose to move to a different area for accommodation to meet your needs (for example, to be closer to your family) you will usually become 'ordinarily resident' in the new area. If you become eligible for support from adult social care services in the future, the Council in your new area would be expected to fulfil this responsibility<sup>67</sup>.

## **10. Deferred Payment Agreements**

### Introduction

Deferred Payment Agreements are a way of making sure you are not forced to sell your home during your lifetime to pay for care, and to give you more flexibility about your care-funding options.

The 'Care and Support (Deferred Payment) Regulations 2014' set out the situations in which the Council must offer a Deferred Payment Agreement and where the Council may offer a Deferred Payment Agreement. These Regulations are set in accordance with the Care Act 2014 Sections 34 and 35.

A deferred Payment Agreement is generally only available to people who:

- Have identified needs assessed as being best met in a care home on a permanent basis; and
- Have been assessed to pay the full fees of care home accommodation because of property they own that takes their capital assets above the Upper Capital Limit.

The Council have taken a decision that Deferred Payment Agreements are only available to those in residential care.

This policy only applies to Deferred Payment Agreements entered into after the 6<sup>th</sup> April 2020 any agreement entered into on or before the 6<sup>th</sup> April 2020 will continue under the terms and conditions of your existing agreement.

A Deferred Payment Agreement will not be offered if you own your own home AND have capital or assets (including other property) above the Upper Capital Limit. In this case you are considered to be able to fund your own placement without the need to involve the Council for funding the Council can still provide you with an assessment, information and advice.

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<sup>66</sup> Chapter 19 Care and Support Statutory Guidance and Chapter 39 Care Act 2014.

<sup>67</sup> Chapter 19 Care and Support Statutory Guidance and Chapter 39 Care Act 2014.

## Background

A Deferred Payment Agreement (DPA) is an agreement between you and the Council, where the full payment for your care charges are 'deferred' (put off to a later date) and paid in the meantime by the Council – provided you can offer the Council a form of security ( a legal charge against your property). The money you owe to the Council for your care charge is then repaid to the Council when your home is sold, or from your estate, or from a third party at the end of the Agreement.

If your financial assessment shows you can afford to pay a charge from your income and other capital assets towards your care charges you will be required to pay your assessed charge throughout the term of the DPA. This will lower the amount of the deferred charges to be repaid to the Council at the end of the DEPA. A financial assessment will be carried out in accordance with the statutory guidance.

If you accept the offer of a DPA with the Council you will charge administration fees towards the costs of setting up and monitoring the DPA. You will also be charged interest on the charges that you defer from the start of the DPA.

## Eligibility Criteria

You are eligible to apply for a Deferred Payment Agreement if all points below apply to you:

- Your care assessment shows that your identified needs are best met in a care home; AND
- The total of your other capital assets (not counting your home) are below the Upper Capital Threshold; AND
- The property is registered at the Land Registry; AND
- The value of the property capital provides adequate security to the Council; AND
- The Council can secure the Deferred Payment Agreement through a first legal charge against your property: AND
- You own and have a legal and beneficial interest in your home; AND
- Any other person with a legal and /or beneficial interest in your home is willing and able to sign the required legal documents; AND
- The Council considers you have appropriate property insurance arrangements in place; AND
- You have capacity to enter into a Deferred Payment Agreement or you have a legally-appointed representative to enter into a Deferred Payment Agreement on your behalf.

## Specific Property Issues

Jointly-owned property – If your DPA is to be secured by way of a legal charge and the property is jointly owned then all registered proprietors (owners) must sign the legal charge and provide a completed identity form for the Land Registry, they must also confirm in writing that they will not object to the sale of the property when the time comes to settle the debt. You will need to provide proof of the percentage you

own and its potential value (at your cost); the maximum legal charge amount would be your share in the total value less 10% and £14,250.00 (the Lower Capital Limit).

Shared Ownership and Tenants in Common – A DPA can only be approved if all co-owners and/or landlord agree to the legal charge. You will need to provide proof of the percentage you own and its potential value (at your cost); the maximum legal charge amount would be your share in the total value less 10% and £14,250.00 (the Lower Capital Limit).

Equity Release – where part of the value of the property has been released by equity release the Council will require the person with the benefit of the equity release charge to agree to the Council charge being the first legal charge (by way of a deed of postponement) and the Council will require proof of your residual equity in the property.

Leasehold properties – if your property is leasehold you can apply for a DPA, however sometimes restrictions are placed on the title (registered at the Land Registry) and the agreement of the head landlord/ freehold owner is need to arrange placing the legal charge on the property. If this is the case it is your responsibility to arrange for and obtain this consent and to meet any costs. In the event that consent is not forthcoming the Council cannot accept the property as security.

Sole proprietor restriction – the property title can sometimes include a restriction that means a single person cannot consent to a change to the title, if this is the case the Council will either ask you to appoint a trustee to act as a second party or ask you to sign two documents that will remove the restriction, an ST5 and an RX3. It will depend on why the restriction is on the title.

Unregistered property – you must register your property with the Land Registry for a DPA and legal Charge to be secured against the property. If your property is unregistered the Council will require you to arrange and pay for first registration, you can find further information on the Land Registry website: [www.gov.uk/registering-land-or-property-with-land-registry](http://www.gov.uk/registering-land-or-property-with-land-registry)

If one or more of the registered owners of the property cannot give consent due to lack of mental capacity please refer to part 8 of this document in respect of Deputyship.

### Financial Information and Advice and Legal Advice relating to a Deferred Payment Agreement (DPA)

The Council will provide you information (in general terms) about:

- Types of financial security for a DPA;
- The maximum amount that can be deferred (the equity limit) and what happens once the equity limit is reached;
- How interest and administration costs are charge;
- What happens when the DPA terminates, options for repayment and what happens if you do not repay the amount due.

Equity limit – this is the term used to describe the maximum amount which you can borrow under a Deferred Payment Agreement (DPA).

This maximum amount is calculated by taking the value of the property and reducing it by 10% (or if the property is owned by more than one person the amount equal to their percentage ownership of the property i.e if the property is owned by 2 people 5%); and a fixed amount equivalent to the Lower Capital Limit.<sup>68</sup>

Example – property value	£200,000
Less 10%	- £20,000
Less fixed amount	£14,250 (lower capital limit)
Equity limit	£165,750

### Legal Charge

A legal charge is a legal document held by the Land Registry which is registered against your property when someone other than the registered owner(s) of the property wants to have it legally acknowledged that they have a financial interest in the property.

A legal charge in favour of the Council would need to be repaid on completion of the sale of the property, or on your death, so that the Council can arrange to remove their charge with the Land Registry.

The Council must obtain a first legal charge this means that the Council will be paid first when the property is sold. A legal charge can only be registered by the Land Registry if:

- All the property owners consent;
  - The property is registered at the Land Registry;
  - There are no leasehold restrictions, or, if there are, the head landlord/freeholder agrees to the legal charge;
  - Any charge already secured signs a deed of postponement
- The Council advises you to obtain independent legal advice before entering into the legal charge.

### Solicitor's Undertaking

A Solicitor's 'Undertaking' is a legally binding agreement. The Council may accept a Solicitor's Undertaking as security against your Deferred Payment Agreement or if you are provided accommodation in rented supported accommodation, extra care housing schemes or Shared Lives schemes. An undertaking is where your conveyancing Solicitor undertake (commits) to pay the Council the full amount of your Deferred Payment Agreement debt, usually from the proceeds of sale of your property.<sup>69</sup>

The Council will normally agree to fund your package of care and support on the basis of a Solicitor's Undertaking if you can confirm the following:

- The property is on the market and you have a prospective buyer; AND

<sup>68</sup> Clause 9.42 of the Care and Support Statutory Guidance.

<sup>69</sup> Clause 9.66 of the Care and Support Statutory Guidance.

- You have instructed conveyancing Solicitors; AND
- The instructed conveyancing Solicitors can confirm that completion of the sale will occur within 6 weeks.

If the Council cannot confirm the above you will be required to enter into a Deferred Payment Agreement (DPA) irrespective of the potential sale.

If the sale falls through you will be expected to enter into a Deferred Payment Agreement.

If you ask the Council to obtain a Solicitors Undertaking you will be charged an arrangement fee of £250.00 plus VAT.<sup>70</sup>

### Assessed Charge And Flexible Disposable Income Allowance

During the course of the Deferred Payment Agreement you will be assessed to make a financial charge based on your income and savings and assets other than your property. You are required to pay your assessed care charge on an on-going basis.

In calculating your assessed charge during your Deferred Payment Agreement you are allowed to retain a weekly 'disposable income allowance'<sup>71</sup> up to the amount set by statute. This disposable income allowance is more than, and in place of, the 'personal expense allowance' so that you have enough money for your personal expenses and to maintain and insure the property.

You can chose to keep the maximum disposable income allowance or a lower amount – as you wish. In deciding whether to keep your full disposable income allowance, you should consider the potential effect on the level of your deferred debt as well as the flexibility you have.

If you wish to keep more than the personal expense allowance you will need to inform us in writing when you return the signed Deferred Payment Agreement documents, you will be entitled to keep the higher amount once the Deferred Payment Agreement has been registered with the Land Registry.

You should seek independent financial advice before making decisions about entering into a Deferred Payment Agreement.

### Renting Out Your Property

If you wish to rent out your property while you have a Deferred Payment Agreement (DPA) you should seek independent financial and legal advice. This is a decision for you to make.

If you are applying for a DPA and are proposing a letting arrangement, you must let us know either by telling the Care Finance Officer when they carry out your financial assessment or by letter. Any tenancy agreement must be for 6 months or less.

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<sup>70</sup> Clause 8.58 and 8.59 of the Care and Support Statutory Guidance

<sup>71</sup> Clause 9.48-9.50 of the Care and Support Statutory Guidance

If your property is already let you must provide the Care Finance Officer with a copy of the tenancy agreement. Any tenancy agreement must be for 6 months or less.

The Council will include your net rental income as part of your assessed weekly charge for your care and support. Your net rental income will be the amount after the agent's fees, any liability to taxation and reasonable maintenance expenses.

You must make sure your property insurance is appropriate to a letting arrangement.

### The Deferred Payment Agreement Application Process

If you wish to apply for a Deferred Payment Agreement, you will need to do this in good time to allow for your application to be considered and legal arrangements to be in place before you need funding (for example, to be in place before the end of the 12-week property disregard period).

If you have been in a care home on a self-funding basis (because of the level of your income or capital) and you now wish to apply for Council funding and a DPA, you should submit an application for a DPA as soon as possible and no later than six weeks after the need to apply for DPA has been identified either by us or you<sup>72</sup>.

The Council will commence funding:

- If you<sup>73</sup> approach Social Services before the date your capital (excluding your property) dropped to below the upper capital limit of £23,250, the Council will fund from the date your capital drops to below the upper capital limit.
- If you<sup>74</sup> approach Social Services after your capital has dropped to below the upper capital limit of £23,250 the Council will fund from the date you approached Social Services.

#### 1: Information given to you about Deferred Payment Agreements (DPA)

If your identified needs show that a care home placement is appropriate to meet your needs, we will:

- Check with you whether you own your home and establish whether your property will be disregarded in your financial assessment;
- Carry out appropriate checks, including previous financial assessments and a Land Registry search;
- Tell you if we think you are eligible for a 12-week property disregard and Deferred Payment Agreement as soon as a placement in a care home is identified as appropriate;
- Give you information about the Deferred Payment scheme ;
- Carry out a financial assessment of your situation (your income, savings, details and value of your property capital, outgoings relating to your property);
- Invite you to apply for a DPA, giving a date by which you should return the completed application form. This date should be no later than six weeks from the date your placement started in the care home;

<sup>72</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

<sup>73</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

<sup>74</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

- Make clear to you that the DPA will only be agreed by the Council if all the owners of the property agree to the Legal Charge ;
- Tell you if you need to arrange a formal valuation of your property, if we do not agree with the valuation you obtain the Council may obtain its own valuation the Council will then discuss the valuations with you to mutually agree a valuation. The costs the Council incurs in carrying out the valuation will be reflected in the administration costs charged to you in the set up fees for the DPA.

## 2: Submit your Deferred Payment Application - Within six Weeks

- A DPA application form must be completed, signed by you<sup>75</sup> and returned to us within six weeks of admission to a care home on a permanent basis.
- The application for the deferred payment agreement must include the following information:
  - ❖ The room rate from the 13<sup>th</sup> week,.
  - ❖ Signed confirmation from the care home that the rate from week 13 is agreed.
  - ❖ The value of the property
  - ❖ Confirmation of who owns the property and on what basis (i.e. joint tenants, tenants in common, trust).
  - ❖ Whether you intend to seek a first party top up (see First Party Top Ups) and if so the amount.
  - ❖ A copy of the property building insurance.
  - ❖ Any Lasting Power of Attorney or Deputyship Order or a certified copy (if appropriate).
  - ❖ Any tenancy agreement (if appropriate).
  - ❖ If the property was jointly owned and one party has died the grant of probate or Will or a certified copy.
- If you are already in a care home and become eligible to apply for a DPA in other circumstances you<sup>76</sup> should submit an application for a DPA as soon as possible and no later than six weeks after the need to apply for DPA has been identified either by us or you. For example - this could be where your property had previously been subject to a statutory disregard but that disregard has now ended.
- You<sup>77</sup> will need to speak with the care home and negotiate the cost of care from week 13 onwards and obtain written confirmation from the care provider of the agreed rate, this must then be provided to the Council together with your application for a deferred payment agreement.
- If the deferred payment application is not fully completed and returned to the Council by the end of week six, the application will not progress, and at the end of week 12 the Council will deem you to be self-funding and you will be required to make payment of the full cost of care directly to the care provider.

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<sup>75</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

<sup>76</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

<sup>77</sup> Or your appointed representative – see Mental Capacity to manage Finance for more information.

### 3. Considering your Application and Making a Decision - Within 10 working days

We will check your DPA application form and follow up on any queries that may arise; including ensuring a property valuation has been obtained. We will need to have all information related to your DPA application, including what your intentions are for the property and the equity available. If you have given us all the relevant information we will consider all the information and make a decision.

If your application doesn't meet the criteria for a mandatory Deferred Payment Agreement we will carry out an assessment of whether your DPA is sustainable.

This assessment will address, among other things, the likely period of the DPA, the equity available, the level of any top-up and the period of time you would be able to defer the weekly costs. A top-up would be needed if you chose a care home whose fees are greater than the amount we would expect to pay to meet your identified needs (See the Choice of Accommodation and Additional Payments Policy).

The factors which will be considered when assessing sustainability are:

- the likely period you will want the DPA;
- the equity available;
- the sustainability of any contribution from savings;
- the flexibility to meet future care needs;
- the amount of any top-up payment for preferred accommodation;
- the period of time you would be able to defer your costs for;

We will decide whether the application meets the criteria set out in this DPA policy. If your application is accepted we will write to you to confirm our decision. We aim to do this within a week of receiving your application unless specialist financial or legal advice is required. This is our formal offer of a Deferred Payment Agreement to you. Our letter will also state:

- any conditions attached to the DPA, (for example, insurance requirements of the property).
- estimated administration charges<sup>78</sup> and interest rate that will be applied to the deferred debt
- when and how often we will send you statements of your deferred debt
- any benefits you may be entitled to claim when you make your own care funding arrangements and how to do this
- your assessed weekly charge which you need to pay on an on-going basis
- the agreed level of your weekly disposable income allowance
- the invoicing arrangements and how to pay your ongoing weekly assessed charge
- that failure to maintain your assessed weekly charge could result in the Deferred Payment Agreement being terminated
- the weekly amount that is agreed to be deferred under the DPA and any other costs agreed to be deferred under the DPA where the agreed security is a

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<sup>78</sup> Clause 9.30, 9.69 and 9.8 of the Care and Support Statutory Guidance

legal charge, and there are joint owners of the property, they must all consent to the placing of a legal charge against the property and, that if any of the joint owners do anything to prevent the legal charge being placed this will result in the offer of the DPA being withdrawn and the Council will immediately notify your care provider that it is ceasing to be involved in the placement.

Our letter constitutes an offer of a DPA to you and will state the date from which the DPA is proposed to start. It will be produced in duplicate, one copy to be signed by you and to be returned as your acceptance of the DPA offer. The other copy is to be retained by you.

The Council's Legal Department will draw up a Deferred Payment Agreement and documents relating to your identified security (usually a legal charge document relating to your property).

These are legally-binding agreements and the Council would usually send these directly to your legal adviser so that you can take advice from your legal adviser before you sign and return the Deferred Payment Agreement and documents (see Financial Information and Advice relating to a Deferred Payment Agreement (DPA)). If you do not have legal advisor The Council will send these directly to you or your financial representative.

You will need to read the Agreement, sign the documents and the DPA and return the Agreement and the documents relating to your security.

If other people need to give their consent as well as you (for example, if your property is jointly-owned, or leasehold), you will need to obtain ALL those necessary signatures on the documents<sup>79</sup>. We will tell you if this applies to you.

You must return the signed Deferred Payment Agreement and relevant signed legal documents (including signatures from other parties where needed) within 28 days. If you don't return the signed Agreement and signed document(s) relating to your security we will not be able to proceed with your DPA and you will need to make your own care funding arrangements. We will contact your care accommodation provider and tell them the date that the Council will stop funding your care. You will be charged the administration costs we incur.

(If the reason for not signing is because of lacking mental capacity, see DPAs for People Lacking Mental Capacity)

If your DPA application is refused we will tell you the reason/s and we will write to you to confirm this decision. You can appeal this decision if you wish - see Appealing the Council's decision about a DPA.

Our letter will explain:

- the reason(s) for refusing your application
- the start date for when you need to make your own care funding arrangements (usually the end of your 12-week property disregard period).

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<sup>79</sup> If you are acting on behalf of the Applicant as their legally-appointed representative and you are also a joint owner of the property being used as security, you will need to give permission both in your own right as a joint owner, and as the representative of the applicant as a joint owner on legal charge documents relating to the property.

- any benefits you may be entitled to claim when you make your own care funding arrangements and how to do this
- how to appeal our decision about your DPA application
- how to make a complaint
- that we will tell your care accommodation provider the date the Council will stop funding your care
- If there are administration costs that you need to pay, how much these are.

Where a DPA application is refused, any administration charges will usually be waived. However this will be considered on a case by case basis and if there is evidence that the application was pursued unreasonably (for example if you insisted on pursuing an application despite our advice about your eligibility), or you belatedly responded to our requests for information needed in order to establish your eligibility, or otherwise put us to excessive trouble, then the charges will be made.

#### 4. Your Deferred Payment Agreement starts

At the start of the DPA we will open up an account to record the following:

- The valuation of your property and the date of this valuation.
- Your agreed weekly deferred amount
- Administration costs and interest charges to be applied.
- The date of the first statement, which will usually be within six months of the start of your DPA<sup>80</sup> and every 6 months thereafter. These will be produced to match the review of interest rates by the Government (1 January and 1 July each year).

You can request to keep up to £144.00 per week of your income from the date the Deferred Payment Agreement commences<sup>81</sup>. Please note this will mean the amount secured against your property will increase quicker.

We may require you to revalue your property when debt deferred reaches 50% of the value of the security, and periodically thereafter. Any cost of revaluation will be re-charged to you through Administration charges.

#### DPAs for People Lacking Mental Capacity

If a person lacks the mental capacity to give informed consent to a legally binding agreement, it means they are not themselves capable of entering into a DPA. If someone else has been legally-appointed to act for them, that person can apply for a DPA on their behalf. To enter into a DPA on behalf of someone else, that person must be one of the following:

- a deputy appointed by the Court of Protection
- the holder of a registered Enduring Power of Attorney

<sup>80</sup> Paragraph 11(d)(i)(aa) of the Care and Support (deferred Payment) Regulations 2014.

<sup>81</sup> Clause 6(1) and 6(2) of the Care and Support (Deferred Payment) Regulations 2014.

- the holder of a registered Lasting Power of Attorney (which must include authority to manage the person's property and financial affairs).

The named 'applicant' on the DPA will be the person they act for, but the person acting for them will complete and sign the DPA on their behalf.

If there is no-one legally appointed to act, and the person lacks mental capacity to confer a Lasting Power of Attorney, attempts should be made to identify someone who is willing and able to apply to the Court of Protection to become a deputy for that person, to manage their property and financial affairs. This could be a relative, a friend, a solicitor, or where there is no-one else suitable, the Council.

The person applying to the Court of Protection must state their intent to enter into a Deferred Payment Agreement with the Council. Once the Court of Protection makes a 'First General Order' appointing the deputy, the deputy can enter into a DPA with the Council on behalf of the person. As the deputy application process takes time, the Council has an INTERIM FUNDING POLICY to deal with the period until a deputy has been appointed by the Court and can enter into a DPA with the Council.

If there is no one to act the Social Work team will refer the matter to the Councils Deputyship Team who will make the application to the Court of Protection for a panel Solicitor to be appointed to act on the person's behalf. The Council has an INTERIM FUNDING POLICY to deal with the period until a deputy has been appointed by the Court and can enter into a DPA with the Council.

You can request to keep up to £144.00 per week of the income received by the person from the date the Deferred Payment Agreement commences<sup>82</sup>. Please note this will mean the amount secured against your property will increase quicker.

## 5. Conditions Placed on Deferred Payment Agreements

We can't agree to a Deferred Payment Agreement if no suitable security is available or you wish to defer a larger amount than (in our assessment as set in The DPA Application Process ) you can provide security for.

We will require prompt settlement of your assessed charge during the lifetime of your DPA. (See Default Provisions which deals with the Council's position in the event these contributions are not settled promptly.)

We will require your property to be properly maintained and insured. We may require evidence of your property insurance at any time, including evidence that your insurer has been informed if your property is unoccupied for any period. If maintaining your property means that some of your savings are reasonably required to be used to bring the property up to a suitable standard of maintenance, we will not withhold its agreement to this use of capital unless there is evidence the level of cost is deemed unreasonable.

When an application for DPA is received we may require you to arrange a formal valuation of the property or the share of it owned by you. if you choose not to do so

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<sup>82</sup> Clause 6(1) and 6(2) of the Care and Support (Deferred Payment) Regulations 2014.

and the Council arranges a valuation the Council will charge you the costs of this. (See The Application Process above on how to proceed if these valuations differ.)

We may require you to arrange for a re-valuation when the amount deferred reaches 50% of the value of the security to ensure the level of deferred debt stays within the equity available. Any change in the value will be recorded and the potential impact on the DPA calculated and communicated to you. If you choose not to do so and the Council arranges a valuation the cost of this re-valuation will be charged to you as an administration cost.

If your level of capital changes. The following are examples but are not a comprehensive list:

- If you inherit a sum of money.
- If structural problems are discovered at your property, e.g. subsidence.
- Should a close family member move into or out of your property.

When your deferred debt reaches 75% of the value of the security your Social Worker will review the cost of your care and have a discussion with you about:

- when you might be eligible for means-tested support
- implications on any top-up payments if they are currently included in your care costs (through your preferred accommodation choice)
- potential changes to your welfare benefit entitlements.

### Interest & Administration Charges

Interest will be added to the amount you defer from the start of your Deferred Payment Agreement, at the maximum rate of interest set in the Care and Support (Deferred Payment) Regulations 2014<sup>83</sup> by the Department of Health. The Department of Health reviews this rate every six months effective from 1 January and 1 July in each year. If the amount you defer includes your administration fees, interest will be applied to those also.

Interest is charged at compound rates. This means that interest is added to the total debt including previous interest charges. Compounding will take place daily.

In the event that the equity limit is reached (see Equity Limit above) interest will continue to be added to the deferred debt until the total outstanding is settled.

Interest will continue to be charged after you die and/or after the service ends until the total outstanding is settled.

Administration fees will be charged when a Deferred Payment Agreement is set up and during the lifetime of your Deferred Payment Agreement<sup>84</sup> – including an annual administration charge. The schedule of Administration fees is shown at Appendix A –

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<sup>83</sup> This maximum rate is set in the Regulations as the weighted average interest rate on conventional Gilts plus .015% . The rate is reviewed every six months (after the Office of Budget Responsibility publishes its report of Gilts). Clause 9.71 and 9.75 of the Care and Support Statutory Guidance and Paragraph 9 of the Care and Support (Deferred Payment) Regulations 2014.

<sup>84</sup> Paragraph 10 of the Care and Support (Deferred Payment) Regulations 2014

Schedule of Fees and Charges and will be subject to annual review to take account of inflation.

We add your administration fees will be added to the amount deferred unless you request for these to be invoiced to you separately for immediate payment. You would need to request this when you apply for your Deferred Payment Agreement. Note that unless you pay the administration costs immediately these will be added to your deferred debt and you will be charged interest on the administration costs at the same rate as that applied to your deferred payment.

### Six-monthly Statements of Deferred Payment Agreements

The Deferred Payment Agreement starts to run from the date notified in your DPA Offer letter (see The DPA Application Process above).

Statements will be produced in May for the period up to the 31<sup>st</sup> March and November for the period up to the 30<sup>th</sup> September each year. These statements will be sent to You or Your Representative.

The statements will show:

- The original property valuation.
- The equity available or maximum amount which can be borrowed under DPA.
- Any revised property valuation
- The revised equity available resulting from this change in the property value.
- Payments received in settlement of the assessed charge.
- The amount of any interest charges and administration costs added to the debt.
- The total deferred debt outstanding including these interest and administration costs.
- Balance of equity still available (after deducting the amount of total deferred debt).
- Approximate period this equity is expected to last.

You may request a statement at other times and we will provide such a statement within 28 days of receipt of such request<sup>85</sup>.

### Settlement of the Deferred Debt

If you have placed the property for sale on admission to long-term care, or you have chosen to sell at a subsequent date, the accrued debt will be due for repayment upon the sale of your property. We will calculate the accrued debt and, on receipt of the outstanding monies, we will apply to the Land Registry to remove the legal charge against your property.

In this event your DPA will be terminated and you may become responsible for paying the full costs to your care home ('self-funding') - depending on the balance of funds available after clearing the deferred payments.

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<sup>85</sup> Paragraph 11(d)(i)(cc) of the Care and Support (Deferred Payment) Regulations 2014.

If your property has not been sold at the date of your death we will contact your executor, if known, within six weeks after your death. If the executor is not known and if you had previously identified a third party to help us reclaim the amount deferred, we will contact that third party within the same timescale. If neither is known then the person who was acting as your representative will be contacted. We will advise the person responsible that settlement should be made within 90 days of the date of death or a report provided on progress made and a likely date for settlement.

When making contact we will notify the amount outstanding and how this is made up and whether any further charges may accrue, for example further interest.

Should the executor or administrator of your estate decide to settle the debt without, or before, selling your property, we will accept such settlement and apply to the Land Registry to remove the legal charge or release any alternative security provided.

### Default Provisions

The Deferred Payment Agreement is a contract between us (the Council) and you (the Applicant).

- We will agree to pay the full cost of your placement to your care provider and you will either agree to allow a Legal Charge to be placed (and agreement by the other property owners in the case of jointly-owned property), or provide sufficient acceptable security. This security ensures that the Council can recover its outlay on your behalf for the period that your savings and assets, net of the level of deferred contribution, are greater than the upper capital limit.
- **Assessed charges during your DPA period:** you agree to pay your assessed charge in a timely way. We will send you regular invoices for this purpose.

Failure to pay your assessed charge for three months may lead to the Council refusing to continue deferring your ongoing care home payments. We will look at each case on its own facts and will not apply this clause if there are genuine reasons for non-payment, e.g. difficulty in accessing bank accounts, and will agree an alternative timescale.

We will give 30 days' notice of intention to apply this clause explaining how your care needs should be paid for from that date.

- **Reaching your equity limit:** We will also give 30 days' notice of the date that you are likely to reach the equity limit. In this case we will contact your care home and attempt to negotiate a rate that we would usually expect to pay to meet your needs, and will reassess your financial charge due.
- Should your property for which the DPA was arranged become occupied by a relative for whom a statutory disregard may apply, we will establish the reasons behind this change and decide whether it is appropriate to allow the property to be disregarded. If a disregard is agreed we will write to confirm the end date of the deferred payment, confirming the Deferred Debt outstanding, and that interest will continue to accrue until the debt is settled. The Deferred

Payment Agreement may re-commence if the property becomes ceases to be disregarded.

- **Insuring and Maintaining your property:** In the event that we judge that your property is not being properly maintained and/or insured, we will consider whether to refuse to defer future payments for your care. In this event we will give 30 days' notice and explain how your care needs should be paid for from that date. During this 30-day period you may appeal if you believe we have acted unfairly. Your appeal should either demonstrate why the insurance or state of maintenance are in fact satisfactory or what steps are being taken to remedy the failing(s).
- **CHC funding :** if you become eligible for Continuing Health Care (CHC) funding your costs of care will be paid in full by the Clinical Commissioning Group (CCG) therefore your deferred payment agreement will be suspended.
- **Out of area:** if you chose to move to home outside of Bath and North East Somerset Council your deferred payment agreement will be suspended.

### Appealing the Councils decision about a Deferred Payment Agreement

If you disagree with the Councils decision about your DPA application you have the right to request a review of the decision. The review will be carried out by The Client Finance Team Manager in the same way as a financial assessment review.

If you wish to appeal you should contact the Client Finance Team with details of your appeal.

The Appeal will be carried out through the same process as the financial assessment appeals.

If you still do not agree with the Councils decision you can make a formal complaint to the Complaints and Data Protection Team Manager  
[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman  
<https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

## **11. Interim Funding Policy**

The Council's Deferred Payment Agreement Policy (DPA) is detailed in section 9 of this Framework, however the Council can only agree to a DPA if a person has capacity to enter into the DPA, or if they lack capacity, that someone has the legal authority to enter into a DPA on their behalf.

Where a person is taking steps to become legally-appointed to act on behalf of a person who lacks capacity (for example, applying to the Court of Protection to become a deputy) this process can take several months. During this time, while a person lacking capacity needs a placement in a care home, but the person applying to act for them doesn't have legal authority to enter into long-term funding arrangements, the person applying to become deputy can apply to the Council for an Interim Funding arrangement.

If the Client Finance Team identify that a person going into a care home has capital assets above the upper limit, or has a property, or a beneficial interest in a property, and that the person not only lacks capacity but has no-one with the legal authority to represent them, their Social Worker will take steps to identify someone who can take responsibility for becoming the legal representative (such as a court-appointed deputy).

This would usually be a family member, or friend, or solicitor, or where there is no-one else suitable, the Council can apply to the Court of Protection and act as Deputy or seek the appointment of a panel Deputy.

The circumstances where the Council will consider Interim Funding cannot be set out in a comprehensive list as there is the possibility of a situation arising for the first time, but examples of the type of situation where Interim Funding can be considered are:

- Sudden loss of mental capacity and an application to the Court of Protection is being made to appoint a deputy
- The holder of a Lasting Power of Attorney or Enduring Power of Attorney is not able to act for the person. This could be because that person has died or they have lost mental capacity themselves, and someone else is applying to become a court-appointed deputy.
- a property is jointly owned but the other owner is unable to agree to a legal charge because, for example, they have lost mental capacity and someone is applying to become a court-appointed deputy for this person.
- The property is unregistered but steps are being taken to arrange registration.
- You reside in rented supported accommodation, extra care housing schemes or Shared Lives schemes and the property is being sold and you meet the conditions set out to obtain a Solicitor's Undertaking<sup>86</sup>.

### Eligibility Criteria

The Council may consider Interim Funding for you if:

- Your identified needs can only be met in a care home on a permanent basis;  
AND

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<sup>86</sup> If the Council agrees interim funding and you reside in rented supported accommodation, extra care housing schemes or Shared Lives Schemes you are not entitled to have the property disregarded for the first 12 weeks you are not resident at the property. Any charge will commence from the day you reside at the alternate accommodation.

- Your financial circumstances indicate that you are responsible for the full cost of your care home accommodation under the Council's Care and Support Financial Assessment and Charging Policy; AND
- You lack mental capacity to manage your finances; AND
- Your representative is not yet legally-appointed to manage your financial affairs; AND
- Your representative has not been able to make an arrangement with your care home to defer your care fees until they become appointed; AND
- Your representative has no other interim funding alternatives available to them while they are waiting for the Court to appoint them as deputy; AND
- Your representative is willing to provide a written undertaking that they are applying to the Court of Protection to become deputy and that once they are appointed deputy by the Court they will either discharge the deferred care fees or (where eligible) enter into a Deferred Payment Agreement with the Council

The Council may consider other situations to offer you Interim Funding if a Deferred Payment Agreement is temporarily not available to you due to factors that you are actively seeking to resolve (for example, if your property is unregistered or for sale) or you reside in rented supported accommodation, extra care housing schemes or Shared Lives schemes<sup>87</sup>. These will be considered on a case-by-case basis.

Your representative who will be acting for you should always seek independent financial and legal advice before making any decisions about whether a Deferred Payment Agreement is the best option for you.

The Council can provide your representative with an Interim Funding Agreement and a Model Deferred Payment Agreement (if appropriate) to look at with their legal adviser. We would advise your representative to seek financial and legal advice as soon as possible so that they have all the information to decide on the most suitable funding arrangements for you, so that they can start making any necessary applications /arrangements.

### The Application Process

#### 1. Information given to You or Your financial representative about Interim Funding

You or The person identified as taking forward an application to legally manage the financial affairs of the person entering a care home ("the financial representative") will be sent:

- information about care home charges
- the financial assessment process
- information about Deferred Payment Agreements (if there is property)

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<sup>87</sup> If the Council agrees interim funding and you reside in rented supported accommodation, extra care housing schemes or Shared Lives Schemes you are not entitled to have the property disregarded for the first 12 weeks you are not resident at the property. Any charge will commence from the day you reside at the alternate accommodation.

- Details of Interim Funding arrangements, including interest charged on accrued care home costs
- information about how to obtain Interim Funding
- how to access independent financial and legal advice

We will carry out a Land Registry search where relevant.

## 2. Financial representative requests Interim Funding (within two weeks)

If the you of your financial representative is unable to make financial arrangements immediately for the care home fees, the Council can consider Interim Funding, the Council will require conformation of the following:

- That they complete and return the interim funding application form within 2 weeks of the date the application form was posted to you.
- that they are taking steps to become legally appointed to deal with the finances and what steps have been taken so far (such as providing confirmation of an application to the Court of protection (COP3, COP1 and COP1A Forms) or confirmation that a conveyancing Solicitor has been instructed to undertake first registration of the property).
- in the cases of property ownership, what are their intended plans for the property and long term funding arrangements
- undertake to keep the Council informed of the process to either settle outstanding charges (ie sale of the property) or agree to a Deferred Payment Agreement and legal charge, or a combination of these if appropriate, once the legal power to act is in place.
- provide full information on property ownership and provide reliable valuation of the property.

## 3. Considering the Interim Funding request and making a decision (within 10 days)

On receipt of the above information the Council will carry out an assessment of the proposed arrangements and decide whether they are acceptable, sustainable, and provide sufficient guarantee to protect the Council's financial position. The factors which will be considered when assessing this include:

- the likely period the Interim Funding will be needed
- the amount that could be paid from the resident's state benefits by the financial representative appointed by the Department for Work and Pensions to manage the resident's benefits
- the financial representative's intentions for longer-term funding arrangements once they are appointed deputy for the resident
- What alternative funding arrangements have already been considered by the financial representative
- Evidence that the financial representative has obtained, or is actively seeking, independent financial and legal advice about long term care funding arrangements for the resident

The Council will decide whether the financial representative's request for Interim Funding for the resident meets the criteria set out in this Interim Funding Policy – the Adult Social Care Commissioner will review the Interim Funding application to verify that the proposed Interim Funding and the plans to be able to legally act do not place

the Council at undue risk, while taking account of the Council's responsibility to safeguard the individual in need of care.

If the application is accepted we will write to the financial representative to confirm our decision. We will send two copies of the letter, one of which will need to be signed and returned by the financial representative to confirm acceptance of the Interim Funding arrangement. This letter will also state:

- any conditions attached to the Interim Funding (for example, insurance of the property).
- the interest rate that will be applied to the accrued debt through the Interim Funding arrangement
- administration fees applied for monitoring the accrued debt through the Interim Funding arrangement
- When and how often we will send statements of the accrued debt to the financial representative
- any benefits to be claimed by the financial representative on behalf of the resident and how to do this
- the assessed weekly charge which the financial representative will need to pay on an on-going basis (for example, from state benefits)
- the agreed level of your weekly disposable income allowance (if relevant) \* the invoicing arrangements and how to pay the ongoing weekly assessed charge
- that failure to maintain the assessed weekly charge from available income could result in the Interim Funding arrangement being terminated
- the weekly amount that is agreed to be accrued under the Interim Funding arrangement and any other costs agreed to be accrued under the arrangement
- The Council's expectations of the financial representative to keep the Council updated with progress of their application to act for the resident
- The Council's expectations of the financial representative to discharge the accrued debt or enter into a Deferred Payment Agreement with the Council when they have been legally-appointed to act for the resident
- that if a Deferred Payment Agreement application is anticipated that where there are joint owners of a property all owners must consent to the placing of a legal charge against the property

If the application is refused the Council will tell the financial representative the reason/s and we will write to them to confirm this decision.

Our letter will explain:

- the reason(s) for refusing the application
- the date from which the financial representative will need to make arrangements on the resident's behalf for care funding (usually the end of a 12-week property disregard period).
- how to appeal our decision about Interim Funding
- how to make a complaint

- that we will tell the care accommodation provider the date the Council will stop funding the care costs

4: Agreed Interim Funding arrangements starts: setting up invoicing and monitoring arrangements to track the accruing costs and interest

The Care Finance Officer will carry out periodic checks on the interim funding arrangement and if no update has been received for three months we will contact the financial representative to request an update.

Once the financial representative has obtained the legal power to act for the resident and provides evidence to us, the Care Finance Officer will write to the financial representative to confirm that the Interim Funding will cease and either the accrued debt (including interest and any administration charges) will need to be paid in full, or the financial representative will need to enter into a Deferred Payment Agreement on the resident's behalf, secured by a legal charge against the resident's property.

#### Conditions Placed on Interim Funding

Interim funding is provided subject to the following conditions

- You or the person acting for you will return the interim funding application form with 2 weeks of receipt of the application form
- The person acting for you will take all reasonable steps to acquire the legal authority to act. This includes applying to the Department for Work and Pensions to become appointee to manage your state benefits.
- The portion of the charge relating to your state benefits will be paid promptly by your financial representative once they have been appointed to deal with your state benefits.
- Once legal power to act is granted, the Interim Funding agreement will either be converted to a Deferred Payment Agreement or the balance of accrued charges including interest and administration charges is paid in full.

If you fail to comply with the above conditions the Council will not provide interim funding and can, at their discretion, refuse any further application for interim funding.

#### Interest and Administration Charges

The interest charges will be the same as for Deferred Payment Agreements. The annual administration fee for monitoring the Interim Funding Arrangements will be the same as for Deferred Payment Agreements.

#### Review of funding

Your interim funding will be reviewed after 4 months, this timeframe should allow for an application to the Court of Protection or first registration of the property.

We will write to you if we require any further information from you and confirm the outcome of the review to you in writing. – the Adult Social Care Commissioner will review the Interim Funding to verify that the proposed Interim Funding and the plans

to be able to legally act do not place the Council at undue risk, while taking account of the Council's responsibility to safeguard the individual in need of care.

### Six-monthly Statements

The Interim Funding starts to run from the start date notified (or at the end of a 12-week property disregard periods).

We will produce statements of your accrued debt as in May for the period up to the 31<sup>st</sup> March and November for the period up to the 30<sup>th</sup> September each year.

The statement will show the following figures:

- The original property valuation.
- The equity available or maximum amount which can be borrowed under interim funding.
- Any revised property valuation.
- The revised equity available resulting from any change in the property value.
- The total cost of care for the period to the statement date, split between assessed charge and deferred debt.
- Payments received in settlement of the assessed charge.
- The amount of any interest charges and administration costs added to the debt.
- The total deferred debt outstanding including these interest and administration costs.
- Balance of equity still available
- Approximate period this equity is expected to last.

### Making an Application for a Deferred Payment Agreement (DPA)

Once your financial representative has obtained the power to act on your behalf, usually by being appointed a deputy, they will need to notify the Care Finance Officer immediately and provide evidence accordingly.

If your financial representative is now able to access sufficient funds on your behalf to settle the outstanding debt then they should arrange to do so without delay.

Where your funds are within your property capital and your financial representative is not able to settle the outstanding debt, your financial representative may consider making an application to the Council for a Deferred Payment Agreement. This should be done as soon as possible. The balance of your accrued charges will usually be transferred into your Deferred Payment Agreement. See DEFERRED PAYMENT AGREEMENTS POLICY

### Default Provisions

If we discover that the Court of Protection has approved the appointment of a deputy and the deputy has not contacted us to let us know, we may decide to terminate the

interim funding immediately and seek recovery of the debt (including interest and any administrative costs).

If your financial representative does not settle the amounts it is agreed they can access, for example state benefits in the role of appointee, without good reason, we may consider ending the interim funding.

If your financial representative fails to take the required steps to register your property, if the property is not registered with the Land Registry, we may consider ending the interim funding.

In the event the equity available is no longer sufficient to fund your care, we will stop accruing your ongoing care home costs and reassess your financial charge due. We will attempt to negotiate with your care home a rate that we would usually expect to pay to meet your needs. See Choice of Accommodation and Additional Payments Policy for further information. Interest and any administration charges will continue to be applied to your accrued debt.

When your financial representative has been granted legal authority to act for you, if they are not able to settle the accrued debt in full, they will need to agree to a legal charge against your property (on your behalf) under a Deferred Payment Agreement.

### Appeals

If you disagree with the outcome of your financial assessment or deferred payments / Interim Funding Decision you should contact the Care Finance Officer in the first instance to try and resolve any issues as soon as possible. The Care Finance Officer will go through the information with you and check the assessment / decision has considered all the relevant information in line with the Charging and Financial Assessment rules.

If you are still dissatisfied with the outcome the Care Finance Officer will confirm to you how you can lodge an appeal with the Team leader for Care Finance.

If the issue cannot be resolved you can be put in touch with the Councils Complaints team you can make a formal complaint to the Complaints and Data Protection Team Manager [complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at <http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman <https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

## Debt Recovery

If we terminate the interim funding and you are unable to pay the accrued charge for care and support, either in full or in part, you must tell us as soon as possible so that we can discuss this with you and attempt to find a resolution.

If the care and support charges remain unpaid and there is no good reason why you (or your financial representative) are unable to pay your charge, the Council will start debt recovery action<sup>88</sup>

The Council will consider allowing payment of the debt by instalments, we will usually require the full debt to be repaid within a short period and ask you to sign an undertaking confirming the terms of any agreement reached.

If your care and support charges remain unpaid despite the Council's reasonable attempts to recover the debt, we will consider making an application to the County Court to issue a claim to seek a judgment against you, if we do this you could also be liable to pay the Council's legal costs and interest on the debt at a rate agreed by the Judge.

## **12. Choice of accommodation and top up payments**

### The Cost of Accommodation

The Council will use your assessment and support planning to identify your Personal Budget – the amount of money that the Council would expect to pay to for care and support to meet your assessed needs.

- For care home accommodation, the Council will identify the expected cost of your accommodation based on the amount that we would normally pay to meet your assessed needs in a residential or nursing home, reflecting the local market conditions.
- For supported accommodation, the housing costs are normally separate to your care and support package. You would own or rent your accommodation and pay for this independently (claiming Housing Benefit and using this to pay the landlord of a shared house if you had a tenancy agreement, for example). We will work with you to make sure you have suitable accommodation for your care and support needs to be met.
- For Extra Care Housing, the Council identify the expected cost of your accommodation as part of your care and support package. This is based on the amount that we would normally pay to meet your assessed needs, reflecting the local market conditions.

When establishing how much the Council would expect to pay for your care and support, we will take account of your individual circumstances such as medical, cultural or dietary needs, to ensure that your needs can be properly met. For some people, such as those with complex learning disabilities, their Personal Budget may need to be much higher to take account of their need for more specialist support.

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<sup>88</sup> Care and Support Statutory Guidance – Annex D: Recovery of Debts

### Choosing more expensive accommodation

- **Care homes:** If your preferred care home is more expensive than your Personal Budget for your assessed needs, you will be advised of the higher cost of your choice. You will be given the opportunity to make an alternative choice that fits within your Personal Budget, or to put an arrangement in place to meet the additional cost.
- **Supported accommodation** Because you pay housing costs for supported accommodation (Supported Living, Extra Care Housing, a Shared Lives setting) independently, you may choose more expensive accommodation than we would consider sufficient to meet your assessed needs.

If your choice of more expensive supported accommodation means that we will need to pay more to meet your assessed needs than your Personal Budget (for example, if a Supported Living arrangement includes more expensive “background care” as part of the placement), you will be advised of the higher cost of your choice. You will be given the opportunity to make an alternative choice that fits within your Personal Budget, or to put an arrangement in place to meet the additional cost.

You have a right to choose your accommodation, subject to your personal budget, and the Council will ensure that you are given the opportunity to do so in accordance with the statutory requirements.<sup>89</sup>

### Paying for more expensive accommodation

If your preferred accommodation meets all other requirements, we will support you to move to that accommodation that costs more than your Personal Budget says we would expect to pay for your assessed needs, provided that:

- You can arrange for a third party to pay the additional amount - known as the Third-Party Top-Up , or;
- You can pay the additional amount from your own resources - a ‘First-Party Top-Up’.

The rules about the situations where you can pay the additional amount yourself are shown below.

### Third-Party Top-Ups

For a Third-Party Top-Up to be put in place, a third-party – such as a family member(s), friend, employer, organisation or charity – must be willing and able to pay the difference between the Personal Budget and the actual cost of the accommodation (or the associated accommodation costs for supported accommodation).

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<sup>89</sup> Clause 8.36 and 8.37 of the Care and Support Statutory Guidance and the Choice of Accommodation Regulations 2014.

To avoid the risk of you needing to move to different accommodation, we will usually discourage a Third-Party Top-Up unless the nominated Third Party can demonstrate that they are willing and able to pay the additional costs on an on-going basis (or up to the duration of the service user's likely time living in the accommodation if it is a short-term arrangement).

#### Where the Third Party is an organisation

We will require a letter from a legal representative of the organisation confirming that the organisation has the means and capacity to sustain payments for the period required to accompany a signed Third-Party Top-Up Agreement.

#### Where the Third Party is one or more individuals

A Care Finance Officer will undertake a financial assessment of the individual(s) requiring documentary evidence of financial resources identified to meet the top-up payments, such as bank statement and details of financial commitments. This is to ensure that they have the means and capacity to sustain the payments for the period required. Completion of this assessment along with a signed Third-Party Top-Up Agreement is required before we will agree to someone moving to the more expensive preferred accommodation.

A Care Finance Officer will send you a Third Party Top-Up financial assessment form (Annex C) by post you are required to complete and return this to the Care Finance Team within 14 days of the date the form was sent to you.

We will write to you if we require any further information from you, any additional information requested must be provided within 14 days of the date the information was requested.

The Adult Social Care Commissioner will review the financial assessment form to verify that the proposed Third Party Top-Up do not place the Council at undue risk, while taking account of the Council's responsibility to safeguard the individual in need of care.

We will confirm to you in writing if the Third Party Top-Up is agreed within 14 days from the date that the Council holds all the required information.

If the Third Party Top-Up is agreed you will be sent the Third Party Top-Up Agreement for signature and return, this must be returned within 14 days of the date it was sent to you. The Council will not agree the placement until we hold the signed agreement.

You are required to notify the Council of any change in financial circumstances immediately and the Council reserves the right to review the Third Party Top-Up agreement. The Council may end the agreement in any of the following circumstances:

- You fail to make payment of the Third Party Top-Up amount in full within 14 days of the date of a reminder letter;

- You fail to make three payments of the Third Party Top-Up amount in any 12 month period;
- You notify the Council in writing that you are no longer able to sustain the agreed weekly payments, i.e the Third Party Top-Up amount, due to a change in financial circumstances;
- The Council, on reviewing a change in financial circumstances, concludes you are no longer financially able to sustain the agreed weekly payments.

If the application is refused the Council will tell you the reason/s and we will write to them to confirm this decision.

Our letter will explain:

- the reason(s) for refusing the application
- how to appeal our decision about Interim Funding
- how to make a complaint
- that we will tell the care accommodation provider the date the Council will stop funding the care costs or that the additional room/service is not agreed

If you fail to comply with the above timeframe for providing information the Council will not agree the placement and can, at their discretion, refuse any further application to allow a Third Party Top-Up.

### Appeals

If you disagree with the outcome of your financial assessment Third Party Top-Up decision you should contact the Care Finance Officer in the first instance to try and resolve any issues as soon as possible. The Care Finance Officer will go through the information with you and check the assessment / decision has considered all the relevant information in line with the Charging and Financial Assessment rules.

If you are still dissatisfied with the outcome the Care Finance Officer will confirm to you how you can lodge an appeal with the Team leader for Care Finance.

If the issue cannot be resolved you can be put in touch with the Councils Complaints team you can make a formal complaint to the Complaints and Data Protection Team Manager [complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at <http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman <https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

## Review

We review all Third Party Top-Up Agreements at least annually, and sooner where there is a change in your situation.

## First-Party Top-Ups (sometimes known as Resident Top-Ups)

In specific circumstances it is possible for you to pay a 'top up' for your preferred accommodation from your own resources. These circumstances are shown below:

- A person entering care home accommodation whose property capital is disregarded for up to the first 12 weeks of the placement **and** who has either sufficient savings to pay the top-up during those 12 weeks, or disregarded income sufficient to pay the top up during those 12 weeks.
- A person entering care home accommodation whose property capital is disregarded for up to the first 12 weeks of the placement **and** who immediately enters into a Deferred Payment Agreement.

You would still be responsible for paying an assessed charge from your capital and income during those 12 weeks. The First Party Top-Up payment will be in addition to your assessed charge shown by your financial assessment. You would need to sign a Top-Up Agreement.

With the Councils permission, payment of a First Party Top-Up can be deferred providing that a Deferred Payment Agreement is agreed between you and the Council before your funding starts.

Your Social Worker will need to request funding from the Councils Panel and obtain this approval before you can be certain that your first party Top-Up and choice of accommodation is guaranteed. you will need to show, amongst other things at the panel meeting, that you intend to apply for a Deferred Payment Agreement (to start after the 12-week property disregard period), and you consent to a first legal charge on your property under a Deferred Payment Agreement from the start of your property-disregard period.

The Council may consider the use of a First Party Top-Up in circumstances other than those set out above. People who would like to apply for a First Party Top-Up in a situation other than those set out above should contact our Client Finance Team to explain the exceptional circumstances in their situation for consideration. The Council may need to seek specialist legal advice on a case by case basis and the costs of this legal advice will be recharged to the individual.

## Paying for accommodation

From time to time the Council will review our rates for accommodation. As a result the amount that the Council would expect to pay to meet someone's assessed needs may remain the same, increase or decrease. This may impact on the amount that an individual or organisation is asked to pay as the top-up. Similarly, if the accommodation increases in price (for example, an annual uplift to reflect inflation, or a restructuring of fees because of a new provider), we will have no liability for the

increased charges and will expect the individual or organisation paying the top-up to pay the additional costs above the amount the Council would expect to pay to meet that person's needs.

We will require the person making the third party top-up to pay the additional costs for the accommodation (or associated accommodation costs for supported accommodation) to the care provider, if payments are not maintained the care provider will seek to recover any arrears from the Council and the Council will recover the debt from the person who signed the third party top-up agreement (see Annex A).

When a person/organisation takes on a Top-Up, they assume the contractual responsibility for the duration of the person's residence in the accommodation to pay the difference in fees between the amount we would usually expect to pay to meet your assessed needs and the actual cost of your accommodation.

The Council will advise the person/organisation in writing that fees are not fixed or guaranteed to remain at the same level, and that the contribution of the resident or third party may rise faster than the Council's.

The third party will be required to enter into a Third Party top-Up Agreement (contract) which is legally binding and enforceable through the Courts (see Annex A).

The Council will also advise that we have no liability for debts accrued by a person/organisation due to non-payment or a shortfall in payment. We will notify people/organisations of the likely consequences if they fail to maintain payments. These may include legal action to recover the accrued arrears and/or you having to move to other accommodation (unless after an assessment of need, it is shown that your assessed needs can only be met in the current accommodation).

The Council has the right, subject to notice, to terminate the contract should the top-up payments cease to be adequate.

If the care home stops providing satisfactory care or is otherwise in breach of the terms and conditions of our contract with them, we reserve the right to move you to alternative accommodation. If your needs change significantly you will be re-assessed by a social worker to see whether your current accommodation continues to meet your needs.

### People who pay the full cost of their care and support

If we arrange care and support on behalf of a self-funder in supported accommodation, they will have the same right to a choice about the provider of their accommodation, and the Council will support this as set out above. The Council will enter into a contract with the provider(s) on the person's behalf and manage the payment and invoicing arrangement for the person paying the full cost of their care and support.

If someone paying the full cost of their care and support has made their own private arrangement for services, the provider may take any action needed to obtain outstanding payments including legal action against the person or third-party who signed the contract and agreed to make payments but has failed to do so. The provider can also cancel the contract and give notice requiring the person to leave their accommodation.

If you pay the full cost of your care and support we will encourage you to consider what will happen if, over time, your savings/investments reduce and you become eligible for financial support with your care and support costs from the Council. If you have existing accommodation that is more expensive than we would usually expect to pay, this may result in the resident having to move to other accommodation, unless arrangements can be secured by way of another alternative such as a Third-Party Top-Up. In this instance, we will support you to find an alternative placement of your choice, provided this meets the Council's criteria around suitability, availability, conditions, cost and quality. If a reassessment shows that your needs can only be met in the current accommodation, we will endeavour, by way of negotiation, to make up the reasonable cost difference between your assessed charge and the accommodation's fees.

### Existing residents

If you currently live in accommodation that is more expensive than the Council would usually expect to pay to meet your assessed needs, a review of your situation may result in you having to move to other accommodation, unless arrangements such as a Third-Party Top-Up can be put in place to meet the additional cost.

If a reassessment shows that your needs can only be met in the current accommodation, the Council will endeavour, by way of negotiation, to make up the reasonable cost difference between your assessed charge and the accommodation's fees.

## **13. Funding Agreement**

The Council is responsible for public funds and therefore must ensure spending is equitable. The Council has a process for the approval of funding. In certain circumstances before the Council can agree funding you will be required to obtain the agreement from a senior manager or Panel.

Your Social Worker will advise you if you need to take any request to Panel. The list below is examples of circumstances where Panel approval will be required (this list is not exhaustive):

- The cost of the accommodation requested is above the usual Local Authority payment rate.
- The accommodation costs are to be paid by a first party top-up
- The level of the care package is above the personal budget amount identified.

The Social Worker will inform you of their managers or the panel's decision in writing.

If you do not agree with the Councils decision you can make a formal complaint to the Complaints and Data Protection Team Manager  
[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman  
<https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH

Telephone: 0300 061 0614

#### **14. Direct Payments**

The Council has a separate policy in respect of Direct Payments. Please visit [www.bathnes.gov.uk](http://www.bathnes.gov.uk).

If you would like a hard copy of the policy please contact  
[client\\_finance@bathnes.gov.uk](mailto:client_finance@bathnes.gov.uk) or by post to

Client Finance Team,  
 Lewis House,  
 Manvers Street,  
 Bath, BA1 1JG

#### **15. Equality Impact Assessment**

The Adult Care Services and Commissioners have considered the impact that adopting this Charging and Financial Assessment Framework and the individual policies within it may have on the diverse communities in Bath and North East Somerset, and in particular residents in possession of 'protected characteristics' as set out in the Equality Act 2010.

The consultation will be reviewed and further information provided once concluded.

The Councils acknowledges that there could be some negative impact on older people and those with disabilities, however the safeguards placed within the charging framework such as the minimum income guarantee and on-going monitoring of the use of services will minimise this.

## **16. Reviewing the Charging and Financial Assessment Framework**

Annual review of the rates and amounts will ensure these are consistent with inflation or other relevant changes, which may occur.

The document may be subject to change through the departmental management team or the commissioners, or as part of an overall review of the entire Charging and Financial Assessment Framework Policy by the Council if new Legislation, Guidance and Regulations are introduced .

The Care Act 2014 and Statutory Guidance sets out changes which are permissible in line with Government published rates and changes to benefits.

## 17. Annex A

### Working Out your Charge

#### How we work out your weekly charge

There are five steps. When the CFO meets you they will explain all of this, and give you the chance to ask questions.

**Step 1:** We work out your **Weekly income**. This includes:

- Most state benefits, including Personal Independence Payment (PIP), Attendance Allowance and Disability Living Allowance (care component).
- Carers Allowance.
- Retirement pensions.
- Any applicable charge on your savings – see above.

But this does not include:

- Earnings from paid work.
- Disability Living Allowance (mobility component).
- Child Tax Credit.
- Disabled Person's Tax Credit.
- Pension Credit - Savings Credit element.

**Step 2:** We then work out your allowances, money that you keep to make sure you have enough to live on. There are **four separate allowances**:

- a. The Government has set standard allowances for your **general living expenses**. For example if you have reached qualifying pension age, this is £189.00 a week.
- b. **Housing costs** you pay. This will be your rent or mortgage interest costs that are not covered by Housing Benefit and Council Tax costs that are not covered by Council Tax Support.
- c. **Extra costs that relate to any disability you may have (only for people not in a care home)**. For example, you may have higher dietary costs. This is called your Disability Related Expenditure or DRE. We will include the costs of:
  - Telecare equipment including a community alarm
  - Privately Arranged Domestic Help
  - Special Diet
  - Special Clothing or Footwear
  - Additional Laundry Costs
  - Additional Wear & Tear of Clothing, Footwear or Bedding
  - Additional Heating (taking into account receipt of the Winter Fuel Payment)
  - Maintenance or Repair of Equipment
- d. If you receive the higher rate of Attendance Allowance / Personal Independent Payment (PIP) or Disability Living Allowance (care component), and Bath and North East Somerset Council does **not** pay for any care at night for you, we will take away £27.45 from your income total. This is **the**

**difference between higher and lower rates** of these benefits. This is because you are given this extra allowance specifically to pay for care at night.

**Step 3:** To work out **what you pay each week**, we add up your total income from step 1 and take away the eligible allowances from step 2 to give us your **“Assessable Income”**.

**Step 4:** We then compare this assessable income with the **total weekly cost** for the service or services you are receiving, or the amount of your personal budget. You will pay the lower of the two amounts.

**For example:**

Your assessable income charge is **£40** a week.

You receive two hours of care a week that costs a total **£32** per week.

£32 is less than £40 so you would only pay the lower charge of **£32**.

**In this example it has been calculated that you would be a self-funder (being able to pay the full cost of the care and support you receive) and would have to make your own arrangements for your care. The Social Worker can help you to make arrangements if you would like.**

If you receive 5 hours of care a week, at a total cost of £84 per week you only pay your calculated charge, in this example £40.

**Step 5:** The care charge that we have worked out is a fixed weekly one. If you have less or more care hours for a short time, your weekly charge will stay the same. If you feel that you are at a disadvantage by this, please contact your Social Worker. If there is a permanent change to the number of care hours, the amount that you are asked to pay may change.

If you have more than one community service, for example, homecare and day care, the weekly charge that we work out will be the most you can pay for all of these services together.

Financial Assessment Allowances 2018-2019

	<u>Level of 'Minimum Income Guarantee' for a Service User who is single (or living alone)</u>	<u>Level of 'Minimum Income Guarantee' for a Service User living with a partner</u>
Age 18 or over, up to qualifying age for Pension Credit	£131.75 per week	£100.55 per week
Age 18 or over, up to qualifying age for Pension Credit and qualifying for Enhanced Disability Premium	£151.45 per week	£114.70 per week
Reached or over qualifying age for Pension Credit	£189.00 per week	£144.30 per week
Eligible for Carer Premium	An additional £43.25 per week	
Responsible for a child, and a member of the same household as that child	An additional £83.65 per week	
Disability-Related Expense Standard Allowance (Non-Residential Services)	£5.00 per week	
Statutory Personal Expense Allowance (in a Care Home)	£24.90 per week	
Maximum Savings Disregard <sup>90</sup> (in a Care Home if aged over 65 + and qualifies for savings disregard)	£5.75 per week	
Disposable Income Allowance (Deferred Payment in place)	Up to £144.00 per week	

<sup>90</sup> Savings Disregard is calculated on an individual basis in accordance with the Care and Support (Assessment of Resources) Regulations. The maximum amount is shown here for information only.

## Disability Related Expenditure Guide

If you receive Attendance Allowance or Personal Independence Payment or Disability Living Allowance an allowance is made in your non-residential financial assessment for additional expenses due to disability or medical condition. The Council apply a standard allowance as shown in the Financial Assessment Allowances above unless you request the Social Worker carry out a full assessment of your disability-related expenses.

This guide sets out the standard or maximum allowances the Council use for a range of disability related expenses, if that extra cost is incurred and is needed to meet your specific need due to a medical condition or disability, as identified in your care and support assessment.

If you have one or more of the expenses listed the Council will usually allow the actual amount you spend up to the maximum amount indicated. The Council will only consider a higher allowance in exceptional circumstances.

Costs for disability related services that support the whole household (like a cleaner) will be shared equally between all adults in the household (unless you have a good reason for us to consider a different way of sharing costs).

Where a service or item is made up of different elements the Council will only consider costs for the part(s) that meet a disability related need.

Allowances for the maintenance of special equipment needed due to a disability or condition will be based on the conformation in your care plan that the equipment is required to meet your identified needs.

You must keep bills, invoices and statements to support your claim for disability related expenses. If you can't produce this evidence the Council will use our discretion to decide if your claim is reasonable.

You can find details of exclusions at the end of this list.

<b>DISABILITY-RELATED EXPENSE ITEM</b>	<b>AMOUNT CONSIDERED IN ASSESSMENT</b>	<b>EVIDENCE REQUIRED</b>
Community Alarm System	Actual cost paid unless included in Housing Benefit award	Bills from provider or regular entries on bank statements
Private domestic help - where Adult Care assessment confirms this is necessary due to disability or medical condition and is not provided through Council-arranged support. This may include cleaning, shopping)	Actual cost paid up to £14.00 per week for single person household, or cost proportionately divided by the number of other adult household members.	Bills/receipts from provider for at least 4 weeks
Additional laundry and replacement bedding costs (where more than 4 loads washing/week needed due to incontinence or other disability-related/medical reason)	A maximum amount of £5.00 per week.	Adult Care assessment confirms incontinence or other condition requiring need for additional laundry and more frequent replacement of bedding.
Essential equipment maintenance / repair (if not maintained by adult care) (such as stair lift maintenance)	Actual cost of maintaining Specialist equipment at the discretion of Adult Client Finance and confirmation by Occupational Health.	Bills/ Receipts from provider, or entries on bank statements, or maintenance contract Showing costs.
Specialist clothing and Footwear and replacements Due to wear and tear.	Reasonable amount based on the care plan and subject to the discretion of the Council.	Receipts / bank statements
Additional heating allowance	Actual gas and electricity paid over one year minus the average amount annually	Bills from provider

Fuel amounts<sup>91</sup>:

**Flat/Terrace**

Single occupancy £1,311  
 Couple/shared occupancy  
 £1,729

**Semi-detached**

Single occupancy  
 £1,392.44  
 Couple/shared occupancy  
 £1,835.18

**Detached**

Single occupancy  
 £1,694.10  
 Couple/shared occupancy  
 £2,233.18

Other disability related expenses may be allowed with good reason and proof of costs, subject to the care plan confirming the expense is related to disability.

Continence products are not considered a disability related expense as products are available through the NHS/CCG free of charge.

Exclusions:

We won't consider costs incurred for:

- General items or services required for daily living used by the general population
- Garden maintenance, chiropody and basic domestic tasks.
- Privately arranged care and support
- Medical prescriptions and chemist items
- Equipment – this is available through community equipment
- Any item or service met by a payment from a Grant (e.g. Disability Facilities Grant) or where another funding source has been provided
- The difference between the actual cost and a lower cost alternative where we consider it was reasonable for a lower cost alternative;
- Structural or landscaping work (e.g. tree surgery, path laying or re-laying) in gardens or to buildings unless;
  - Disabled Facilities Grant contributions apply in respect of the works carried out
  - Any works to help prevent falls (e.g. installing hand rails or repairing footpath)

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<sup>91</sup> Average annual amounts based on good practice guide issued by the National Association of Financial Assessment Officers

- The modifications to the garden or building are essential for you to be able to use/store securely scooter or wheelchair that you need to use, or to provide secure storage for a scooter and the facility is used as such. In this case, the amount will be calculated as if the modifications were equipment with a suitable life span applied.

## Sample Interim Funding Agreement

### Interim Funding Agreement for Care Home Fees

#### Application form

Before making this application Bath and North East Somerset Council strongly advise you to take independent legal and financial advice.

If you are unable to apply for a Deferred Payment Agreement for someone who would otherwise be eligible for a Deferred Payment Agreement because you are not yet legally-appointed to deal with their financial affairs you can apply to the Council for an 'Interim Funding Arrangement' to help towards care home costs until you have the legal authority to apply for a Deferred Payment Agreement; OR

If you are applying for interim funding whilst the property is sold or first registration is obtained in accordance with our Interim Funding Policy.

If we agree to an Interim Funding Arrangement we will charge interest on the care charges that accrue during the Interim Funding period plus an administration fee (to cover the costs of setting up and managing the arrangements) . See Annex C of our Charging Framework Charges for Interim funding and Interest Rates for details (www.....).

Interest and administration charges can be accrued with the care home charges to either be repaid when legal-authority is granted to access financial resources, or secured against the property through a Deferred Payment Agreement, or paid when the property is sold.

There may be other situations in which you can apply to the Council for an 'Interim Funding Arrangement', please see Part 10 of our Charging Framework for details (www.....).

You are required to complete and return this form to the Care Finance Officer within two weeks of receiving this form. If the form is not returned within 2 weeks the Council may decline your request for interim funding without further consideration.

#### Section 1: Personal Details

Please enter your name or the name of the person on whose behalf you are applying for an Interim Funding Agreement.

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Last Name:  
\_\_\_\_\_

## Section 2: Personal details of Financial Representative (if applicable)

Title: \_\_\_\_\_ First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Relationship to person named in Section 1: \_\_\_\_\_

Have you taken legal/financial advice before making this application: Yes / No

If you have not taken legal / financial advice please confirm you wish to proceed without obtaining legal / financial advice: Yes / No

Have you applied to be Lasting Power of Attorney or Deputy: Yes / No

If yes please confirm the date the application was made to the Court of Protection:

\_\_\_\_\_

If yes please state when you expect to get legal authority to deal with the financial affairs of the person named in Section 1: \_\_\_\_\_

If you are not acting for the person named in Section 1 under an LPA or Deputyship order please confirm the name and contact details of the person who is (please note the named person will be required to complete the request for Interim Funding:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

## Section 3: Reason for requesting Interim Funding

a. The person named in Section 1 has lost capacity to manage their financial affairs and no one has yet been appointed to deal with their financial affairs.

b. The property is unregistered and an application for first registration has been made to the Land Registry on \_\_\_\_\_ the instructed conveyancing Solicitors (including address and contact details) are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone number: \_\_\_\_\_

c. The property has been sold and completion will take place within 6 weeks. The instructed conveyancing Solicitors (including address and contact details) are:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone number: \_\_\_\_\_

(Interim Funding will only be agreed if the above Solicitors provide an Undertaking to pay the debt on completion of the sale of the property).

d. Other please state: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

If the application for Interim Funding is made under points a and b above you will be required to enter into a Deferred Payment Agreement when you obtain the legal authority to do so.

#### Part 4: Property information

Does the person in Section 1 own/part own a property: Yes / No

Property address:

\_\_\_\_\_  
\_\_\_\_\_

Does any other person have an interest in the property: Yes / No

If yes please provide the name, address, email and telephone number:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Is there a mortgage on the property: Yes / No

If yes please provide the name and contact details of the mortgage company and the current outstanding debt:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Current outstanding debt: \_\_\_\_\_

Please confirm you are agreeable to the Council contacting the mortgage company to seek confirmation of the debt and postponement of their charge (Please see specific property issues www.....): Yes / No

If the property is on the market please provide the following information:

Sale price agreed: \_\_\_\_\_

Date sale agreed: \_\_\_\_\_

Expected completion date of sale: \_\_\_\_\_

#### Part 5: Your declaration for your application for an Interim Funding Agreement

Read and sign the declaration below to complete your application

1.  I confirm that the property identified in Section 4 is on the market and a sale has been agreed I confirm that I wish to apply for an 'Interim Funding Agreement' for the person named in Section 1 with Bath and North East Somerset Council: OR

2.  I confirm that I have applied / will apply (delete as appropriate) to become the legally-appointed representative for the person named at Section 1 of this application and I undertake to complete any further actions as appropriate in order to become the legally-appointed representative; OR

3.  I confirm that an application for first registration of the property has been made in respect of the property at Section 4, I confirm that I wish to apply for an 'Interim Funding Arrangement' for the person named in Section 1 with Bath and North East Somerset Council.

4. I confirm that I understand that if my application for an Interim Funding Arrangement is approved, the Council will:

(a) Send invoices to me in respect of the person named at Section 1, for the full cost of the care home fees for that person

- (b) Allow those invoices to accrue until I have legal authority to act for the person named at Section 1
- (c) Charge interest on the accruing invoices at the rate published in the Council's Charging Framework
- (d) Charge an administration fee to cover the cost of making the Interim Funding arrangements (at the rate published in the Council's Charging Framework
- (e) Expect repayment of the accrued charges (care costs, interest charges and administration charges) as soon as I have legal authority to act for the person named at Section 1, unless I apply for a Deferred Payment Agreement as the legally-appointed representative for the person named at Section 1.

4. I confirm that when/if I am granted legal authority to act for the person named in Section 1 I undertake to repay Bath and North East Somerset Council the full amount owing to Bath and North East Somerset Council in respect of the person named in Section 1, including any accrued interest charges and administration cost charges associated with an Interim Funding Arrangement; OR (delete as appropriate)

5. I confirm that when the property at Section 4 is sold I undertake to repay Bath and North East Somerset Council the full amount owing to Bath and North East Somerset Council in respect of the person named in Section 1, including any accrued interest charges and administration cost charges associated with an Interim Funding Arrangement (delete as appropriate)

6. I confirm that I understand that when/if I am granted legal authority to act for the person named in Section 1, should I wish to apply for a Deferred Payment Agreement with the Council, I will need to make my application to the Council within 5 weeks of receiving legal authority to act for the person named in Section 1, using the property listed in this application as security against the accrued interim debt which will be listed within a Deferred Payment Agreement (delete as appropriate)

7. I confirm that I undertake to keep Bath and North East Somerset Council Care Finance Team updated with the progress of my application(s) to become the legally-appointed representative to act for the person in Section 1/First registration of the property at Section 4/Sale of the property at Section 4 (delete as appropriate)

8. I understand that I shall be responsible for:

- (a) ensuring that the property owned by the person named in Section 1 is secure, insured and maintained appropriately throughout an Interim Funding Arrangement; and
- (b) ensuring that the person named in Section 1 receives the statutory weekly Personal Expenses Allowance from their DWP pension/benefits while an Interim Funding Arrangement is in place; and
- (c) making payments to Bath and North East Somerset Council towards any assessed weekly Charge that is over and above the agreed Personal Expenses Allowance where the DWP has appointed me to manage the state benefits for the person named in Section 1.

9. I understand that Bath and North East Somerset Council will invoice me for the costs noted above and I agree to pay those invoices in a timely manner.

10. I confirm that I have been told of the need to take independent legal and financial advice before entering into an Interim Funding Arrangement with the Council and when making decisions about options for funding long-term care.

11. I confirm that the information I have given on this form is true and accurate to the best of my knowledge.

12. I have read this application for an Interim Funding Arrangement and the terms of this declaration.

13. I understand that Bath and North East Somerset Council will use the information I have provided for the purpose of deciding on this application for an Interim Funding Arrangement for the person named in Section 1. I understand that the Council will only share information where the legal framework allows it and as stated in the Privacy Notice which can be found on the Council's website at <http://www.bathnes.gov.uk/services/your-Council-and-democracy/data-protection-and-freedom-information/Council-privacy-notice-0> and for the detection and prevention of fraud as required by regulations and statute.

### **Jurisdiction**

Each of the parties to the Agreement irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to hear and decide any suit, action or proceedings, and/or to settle any disputes, which may arise out of or in connection with this Agreement or its formation or validity and, for these purposes, each party irrevocably submits to the jurisdiction of the courts and England and Wales.

Your full name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please return this form by email to [client\\_financeteam@bathnes.gov.uk](mailto:client_financeteam@bathnes.gov.uk) or by post to

Client Finance Team,  
Lewis House,  
Manvers Street,  
Bath, BA1 1JG

Sample Third Party Top Up Agreement

## THIRD PARTY CONTRIBUTIONS' AGREEMENT

**THIS AGREEMENT** is made on 201[ ]

### BETWEEN

**Bath and North East Somerset Council** having its principal office at  
Council

**[NAME OF PROVIDER]** [ having its registered office at ]  
Provider

### **[NAME OF THIRD PARTY MAKING THE TOP-UP CONTRIBUTIONS]**

[of ] Third  
Party

### WHEREAS

1. [Name of Resident] [of ] hereinafter called "the Resident" wishes to reside at a care home at [Name and address of care home] hereinafter called "the Home" which is a care home operated by the Provider
2. The Provider is willing to provide the Resident with accommodation and care under and in accordance with the Council's Framework Agreement for the Provision of a Care Home Service (date \*\*\*\*\*).
3. The Third Party has agreed to pay to the Council the Top-Up Contributions (as hereinafter defined)
4. The Council is willing to nominate the Resident for the provision of a Care Home Service at the Home and to enter into an Individual Resident Arrangement with the Provider under and in accordance with the Framework with respect to the Resident subject to the Third Party agreeing to pay Top Up Contributions.

**NOW IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO** as follows:-

### 5. Definitions

In this Agreement the expressions already defined shall have the meanings assigned to them and the following expressions shall unless the subject or context otherwise requires have the following meanings –

**Framework** The Council's Framework Agreement for the Provision of a Care Home Service (date \*\*\*\*\*)

**Third Party** The person or persons who has or have entered into this Third Party Contributions Agreement and agreed to pay the Top Up Contributions

**Top Up Contributions** The difference between the Provider's charges for providing accommodation and care for the Resident at the Home and the Resident's assessed Care Charge (if any) and the Councils contribution, each as from time to time applicable

### **Payment of Top Up Contributions**

The Third Party agrees to pay the Top Up Contributions (which at the date of this Agreement is £ [INSERT AMOUNT] per week).

This should be paid on a monthly basis to the Council unless alternative arrangements are agreed in writing. The Council is responsible for notifying the Third Party making the Top Up Contributions of any changes in the amount payable.

6. For the avoidance of doubt it is hereby **DECLARED AND AGREED** between the parties as follows –
- a. The Third Party will complete and return to Client Finance Team a financial assessment form within 14 days of the date the form was sent to the Third Party.
  - b. This Third Party Contributions Agreement will be reviewed by the Client Finance Team in conjunction with the arrangements for reviewing the Resident's financial assessment (Care Act 2014 Paragraph 17). These are reviewed by the Councils Client Finance Team following a change in circumstances or in any event on an annual basis.
  - c. The Third Party recognises that the Provider's charges may increase and that in these circumstances the amount of the Top Up Contributions payable by the Third Party is likely to be raised accordingly having regard to the Resident's personal budget..
  - d. The Third Party shall notify the Councils Client Finance Team immediately of any changes in their circumstances which could affect their ability to pay Top Up Contributions. This may trigger a review of this Third Party Contributions Agreement and the arrangements made for the provision of accommodation and care for the Resident at the Home.
  - e. In the event of the failure of the Third Party to pay the Top Up Contributions in full the Council will have the right at any time by giving at

least twenty-eight (28) days' written notice to withdraw the Resident from the Home and to place the Resident in alternative care home accommodation that is affordable within the amount identified in the Resident's assessed care plan.

- f. Any outstanding sums due under this may be recovered from the Third Party through the County Court. The Council will send a letter attached hereto at Appendix 1 (**Reminder Letter**) requesting that the missing payment is made within 14 days of the date of the Reminder Letter. If no payment is received after this time, the Council will refer the matter to its debt recovery team for commencement of the Council's standard recovery procedure. This may result in enforcement action before the County Court where we will ask that interest is added to the debt being accrued.
- g. If any more than three Reminder Letters are sent within any 12 month period, the Council shall be entitled to exercise its rights to terminate this Agreement as set out below in the section headed 'Termination of this Agreement'.
- h. The Provider agrees with the Council that it will use all reasonable endeavours to keep the Council advised of any delay in or change in the pattern of payment of Top Up Contributions by the Third Party.

### **Termination of this Agreement**

The Council may bring this Agreement to an end if any of the following occurs:

1. The Third Party fails to make payment of the Third Party Top-Up Amount in full within 14 days of the date of a Reminder Letter.
2. The Third Party fails to make three payments of the Third Party Top-Up Amount on time in any 12 month period.
3. The Third Party notifies the Council in writing that you are no longer able to sustain the agreed weekly payments, i.e. the Third Party Top-Up Amount, due to a change in your financial circumstances.
4. The Council, on reviewing a change in the Third Parties financial circumstances, concludes you are no longer financially able to sustain the agreed weekly payments.
5. The Third Party notifies the Council in writing that you would like the Agreement to end.

In the event that one of the termination triggers detailed above arises and the Council chooses to exercise its right to bring this Agreement to an end, it is likely that the Resident will be required to move into alternative Accommodation where such Accommodation would be suitable to meet their needs and the cost of which is within their personal budget.

Before any decision to move the Resident is taken, a new assessment of need will be undertaken. The final decision as to whether they will need to move to alternative accommodation will rest with the relevant manager who will take into account all of the circumstances of the case including having regard to their wellbeing.

The Council has to consider other Residents and its resources as a whole when funding Accommodation. Only in exceptional cases (e.g. the person has been diagnosed as being close to end of life) will considerations relating to the wellbeing of the Resident make it appropriate for the Council to continue Accommodation that requires it to pay more than a Resident's personal budget.

The Council wishes to make clear that, simply because it could be argued that it would be in the Resident's best interests to remain living at the Accommodation, this will not be a factor that compels the Council to maintain the Accommodation if the Third Party are unable to continue paying the Top-up Amount.

If the Council decides to terminate the Agreement, it will serve notice on the Third Party providing the Third Party with the same period of notice as is required in accordance with the contract it has with the provider. In most cases the period of notice that the Council is required to give to a provider will be 28 days and on the assumption that this is the position in this case the Resident will be required to leave the Accommodation no later than the end of the 28 day notice period.

During the 28 days, or such other period of time as is prescribed in the contract with the provider of the Accommodation, the Council will commission care in alternative Accommodation that is willing to meet the Resident's assessed needs for a sum that is equal to or within their personal budget. This will be in line with the usual arrangements put in place for Residents who have not previously received the benefit of a Third Party Top-Up.

### **Joint Third Party Arrangements**

If this Agreement involves more than one Third Party making contributions to the Resident's care costs, the duties arising are joint and several. This means that if one or more of the Third-Parties fails to pay their agreed contribution, the other Third-Parties to the agreement will be liable to the Council for the full amount of defaulting party's share in addition to their own share.

In entering into this Agreement, the Third Party agrees to be liable for the contributions of the other Third Parties, should they fail to maintain their contributions. If the remaining Third Parties are unable to pay the Top-up Amount in full, the Council will consider the need to exercise its rights to terminate this agreement. For the avoidance of doubt the Third Parties entering into this agreement are as follows:

- 1.
- 2.

### **General**

This Agreement is legally binding and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with English law.

We would recommend that you take independent financial advice before committing to the obligations to make payments as required under this Agreement. As this

Agreement is legally binding upon you, you may also wish to take independent legal advice on its suitability.

**Jurisdiction**

Each of the parties to the Agreement irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to hear and decide any suit, action or proceedings, and/or to settle any disputes, which may arise out of or in connection with this Agreement or its formation or validity and, for these purposes, each party irrevocably submits to the jurisdiction of the courts and England and Wales.

**AS WITNESS** the hand of the Third Party and the hands of the duly authorised representatives of the Council and the Provider the day and year first before written.

I confirm I have been given sufficient information and advice to be able to make an informed decision before entering into this Third Party Top Up Agreement.

By signing this self-certification form I confirm if I have chosen not to provide details of my financial circumstances via a light touch financial assessment I instead declare I am willing and able to afford and sustain my commitment for the likely duration of the agreement, and that I have read and fully understand the terms and conditions.

Signed by..... Dated.....

Print Name.....

Name: (Name of Council Budget Holder)

Signed: (Signature of Council Budget Holder)

on behalf of Bath and North East Somerset Council

Name: (Name of Provider's representative)

Signed: (Signature of Provider's representative)

on behalf of [Name of Provider]

Client Finance Team, Lewis House, Manvers Street, Bath, BA1 1JG

## Sample Third Party Top Up Reminder Letter

Dear

### **THIRD PARTY TOP UP AGREEMENT – PAYMENT REMINDER**

We refer to the Top Up Agreement (the Agreement) into which you entered on

We note that we have not received the Top-up Amount due to be paid on in the sum of . We anticipate that this is a simple oversight on your part and would request that you make the outstanding payment within 14 days of the date of this letter.

If no payment is received after this time, in accordance with the terms of the Agreement, Bath and North East Somerset Council will refer the matter to its debt recovery team for commencement of Bath and North East Somerset Council standard recovery procedure. This may result in enforcement action before the County Court, when Bath and North East Somerset Council will ask for interest to be added to the outstanding debt.

If payment is not received within 14 days, DCC shall be entitled to exercise its rights as set out in the section headed 'Termination of this Agreement' within the Agreement.

As you will know from the Agreement, if you do not maintain payments, it is likely that the will be required to leave and will be placed in alternative residential care setting at a cost that is within their personal budget. We would very much hope that such action would not be required but your continued payment is vital to ensure that this does not happen.

If payment is made, Bath and North East Somerset Council will confirm receipt and this Reminder Letter will be logged on our records for the purposes of monitoring the frequency with which late payment arises. If any more than three Reminder Letters are sent within any 12-month period, Bath and North East Somerset Council shall be entitled to exercise its rights to terminate this Agreement as set out in the Agreement in the section headed 'Termination of this Agreement'.

If you are now unable or unwilling to maintain the Top-up Amount in accordance with your obligations under the Agreement, please contact us immediately in order that we can discuss the options for the service user and inform you of your options with regard to the termination of the Agreement.

We look forward to receiving payment within the next 14 days.

Yours sincerely

## 18. Annex B

### Capital Limits

Level of Capital or Savings	How this is considered in Financial Assessment
£0 - £14,250	Disregarded
£14,251 - £23,250	Tariff income is calculated at the rate of £1 for every complete £250, or part £250
£23,250 +	Full cost of care applies at or above this level of capital or savings – self funding

## 19. Annex C

### Charges for interim funding and Interest Rates:

#### Annual Interest Rates on Interim Funding:

1 January 2018 – 30 June 2018:	1.45% yearly rate charged daily
1 July 2018 – 31 December 2018:	1.85% yearly rate charged daily
1 January 2019 – 30 June 2019:	1.65% yearly rate charged daily

#### Charges:

Formal valuation	At cost (+VAT if applicable)
Review of debt and interim statement	£105.00 (+VAT if applicable)
Costs of any specialist legal and/or financial advice obtained by the Council (if required) – the Council will provide an estimate in advance	At cost (+VAT if applicable)

- Value Added Tax (VAT) – the legal and administrative costs quoted above are exclusive of VAT. VAT will be charged if applicable. DPA's which meet the national mandatory DPA requirements to be secured by a first legal charge are not currently subject to VAT.
- VAT does not currently apply to Land Registry statutory fees. Land Registry fees are set and reviewed by the Land Registry and subject to change.
- The charge for review of the debt and interim statement will be increased annually in April line with CPIH.

Sample Financial Assessment Form

## CALCULATION OF FINANCIAL CHARGE FORM

***This form should be used for everyone receiving assistance from the Local Authority including Personalised Budgets and Residential placements.***

**SECTION 1 – SERVICE USER’S PERSONAL DETAILS**

Marital Status: Married / Single / Widowed / Divorced / Living Together			
Name		Client ID No:	A
Date of Birth		National Insurance No.	
Address			
Telephone Numbers		Email address	

**SECTION 2 – PARTNER’S DETAILS**

Do you have a partner?	Yes		No	
------------------------	-----	--	----	--

*(If yes please give details below)*

Title: Mr / Mrs / Miss / Ms / Other (please specify)_____
Marital Status: Married / Single / Widowed / Divorced / Living Together

Surname:		Forenames	
Date of Birth		National Insurance No.	
Address		Telephone No.	

### **SECTION 3 – REPRESENTATIVE DETAILS**

Is the Service User dealing with his/her own financial affairs? Yes:  No:

*(If No please give details below)*

Title: Mr / Mrs / Miss / Ms / Other (please specify)			
Forenames		Surnames	
Address			
Postcode		Telephone No	
		Email address	
Relationship to Service User Relative, Friend, Power of Attorney, DWP Appointee or Deputyship held.			
<b>Please provide copies of any Power of Attorney, Court Order appointing deputy or DWP correspondence confirming appointeeship.</b>			

### **SECTION 4 – IDENTITY Check – only for use by Care Finance Officer**

### List Evidence of Identity Documents Seen

Service User as per section  
1 – if present

Representative as per  
section 3 – if present

#### **SECTION 5 – WHICH SERVICE IS THIS APPLICATION IN RESPECT OF**

Are you/will you be receiving a Personal Budget care service from the Local Authority?	Yes		No	
<b>If yes is your partner also receiving a Personal Budget care service from the Local Authority?</b>	Yes		No	
Are you in or going into a Residential or Nursing Home?	Yes		No	
Are you in or moving to Extra Care Housing?	Yes		No	
Name of person arranging service (i.e. – Social worker/care coordinator)				

**Please be aware that it is essential that you answer all the questions as accurately as you can in order to ensure we can make a full and comprehensive calculation of your charge.**

#### **SECTION 6 – SERVICES RECEIVED**

Does the package of care you receive from the Local Authority include services received between the hours of 10.00pm & 7.00am?	Yes		No	
--	-----	--	----	--

#### **SECTION 7 – DETAILS OF RESIDENTIAL/NURSING HOME TO WHICH YOU ARE MOVING**

Name of Home:			
Address of Home:			
	Postcode		
Local Authority owned	YES/NO	Independent/ Voluntary.	YES/NO

Intended Date of Admission	/	/	Was this an emergency	Yes		No	
Type of Admission:	Respite		Rehab		Permanent (incl. trial period)		
If Respite or Rehab please give dates	From	/	/	To	/	/	

### **SECTION 8 – INCOME DETAILS**

***Please give details of your income below. When partner's details are completed in this section the partner must also read and sign section 14 declaration.***

<b>Income</b>	<b>Service User £</b>	<b>Partner £</b>	<b>Frequency (weekly, monthly, annually)</b>
State Retirement Pension			
Pension Guaranteed Credit			
Pension Savings Credit			
Private / Occupational Pension			
Private / Occupational Pension			
Statutory Maternity/Sick Pay			
Employment & Support Allowance			
Severe Disablement Allowance			
Universal Credit – Personal Allowance			
Universal Credit – Housing Allowance			
Attendance Allowance			
Disability Living Allowance – Care Personal Independence Payment			
Disability Living Allowance – Mobility			

Personal Independence Payment			
Working Tax Credit			
Industrial Injury Benefit			
War Widows Pension			
War Disability Pension			
War Pension			
Maintenance Payments			
Earnings			
Other Income <i>(please specify)</i>			
Do you either receive Carer's Allowance or have the underlying entitlement to Carer's Allowance for caring for somebody?	Yes		No
Does your partner receive Carer's Allowance or have the underlying entitlement to Carer's Allowance?	Yes		No

### **SECTION 9 – ACCOUNTS AND SAVINGS**

Do you and your partner have any accounts or capital accounts?

Yes		No	
-----	--	----	--

Please list all current, post office, savings passbooks, ISAs, bonds, investments and any other accounts into which your income, capital or savings are paid.

*(In all cases, capital belonging to the service user should be included as well as 50% of any joint capital). You must state in whose name the account/investment is held. If you have savings and capital in excess of £23,250.00 you will be self funding, please complete the form and sign section 17.*

***Please provide copies of all bank statements, investments, capital etc.***

<b>Do you have any savings in a Bank / Building Society</b>	<b>Yes / No (If yes give details below) –</b>
---	---

Name of Bank/ Post Office/ Building Society etc.	Sort Code/Account Number	Balance as at date	Joint Account /Own name / Partner's name only

Do you have any Stock & Shares/ National Savings Certificates/Premium Bonds or other investments		Yes / No (If yes give details below)	
Nature of Investment	Number of Shares	Value	Joint Account /Own name / Partner's name only

Do you have any other savings, investments or capital?		Yes / No (If yes give details below)
Nature of Savings	Amount	Joint Account /Own name / Partner's name only

*Please continue on a separate sheet if necessary*

### **SECTION 10 – EXPENDITURE**

*Please give details of your expenditure below: -*

Expenditure Details	Amount £	Frequency (weekly, monthly, annually)
Rent ( <i>less rebate</i> )		
Ground Rent		
Council Tax ( <i>less rebate</i> )		
Mortgage Payments		

Board & Lodgings		
Service Charge		
Buildings Insurance		
Water & Sewerage Rates		
Electricity ( <i>standing charge only</i> )*		
Gas ( <i>standing charge only</i> )* Non-Mains oil delivery charge only		
Contents Insurance*		

\*Applicable to Residential/Nursing Placements only

### SECTION 11 – DEPENDANT CHILDREN DETAILS

Do you have any dependant children living with you? Yes:  No:

***(If yes please provide details below)***

Number of dependant children living with you		No. Under 16 yrs		Ages	
		No. Over 16 yrs		Ages	
Number of children with savings over £14,250 living with you					

### SECTION 12 – NON DEPENDANTS DETAILS

Do you have any non-dependants living with you? Yes:  No:

***(If yes please provide details below)***

Total number of non-dependants in household	
Age of each person living with you	
Number of non-dependants on Income support/Pension Credit	

Number of non-dependants working	
Number of non-dependants not working	
Number of non-dependants that are full time students	

***For ALL service users please complete Section 13***

**SECTION 13- INFORMATION ABOUT YOUR HOME ADDRESS, PREVIOUS ADDRESS & OTHER PROPERTY**

Address of Normal Residence							
Type of occupancy	Solely Owned		Jointly Owned		Rented		Other
If jointly owned or other please give details.							
Please provide a copy of all documents setting up these joint ownership arrangements including all and any relevant wills/ trust documents and or Land Registry documents.							
If owned give brief description of property.							
Detached		Semi		Terraced		Bungalow	
Flat		Number of Storeys		Number of bedrooms			
Is there an outstanding mortgage/equity release on the property?					Yes		No
If yes please confirm amount					£		
How long have you lived at this address?							
If less than 2 years please confirm your previous address					Postcode:		

Was the property owned or rented?							
If owned is the property a former Council House?				Yes		No	
Do you own any other land or property?				Yes		No	
If yes please give details							
Have you ever owned any other land or property?				Yes		No	
If yes please give full details of all land or property previously owned including dates of sale. <i>(Please add additional sheets to back of this form if necessary)</i>							
Detached		Semi		Terraced		Bungalow	
Flat		Number of Storeys		Number of bedrooms			
<b>Were any of your previous properties purchased under the right to buy?</b>				Yes		No	
If tenant, who is your landlord?							
Does your landlord provide support?				Yes		No	
If No, is this provided by another agency?				Yes		No	
<p>Please provide a copy of your most recent mortgage statement.</p> <p>If you have anyone who pays you rent to live in your property, a copy of the rental or tenancy agreement you have with them.</p>							

#### **SECTION 14 – OTHER DEBTS OR REGULAR EXPENDITURE**

Other expenditure of this nature cannot be taken into account in relation to the calculation of your charge. However, it will help us to support you to manage the payment of your charge and existing commitments.

Personal loans      Yes      No      Cost per month      £

Store/ credit Card      Yes      No      Balance outstanding      £

Any other regular outgoings not listed previously in this form (eg; mobile phone contract etc)

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### **SECTION 15 – WILLS & EXECUTORS**

<b>Have you completed a will?</b>	<b>Yes</b>		<b>No</b>	
<b>If Yes - who is your executor?</b>				
<b>Where is the will held?</b>				
<b>If you do not have a will, who is your nearest relative?</b>				

### **SECTION 16 – DISABILITY RELATED EXPENDITURE**

Do you have specific additional costs relating to your disability?	Yes		No	

Reasonable disability related expenditure will be assessed where any of the following disability benefits are in payment: in respect of Personal Budgets only.

The Severe Disability Premium included in payments of Income Related ESA, Pension Guarantee Credit or Attendance Allowance, Disability Living Allowance Care Component, Constant Attendance Allowance, Personal Independence Payment Daily Living Component and Severe Disablement Allowance

**You will need to show evidence of this expenditure for it to be considered.**

**These do not include payments for services already provided for by this Authority.**

Item	Case Manager	Visiting Officer
<p><b>Dispersed Community Alarm</b></p> <p>Does not apply to sheltered housing tenants with fixed alarms or if funded through Supporting People. Actual cost paid unless included in Housing Benefit award. Appropriate confirmation of cost must be submitted to the Client Finance Team.</p>		
<p><b>Privately Arranged Domestic Help</b></p> <p>Actual cost paid up to <b>£14.00</b> per week for single person household, or cost proportionately divided by the number of other adult household members.</p>		
<p><b>Additional Laundry Costs</b></p> <p>For example due to incontinence, personal hygiene problems, skin conditions. A maximum amount of <b>£5.00</b> per week.</p>		
<p><b>Special and additional wear and tear of clothing, footwear and bedding</b></p> <p>This only applies in exceptional circumstances where people have clothes especially made because of an established illness or disability. Reasonable amount based on the care plan and subject to the discretion of the Council.</p>		
<p><b>Additional Gas and Electricity Costs</b></p> <p>Actual gas and electricity paid over one year minus the average amount annually Fuel amounts<sup>92</sup></p> <p><b>Flat/Terrace</b></p> <p>Single occupancy £1,311 Couple/shared occupancy £1,729</p> <p><b>Semi-detached</b></p> <p>Single occupancy £1,392.44 Couple/shared occupancy £1,835.18</p> <p><b>Detached</b></p> <p>Single occupancy £1,694.10 Couple/shared occupancy £2,233.18</p>		

<sup>92</sup> Average annual amounts based on good practice guide issued by the National Association of Financial Assessment Officers

<p><b>Maintenance or Repair of Equipment</b></p> <p>Where possible equipment should be sourced from B&amp;NES Community Equipment Service via Sirona. A reasonable additional amount may be included, calculated as a weekly amount. At the discretion of Adult Client Finance and with conformation by Occupational health.</p>		
--	--	--

**SECTION 17 - REFUSING A CALCULATION OF CARE CHARGE AND / OR AGREEING TO PAY THE FULL CHARGE**

If you do not agree to complete this financial calculation charge form and wish to pay the full charge for the service/s provided or have savings and capital (section 7) in excess of £23,250.00 please sign below. Please note that in signing this section it will mean that your package of care with the Local Authority may have to end and you may have to arrange your care privately. There may be clients in certain services this does not apply to, i.e. client paying full cost in an extra care establishment.

<p><b>I do not agree to a calculation of care charge and wish to pay the full cost. I understand this may mean I have to arrange my care privately</b></p>	<p><b>Signature:</b></p>	
	<p><b>Date:</b></p>	

In keeping with the EU's new General Data Protection Regulation (GDPR), we have recently updated our Privacy Policy to clarify how we protect your personal information.

Our updated policy provides more details on:

The information that we collect;

- How we use this information, why we store, and why we retain it; and
- How you can request that your information is updated, corrected, or deleted.

Details on the policy can be found here:

<http://www.bathnes.gov.uk/services/your-Council-and-democracy/data-protection-and-freedom-information/Council-privacy-notice-0>

Alternatively a paper copy can be made available upon request.

**SECTION 18– DECLARATION**

I understand that the information I have provided on this form will be used to determine the level of the charge I have to make for services arranged by Bath & North East Somerset Council. The exact figure will be notified to me in writing.

I understand that I should notify Bath & North East Somerset Council of any change in my circumstances as this may affect the level of my charge.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud.

I declare the information given above is correct to the best of my knowledge and belief and I have no objections to relevant enquiries being made.

**Signature** ..... **Service User** **Date**.....

..... **Partner**

..... **Financial Representative**

..... **Witness**

**Signature** ..... **Care Finance Officer** **Date**.....

**Please return the completed Calculation of Financial Charge Form to Client's Finance Team, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG Third Party Top-Up Financial Assessment**



Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please return this form by email to [client\\_finance@bathnes.gov.uk](mailto:client_finance@bathnes.gov.uk) or by post to

Client Finance Team,  
Lewis House,  
Manvers Street,  
Bath, BA1 1JG

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The information that we collect;

- How we use this information, why we store, and why we retain it; and
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Alternatively a paper copy can be made available upon request.

## 20. Annex D

### Sample Deferred Payment Agreement

**DATE:**

**201\***

### **DEFERRED PAYMENT AGREEMENT UNDER THE CARE ACT 2014**

BETWEEN  
BATH AND NORTH EAST SOMERSET COUNCIL

AND

For and on behalf of  
XXXX

This Agreement is dated [insert date]

#### **PARTIES**

- (1) BATH AND NORTH EAST SOMERSET COUNCIL (the “Local Authority”) Guildhall, High Street, Bath, BA1 5AW
- (2) \_\_\_\_\_ of \_\_\_\_\_ acting in his capacity as attorney for and on behalf of \_\_\_\_\_ (“you” or “your”) of \_\_\_\_\_
- (3) [CO-OWNER NAME] of [CO-OWNER ADDRESS] (“Co-Owner”)

#### **BACKGROUND**

- a) This deferred payment agreement has been entered into between the parties on the basis that the Local Authority [is required to do so under regulation 2 ] OR [permitted to do so under regulation 3] of the Care and Support (Deferred Payment) Regulations 2014.
- b) It has been identified that you require care in the form of residential accommodation in a care home or supported living accommodation.
- c) On the basis that your financial assessment has determined that you own capital in excess of the threshold limit, it has been identified that you are required to pay the cost of your care in full.
- d) You will be required to contribute your weekly income towards the costs of care, with the exception of your weekly disposable income allowance.
- e) You have a beneficial interest in the Property .The Local Authority has offered you a deferred payment agreement over the Property, allowing the costs of care to be deferred and accrue against property owned by you. The Local

Authority is also entitled to make a charge for Administrative Charges in putting place the arrangements for meeting your care needs and to apply interest to the accrued amounts. Such charges will be applied in accordance with the terms and conditions of this agreement.

## 1. Interpretation

1.1 In this Agreement, the following words have the following meanings:

<b>Accommodation</b>	Means the details of the care home or the supported living accommodation identified in Schedule 1.
<b>Administrative Charges</b>	Means the costs that the Local Authority incurs and is permitted to charge you in relation to your deferred payment agreement in accordance with paragraph 10(3) of the Care and Support (Deferred Payment) Regulations 2014. These charges may include, but are not limited to, those charges identified in Schedule 2.
<b>Agreement</b>	Means the terms and conditions of this deferred payment agreement together with the Schedules.
<b>Care Charges</b>	Means the charges for the Accommodation, care and/or support that require to be paid since the Accommodation first commenced. The details of the current level of charges are set out in Schedule 1.
<b>Contribution</b>	Means the amount that you will be required to pay directly towards the Care Charges.
<b>Debt</b>	Means the balance from time to time of the amount of the Care Charges, Administrative Charges and Interest which has not yet been repaid and is accrued against the Property.
<b>Equity Limit</b>	<p>Means the maximum amount that the Local Authority will defer and can be accrued against the Property. Schedule 1 sets out the equity limit that is applicable to you at the time of entering into the agreement.</p> <p>This is calculated by taking into account 90% of the value of your interest in the Property (being the current market or surrender value at the relevant time) that the Local Authority has obtained as Security for the Care Charges together with any Administrative Charges and Interest which are to be treated as part of the Debt, less £14,250 and the amount of any encumbrance secured on it which ranks in priority to the Local Authority's Security. This amount can be amended from time to time by the Local Authority.</p>
<b>Financial Assessment</b>	Means the financial assessment carried out under section 17 of the Care Act 2014
<b>Financial Resources Threshold</b>	Means the sum specified in regulation 12 of the Care and Support (Charging and Assessment of Resources) Regulations 2014.
<b>Income</b>	Means your income as calculated in accordance with the Financial Assessment carried out under section 17 of the Care Act 2014.

<b>Interest</b>	Means the interest that the Local Authority may charge on the amounts that it has deferred and that have accrued against the Property (including the Care Charges and the Administrative Charges). This rate will not exceed the Relevant Rate for the Relevant Period plus 0.15%.
<b>Local Authority Contact</b>	Means the representative of the Local Authority who you should notify of any change in circumstances or any other information required to be given under the Agreement. The name and contact details of this representative are included in Schedule 1.
<b>Property</b>	the property over which the Local Authority takes Security as identified in Schedule 1.
<b>Relevant Period</b>	Means the period starting on either 1 <sup>st</sup> January and ending on 30 <sup>th</sup> June in any year, or 1 <sup>st</sup> July and ending on 31 <sup>st</sup> December in any year.
<b>Relevant Rate</b>	Means the weighted average interest rate on conventional gilts specified for the financial year in which the Relevant Period starts in the most recent report published before the start of the Relevant Period by the Office of Budget Responsibility under section 4(3) of the Budget Responsibility and National Audit Act 2011.
<b>Security</b>	Means the security which the Local Authority takes in respect of the Property to protect repayment of the amount of charges that it has deferred together with the Administrative Charges and the Interest. This will take the form of a charge by way of legal mortgage which is capable of being registered as a legal charge in favour of the Local Authority in the land register or any other security which the Local Authority considers to be sufficient to secure payment.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 This agreement shall be binding on, and enure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation made under it from time to time.

- 1.8 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

## **2. How the payments will be made**

- 2.1 The Local Authority agrees, subject to the Equity Limit, to defer payments up to a maximum of the Care Charges. This will be made by either:

2.1.1 deferring your obligation to pay Care Charges which are payable to the Local Authority; or

2.1.2 deferring the amounts payable by you in Care Charges by paying them to your care provider at the times when they become payable.

- 2.2 Where the Care Charges are payable to a care provider other than the Local Authority, the Local Authority will pay the amount of the Care Charges to the care provider. Where any sums are advanced to you in accordance with this Agreement, you must apply such sums to the payment of the Care Charges and not for any other purposes.

- 2.3 If you are notified of any change in the amount of the Care Charges or the frequency with which they must be paid, you must notify the Local Authority in writing as soon as you reasonably can and where possible, in advance of the change taking effect. If the Local Authority receives less than fourteen (14) days notice of a change it cannot guarantee that the requested change will be made in time to take effect on the required date.

- 2.4 If you decide at any time to pay the Care Charges or any part of them yourself you must give the Local Authority at least fourteen (14) days advance written notice before the payment is due of:

2.4.1 the amount that you are going to pay;

2.4.2 the number of times you will be making the payment (whether this will be a one-off payment, a set number of payments or if the payments will be made until further notice).

- 2.5 If you move from the Accommodation into another care home or other supported living accommodation, you should give us at least fourteen (14) days written notice of the change and that you wish the Local Authority to substitute the Care Charges with the charges applicable to the new accommodation. The Local Authority will do this if they meet the description of the Care Charges and if the Local Authority continues to be required to lend you the charges under the Care Act 2014. Any changes notified and agreed will take effect on the expiry of the fourteen (14) days notice. If the Local Authority do not believe that they continue to be required to defer the Care Charges as a result of the change in Accommodation, it will notify and discuss with you the impact of this as soon as possible and may not be required to defer any further amounts in accordance with clause 10.2.

- 2.6 The amount of the Care Charge takes into account your Income. If your Income exceeds the Income threshold, the Local Authority will require you to make the Contribution towards the charges due. The Care Charge which the Local Authority has agreed to defer will be reduced by the amount of the Contribution.
- 2.7 If your Income exceeds £144 per week, the Local Authority may require you to repay any amounts forming part of the Debt that should have been funded by your Contribution, by giving you at least 30 days' written notice from the date that it comes to the attention of the Local Authority that you are required or should previously have been required to make a Contribution during the term of this Agreement.
- 2.8 If you notify the Local Authority (or the Local Authority is otherwise notified) that your Income will or is due to exceed £144 per week, the Local Authority will give you at least thirty (30) days written notice from the date that it comes to the Local Authority's attention, that it will reduce the amount of payment that it will defer and the amount of the Care Charges will be amended accordingly to take into account the Contribution you will be required to make.
- 2.9 The Local Authority will not defer any further amount under this Agreement (even if the Equity Limit has not been reached) if at any time:
- 2.9.1 you are no longer receiving care and support in the Accommodation or other applicable care home or supported living accommodation;
  - 2.9.2 your needs should no longer be met by the provision of care and support in the Accommodation, or other applicable care home or supported living accommodation;
  - 2.9.3 if the Equity Limit has been reached;
  - 2.9.4 in accordance with clause 10.2 below;
  - 2.9.5 if you are in breach of your obligations under clause 10.3 below;
  - 2.9.6 if the Property can no longer be insured against all usual risks, save where at the Local Authority's discretion it believes that there are reasonable grounds for concluding that the site value of the Property, disregarding any building on the property, is adequate security for the amount that it has lent you and any future loans that are to be provided;
  - 2.9.7 If the Local Authority reasonably finds that your financial resources do not exceed the Financial Assessment Threshold;
  - 2.9.8 If any valuation report (obtained in accordance with clause 9) concludes that the value of your interest in the Property does not equate to or exceed the Debt until, subject to the Equity Limit, such time as the value of the property has increased to the Local Authority's satisfaction;

- 2.10 The Local Authority will give you at least 30 days' written notice of the date on which it believes that the Equity Limit will be reached unless it is not reasonably practicable to do so because, for example, the Equity Limit is reached by reason of a fall in the value of the Property.

### **Interest**

- 2.11 Interest will be charged on the Debt. This will be a compound interest rate applied daily from the date the Accommodation commenced. The interest rate for the initial Relevant Period is set out in Schedule 2 of this Agreement.
- 2.12 If you decide that you wish to pay the Interest separately rather than adding the Interest to the Debt, you should give the Local Authority at least fourteen (14) days written notice. If you do this you may return to paying interest at any time by giving the Local Authority at least fourteen (14) days' written notice that you wish to do so. Once this notice has taken effect the Local Authority will invoice you separately for the interest which has accrued on an annual basis. If you do not then reimburse the invoiced amount within 28 days after such notice is given, the amount of those costs will be added to the Debt and Interest will be charged from that date.
- 2.13 Interest will be added to the Debt each month, on the date when an amount is lent to you for Care Charges, unless the Interest is paid before that date.
- 2.14 The Local Authority may, by giving you at least fourteen (14) days written notice, vary the Interest by an amount that it chooses, to reflect, in a proportionate and reasonable way any change in the cost of funding the Loan as long as the amount does not exceed the Relevant Rate.

### **3. Costs and Interest on Costs**

- 3.1 The Local Authority will charge you the Administrative Charges. Unless otherwise agreed at the commencement of this Agreement, the Administrative Charges will be added to the Debt and Interest will be charged on the amount of the Administrative Charges. If you wish to pay the Administrative Charges separately (and not include these in the amount of the Debt) you should give the Local Authority fourteen (14) days written notice. Once this notice has taken effect the Local Authority will invoice you separately for such Administrative Charges as they become due. If you do not then reimburse the invoiced amount within 28 days after such notice is given, the amount of those costs will be added to the Debt and Interest will be charged from that date.
- 3.2 A copy of the Local Authority's current tariff of charges will be provided to you with this Agreement. The Local Authority will give you notice of any changes to the tariff of charges by sending you a copy of the tariff when it is changed, and you may obtain a copy of the current tariff of charges on request at any time.

### **4. Repayment**

- 4.1 The Debt is to be repaid to the Local Authority on the earliest of the following dates:

- 4.1.1 the date of any sale or other disposal of the Property;
  - 4.1.2 90 days after your date of death.
- 4.2 You will be required to immediately repay parts of the Debt together with Interest, if the Local Authority lends you sums on the mistaken assumption that it is required to make such payments (and it is not actually required to permit you to defer those sums) and you should reasonably realise that you were not entitled to the benefit of these sums (for example where you no longer live in the Accommodation).
- 4.3 If the Local Authority lends or defers sums on the mistaken assumption that it is required to make such payments (and it is not actually required to defer those sums) and it is not reasonable for the Local Authority to expect you to realise that you were not entitled to the benefit of these sums, then the Local Authority will give you three months notice to repay part of any part of the Debt (together with Interest).

## **5. Security**

- 5.1 The Local Authority's rights to repayment of the Debt will be secured by way of the Security (also called a legal charge) over the Property.
- 5.2 You agree to grant the Security in the form set out at Schedule 3 to this agreement and will obtain all necessary consents to grant the Security. For example, if the Property is already secured to another party, or somebody already has a legal charge that ranks in priority to the Security that the Local Authority requires, you may need that other party's consent to grant the Security to the Local Authority. The Local Authority will not be able to lend any amounts until it has received genuine and informed consent in writing by any party who has an interest in the Property.

## **6. Possession and use of the Property**

- 6.1 If you intend to let the Property or allow the Property to be occupied by any person you must:
- 6.1.1 first obtain the Local Authority's prior written consent; and
  - 6.1.2 pay for and maintain adequate insurance including where appropriate landlord's insurance in relation to the Property on terms satisfactory to the Local Authority.

The Local Authority will not unreasonably withhold or delay its consent provided that the Property will be occupied on the basis of an assured shorthold tenancy which enables an order for possession to be obtained on one month's written notice, after the expiry of an initial term of no more than 6 months.

## **7. Insurance and maintenance of the Property**

- 7.1 You agree to adequately insure the Property against all usual risks and provide evidence of such insurance at the reasonable request of the Local Authority.
- 7.2 If satisfactory evidence is not provided to the Local Authority that the Property is adequately insured the Local Authority may, where reasonably required, itself insure the Property under an appropriate policy of insurance. The cost of this insurance will be included in the Administrative Charges to be charged to you.
- 7.3 You shall apply all moneys received or receivable under any insurance in respect of the Property towards replacing, restoring or reinstating the Property or towards compensating the applicable third party as appropriate. To the extent that the relevant insurance policy does not restrict the proceeds of insurance being used to prepay the Debt, the proceeds of insurance shall be used, at the option of the Local Authority, to prepay the Debt.
- 7.4 The Local Authority, or any appropriately qualified person acting on behalf of the Local Authority will give you at least fourteen (14) days notice that it is going to inspect the Property for the purposes of ascertaining whether the Property is being maintained in reasonable condition and/or whether there are works of maintenance and/or repair which should be undertaken to the Property in order to preserve or restore its value at or to a value which is adequate Security for the Debt, together with a reasonable amount by which it is anticipated that the Debt will increase in the foreseeable future. The Local Authority will not carry out this inspection more than once a year.
- 7.5 If, following an inspection under clause 8.4, the Local Authority reasonably considers that works need to be undertaken, the Local Authority will give notice (of not more than 56 days and not less than 28 days or such other notice period taking into account the urgency of such works) to you of this requirement requesting that either you carry out such works to the reasonable satisfaction of the Local Authority or stating that the Local Authority will undertake such works and recover the reasonable costs of such works as Administrative Charges.

## **8. Valuations**

- 8.1 If at any time the Local Authority has reasonable grounds for concluding that the Debt exceeds the value of your interest in the Property or exceeds the Equity Limit, it may take reasonable steps to ascertain the value of the property and in particular instruct a suitably qualified valuer to inspect the Property and to provide a report to the Local Authority on the market value of the Property.
- 8.2 The cost of obtaining this valuation report or costs incurred in otherwise ascertaining the value of the Property may be included in the Administrative Charges.

## **9. Keeping the Local Authority informed and undertakings that you give to the Local Authority**

- 9.1 You must inform the Local Authority as soon as reasonably practicable if any of the following happens:

- 9.1.1 your income exceeds, or is expected to exceed, £144 in any week or, where your income has already exceeded £144 in any week;
  - 9.1.2 there is any change to the amount or frequency of your Care Charges;
  - 9.1.3 you have not paid any Care Charge in full when it has become due (other than any which is payable to the Local Authority or which the Local Authority is to pay on your behalf under this Agreement);
  - 9.1.4 you cease to live in a care home or supported living accommodation;
  - 9.1.5 there is a change to your needs for care and support the effect of which is that you may no longer require your needs to be met by the provision of the Accommodation;
  - 9.1.6 a decision is taken to sell, encumber or otherwise dispose of the Property or any part of it.
- 9.2 If any of the events listed in clause 10.1.3 to 10.1.6 occur the Local Authority may not be obliged to lend you any more money.
- 9.3 You undertake to inform the Local Authority of other relevant information that may reasonably impact on this Agreement and to comply with the following obligations:
- 9.3.1 obtain any waiver, consent, authorisation or other permission necessary to comply with this Agreement and to enable the Local Authority to take out the Security over the Property;
  - 9.3.2 obtain consent and agreement from any occupiers of the Property that any interest they have in the Property whatsoever will rank behind the interests of the Local Authority including, for the avoidance of doubt, any Security or legal charge granted in favour of the Local Authority;
  - 9.3.3 not to create or permit to subsist any security over the Property without the prior consent of the Local Authority (such consent to be subject to the security being reasonable to the Local Authority but not to be otherwise unreasonably withheld or delayed);
  - 9.3.4 not to sell, transfer or otherwise dispose of the Property without the prior consent of the local authority;
  - 9.3.5 not to increase any existing indebtedness which is secured against the Property nor to borrow any more money secured against your Property without the prior consent of the Local Authority (such consent not to be unreasonably withheld or delayed);
  - 9.3.6 to notify the Local Authority of any changes to your financial position or any income that you receive;

- 9.3.7 not to change or alter the Property without the Local Authority's consent (not to be unreasonably withheld or delayed).

## **10. Ending this Agreement**

- 10.1 You may bring the Agreement to an end at any time by giving reasonable written notice to the Local Authority and paying the whole of the Debt.
- 10.2 If you do not bring the Agreement to an end early in accordance with term 11.1, the Agreement will come to an end when the Debt is paid in accordance with clause 4 above.
- 10.3 The Local Authority will not lend or defer any further sums under the Agreement if you fail to comply with your obligations and undertakings in this Agreement or in relation to the Security. For example, non-payment on any due amount pursuant to this Agreement or a legal charge.
- 10.4 If a failure to comply occurs, as described in term 11.3, the Local Authority may:
- 10.4.1 cancel any commitment to lend whereupon it shall immediately be cancelled; and/or
  - 10.4.2 declare the Security enforceable.

## **11. Ending this Agreement**

- 11.1 You may bring the Agreement to an end at any time by giving reasonable written notice to the Local Authority and paying the whole of the Debt.
- 11.2 If you do not bring the Agreement to an end early in accordance with term 11.1, the Agreement will come to an end when the Debt is paid in accordance with clause 4 above.
- 11.3 The Local Authority will not lend or defer any further sums under the Agreement if you fail to comply with your obligations and undertakings in this Agreement or in relation to the Security. For example, non-payment on any due amount pursuant to this Agreement or a legal charge.
- 11.4 If a failure to comply occurs, as described in term 11.3, the Local Authority may:
- 11.4.1 cancel any commitment to lend whereupon it shall immediately be cancelled; and/or

## **12. Statements**

- 12.1 The Local Authority will provide you with a written statement:
- 12.1.1 at the end of the period of six months beginning with the date of this Agreement;
  - 12.1.2 every six months after the date of the first statement; and

12.1.3 within 28 days of a request to the Local Authority for such a statement made by you or on your behalf.

13. This statement will inform you of the amount which you would have to pay to the Local Authority if you were to bring the Agreement to an end on the date on which the statement is sent or such later date as has been requested by you, and the amount of Interest and Administrative Charges which have accrued since the Agreement was made.

#### **14. How notices or statements are to be given**

Any notice or statement which the Local Authority gives to you in accordance with this Agreement will be sent by first class prepaid post to you at the Accommodation or by such other method by or to such other person and at such address as has been agreed in writing between you and the Local Authority from time to time.

- 14.1 Any notice which you give to the Local Authority under this Agreement is to be given in writing to the Local Authority Contact.
- 14.2 Any notice or statement which is sent by first class prepaid post is to be treated as having been served on the second day after it is posted, excluding Sundays and public holidays. Any notice or statement which is sent by fax or email to the Local Authority Contract or such other contact details as provided to either party, is to be treated as having been served at 9am on the business day after the date that it was sent, save where the party receives an error or failure message.

#### **15. Assignment and transfer**

- 15.1 The Local Authority may:

15.1.1 assign any or its rights under this Agreement or the Security; or

15.1.2 transfer all of its rights or obligations by novation,

to a bank, financial institution or other institution.

#### **16. Severance**

- 16.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 16.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal,

valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **17. Applicable law**

17.1 The interpretation, validity and performance of this Agreement shall be governed by the law of England and Wales.

## **18. Variation**

18.1 Any variation to this Agreement must be in writing and signed both by you (or your appointed Attorney) and on behalf of the Local Authority.

## **19. Co-owners**

19.1 The Co-Owner consents to you entering into the terms of this Agreement. The Co-Owner agrees that he/she will join as a party to the creation of the Security which will be created under the terms of this agreement and will do all things necessary and sign all forms of consent appropriate to securing the registration of the Security in favour of the Local Authority under the terms of the agreement.

19.2 The Co-Owner acknowledges and agrees that it has been advised by the Local Authority to seek independent legal and financial advice before signing this Agreement. In this context "independent advice" means advice from an advisor who is neither related to or acting on behalf of you.

## **Your signature**

**Please read this Agreement carefully, including all the terms set out above and the information set out in the Schedules at the end of the Agreement. The Local Authority advises you to seek independent legal and financial advice before entering into this Agreement. Only sign below if you understand and accept the terms and information included.**

## **Missing payments**

If you do not make payment when it falls due, legal proceedings may be issued against you for a judgment for the amount you owe and/or for possession of the Property. It could also make it more difficult or expensive for you to obtain credit in the future.

## **Complaints**

If you or any guarantor is dissatisfied with any action or omission on the part of the Local Authority under or in connection with this Agreement, in the first instance please write to your Local Authority Contact. If your complaint is not resolved by the Local Authority to your satisfaction, you may have a right of appeal under the complaints procedure set out on the Local Authority's website.

**THE PROPERTY SECURING THIS BORROWING MAY BE REPOSSESSED IF YOU DO NOT KEEP UP REPAYMENTS ON THE LOAN OR COMPLY WITH THE OBLIGATIONS OF THIS AGREEMENT**

Signed by

\_\_\_\_\_ (as attorney for)

\_\_\_\_\_



in the presence of

Date of signature:

Witnessed by:

Witness signature

witness name

address

occupation

Signed for and on behalf of the Local Authority:

Name of person signing:

Position of person signing:

Date of signature on behalf of the local authority :

Witnessed by:

**SCHEDULE 1**  
**KEY CONTRACT INFORMATION**

<b>Accommodation</b>	
<b>Administrative Charges</b>	An estimate of these costs and/or a copy of the Administrative Charges of the Local Authority that are applicable at the time of entering into the Agreement are included in Schedule 2.
<b>Care Charges</b>	<p><b>Weekly Care Charge:</b>     £</p> <p>These charges are those Care Charges which are to be provided by the Local Authority under this Agreement and may be amended from time to time. The total payable for your care and support while the borrower is living in the Accommodation may be more than the Care Charges shown above. The Care Charges comprise of those charges which the Local Authority consider to be necessary to meet your needs while you are living in the Accommodation.</p>
<b>Equity Limit</b>	<p>At the time of entering into the agreement, the Equity Limit applicable to you is:</p> <p>£</p> <p>This amount can be amended from time to time by the Local Authority in the event of changes in the value of the Property or where other lending or changes in circumstances occur.</p> <p>This amount has been calculated by taking into account 90% of the value of your interest in the Property (being the current market or surrender value at the relevant time) that the Local Authority has obtained as Security for the Care Charges together with any Administrative Charges and Interest which are to be treated as part of the Debt, less £14,250 and the amount of any encumbrance secured on it which ranks in priority to the Local Authority's Security.</p> <p>If the amount being lent to you would exceed the Equity Limit as a result of the Local Authority lending an amount that it would otherwise be due to lend for Care Charges, the Local Authority will not lend that amount. This means, for example, that if 90% of the value of your interest in the Property, less the amount of any indebtedness secured over the Property by a charge with priority over the Local Authority's security and less £14,250, is £70,000, and you have already been lent a total of £70,000, you will not be lent any more unless or until the value of the Property increases. However, where, due to a fall in the value of the Property, the amount of the Debt comes to exceed the</p>

	Lending Limit on a date which falls after the date on which the Local Authority last lent an amount in respect of Care Charges and on or before the date on which it is next due to lend an amount in respect of Care Charges, the Local Authority will lend on that next occasion even though lending on that occasion will result in the Debt further exceeding the Equity Limit. After that, the Local Authority will not lend any further amount unless or until the value of the Property increases.
<b>Interest</b>	You have agreed that any Interest will be added to the amount of the Debt
<b>Local Authority Contact</b>	
<b>Property</b>	

**SCHEDULE 2  
INTEREST RATES AND ADMINISTRATIVE CHARGES**

1. **Interest rate – amended every six months Compound interest rate (applied daily) Period applicable**

2. **Administration charges**

**Estimated Costs**

**Set up fees**

**Land search fees: £10.00**

**Legal cost to prepare agreement and register charge: £350.00**

**Land registration fee: Cost charged by Land Registry dependent on value of property**

**Professional valuation (where required) Cost incurred by Council (notified in advance)**

**Review fees (every 6 months)**

**Cost to review debt value and compliance  
Preparation of interim statement £105.00**

**Termination fees**

**Legal cost to agree termination of agreement, repayment and removal of charge £350.00**

## SCHEDULE 3

### Security

#### Charge – CH1 Land Registry Form

This is a standard Land Registry document, you (or your representative) will be required to sign the form and have your signature witnessed by anyone aged over 18 not related to you and not residing with you.

The witness will need to provide their name, address, occupation and signature.

If you (or your representative) wish to see the CH1 form please go to:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/330008/CH1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/330008/CH1.pdf)

### Identity form – ID1

The Land Registry require all parties wishing to make a change to the property register (including registering a charge) to either be represented by a Solicitor or Conveyancer or provide confirmation of their identity by completing an ID1 form.

You (or your representative) will need to complete part A and then ask a Solicitor or Conveyancer to complete Part B. You (or your representative) will need to provide a passport photograph and the party completing Part B will need to sign the back of the photograph.

The Solicitor or Conveyancer completing the ID1 for you (or your representative) will charge for this service.

If you (or your representative) wish to see the ID1 form, please go to:

[https://assets.publishing.service.gov.uk/government/.../ID1\\_2018-05-25\\_doc](https://assets.publishing.service.gov.uk/government/.../ID1_2018-05-25_doc)

You (or your representative) can also obtain guidance on completing the ID1 form:

<https://www.gov.uk/guidance/completing-forms-id1-and-id>

### Charges for Deferred Payment Agreements and Interest Rates

#### Fees for Deferred Payments Agreements (DPA's)

Legal Costs for a DPA – secured by a first Legal Charge against a freehold property in sole ownership of applicant, with no loans secured and no additional legal complications	£350.00 (+ VAT if applicable*)
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Variable legal costs to cover the cost of additional work (if required) to secure a	£100.00 per hour (+ VAT if applicable *)
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charge against a property or obtain a Solicitors Undertaking. If this applies the Council will provide an estimate in advance

Land Registry fees – registration service fees please refer to Land Registry Scale 2 fees which can be found on the Land Registry Website <a href="http://www.gov.uk/guidance/land-registry-registration-services-fees">www.gov.uk/guidance/land-registry-registration-services-fees</a>	At cost
Formal valuation	At cost (+VAT if applicable)
Review of debt and interim statement	£105.00 annually (+VAT if applicable)
Legal costs on termination of the agreement and removal of the Charge	£350.00 (+VAT if applicable)
Costs of any specialist legal and/or financial advice obtained by the Council (if required) – the Council will provide an estimate in advance	At cost (+VAT if applicable)

- Value Added Tax (VAT) – the legal and administrative costs quoted above are exclusive of VAT. VAT will be charged if applicable. DPA's which meet the national mandatory DPA requirements to be secured by a first legal charge are not currently subject to VAT.
- VAT does not currently apply to Land Registry statutory fees. Land Registry fees are set and reviewed by the Land Registry and subject to change.
- Review of debt and Preparation of interim statement charge will be increased annually in April in line with CPIH.

#### Annual interest rates for DPA's

1 January 2018 – 30 June 2018:	1.45% yearly rate charged daily
1 July 2018 – 31 December 2018:	1.85% yearly rate charged daily
1 January 2019 – 30 June 2019:	1.65% yearly rate charged daily

Please note:

- The Council charges the maximum interest rate as defined in the Care and Support Regulations<sup>93</sup>
- Interest is charged daily on the deferred payment agreement (including any administration costs) and is compound interest
- Interest charges are added to the deferred Payment debt.

<sup>93</sup> Clause 9 of the Care and Support (Deferred Payments) Regulations 2014.

Sample Solicitors Undertaking

We, Messrs

Solicitors of

hereby undertake to Bath and North East Somerset Council (“the Council”) as follows:-

1. That we are currently instructed in the sale of [name and address of property] (“the Property”) being the property of [name of resident][and others].
2. We will pay to the Council out of [name of resident’s share of] the proceeds of sale of the Property the amount statutorily recoverable by the Council in respect of care and respite accommodation charges paid by the Council in respect of [name of resident].
3. If our instructions to sell the Property are withdrawn for any reason or we are instructed to significantly (i.e. 10% or more) change price, we will immediately advise the Business Services, Client Finance Team, Lewis House, Manvers Street, Bath BA1 1JG

The sum to be paid in accordance with this undertaking shall not exceed [name of resident’s share of] the net proceeds of sale of the Property, after the deduction of all reasonable expenses connected with the sale.

Signature : .....

Messrs

Solicitors

Date : .....

## 21. Annex E

### Privacy Notice

To view the Adult Social Care Client Finance privacy Notice please go to:  
<http://www.bathnes.gov.uk/services/your-Council-and-democracy/data-protection-and-freedom-information/Council-privacy-notice-0>

If you would like a hard copy of the privacy notice please contact Client Finance Team on 01225 396487 or by email [client\\_finance@bathnes.gov.uk](mailto:client_finance@bathnes.gov.uk) or write to

Client Finance Team,  
Lewis House,  
Manvers Street,  
Bath  
BA1 1JG

Bath and North East Somerset Council can also provide you with guides on the following:

- For people moving into residential accommodation
- Top-up fees
- Direct payments

## 22. Glossary of terms:

**Assessed weekly charge:** This is the amount of money you will be expected to pay towards your costs of care and is based on your financial assessment.

**Commissioned package of care:** A commissioned service means care, support or supervision that has been arranged and paid for on a client's behalf by a public authority such as: In the case of personal care, a local authority adult social care department.

**CPIH - Consumer Prices Index including owner occupiers' housing costs**

**Direct payment:** Direct payments are payments for people who have been assessed as needing help from social services, and who would like to arrange and pay for their own care and support services instead of receiving them directly from the Council.

**Personal budget:** A Personal Budget is an agreed amount of money that is allocated to you personally by your local Council (and other funding streams) following an assessment of your care and support needs. A personal budget is a statement of the amount of money needed to meet your eligible social care needs.

## Policy for direct payments

Version: FINAL

Area: Council: People and Communities  
CCG: Nursing and Quality

Date: January 2019

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Author: Rebecca Potter

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Mary Kearney-Knowles	Senior Commissioning Manager - Specialist Services, Learning and Inclusion Service	Children and Young People's Services

### Document Sign-Off

<b>Joint Commissioning Committee</b>	<b>Date:</b>
--------------------------------------	--------------

For public access on the Internet: YES  NO

For staff access on the Intranet: YES  NO

Hard copies of this document are considered uncontrolled. Please refer to the website for the latest version

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## Mission statement

Bath & North East Somerset Council (the council) and NHS Bath and North East Somerset Clinical Commissioning Group (the CCG) seek to ensure that people are able, regardless of their age, abilities and circumstances, to live the life they want to live, achieve their greatest potential and be valued for the contribution they make to our community in Bath and North East Somerset.

## Introduction

The council and the CCG want to make it as easy as possible for people to exercise choice and control over their lives, including their care and support needs, and recognise that **direct payments** can be an important part of this. The council and CCG want to ensure that people understand what direct payments are, the freedoms and choices that direct payments bring and the responsibilities that go with them. We also want to make sure the application process is as easy and smooth as possible.

By combining the policies for adult and children's social care as well as health direct payments, we will make the processes underpinning direct payments easier to understand and simpler to implement.

The values that the council and CCG both share underpin this policy. They are the reason we make budgets available to individuals and they describe what those budgets should achieve for people who use them.

These shared values and aspirations for people with health, care and support needs are:

- To support those people to exercise choice and control, to have and maintain independence in how they live their lives and to get a life and not just a service
- To support those people to be active citizens
- To work in partnership with those people and with other organisations
- To make direct payments and support for people with direct payments non-discriminatory and as accessible as possible
- To make sure public money is spent wisely

## Purpose of this policy

The purpose of this policy is to:

- Reflect both the values and commitment of the council and CCG to support more people to have independence, choice and control over their lives.
- Provide clarity on the responsibilities and freedoms that direct payments provide for existing users, potential users, their families and staff members supporting them.
- Ensure the legal and policy requirements in relation to direct payments across adults, children's and health are included
- Ensure that support provided via a direct payment achieves value for money for the individual, the council and / or the CCG.

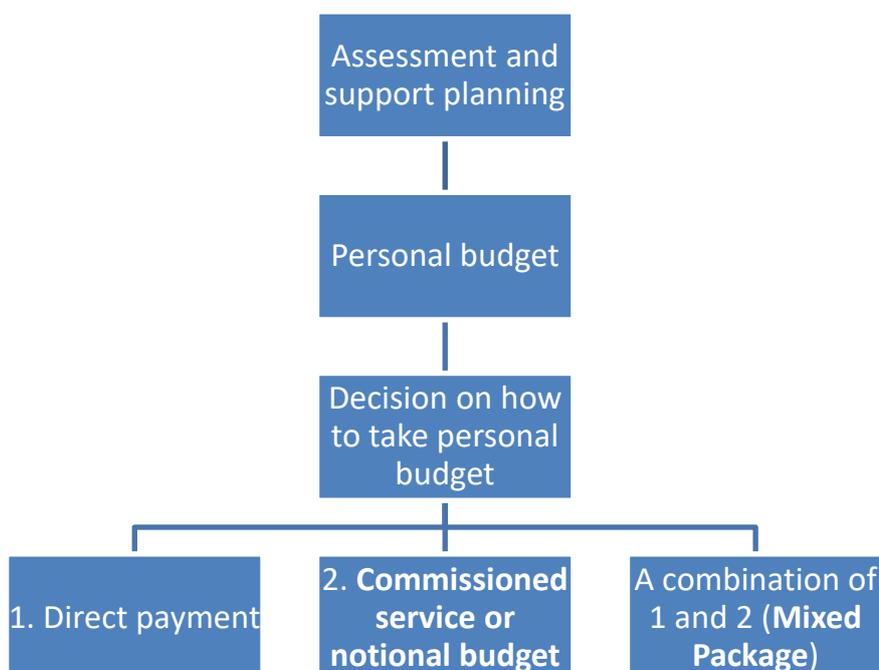
## Definitions

Throughout this document, technical or unfamiliar terms are highlighted in **bold text** with definitions provided in the glossary.

A direct payment is one way in which an individual with assessed eligible health and social care needs can choose to take their personal budget. A personal budget (or personal health budget) is the sum of money the council (or CCG) has calculated it would spend on meeting a person's assessed eligible social care or health needs.

The council provides a **personal budget (PB)** to meet assessed eligible social care needs. A Special Educational Needs and Disability Budget can also be allocated as part of the Education, Health and Care Plan process. The CCG provides a **personal health budget (PHB)** for adults who are eligible for NHS continuing Healthcare (CHC) funding. **Integrated Personal Commissioning (IPC)** budgets contain both PB and PHB funding. Throughout this document the term personal budget will be used to mean any of the above.

The relationship between personal budgets and direct payments is shown in below:



This policy sets out the framework for enabling direct payments in Bath and North East Somerset and applies to:

- All Bath & North East Somerset Council and NHS Bath and North East Somerset Clinical Commissioning Group employees who are responsible for assessing needs for care and support and their managers
- Staff of any organisation to which Bath & North East Somerset Council and NHS Bath and North East Somerset Clinical Commissioning Group have delegated the authority to carry out some of their **delegated statutory duties**.

Throughout the document, where 'the council or CCG' are named, this should be taken to include those partners with delegated statutory duties. Current partners with

delegated responsibility to carry out these functions are Virgin Care and NHS Avon and Wiltshire Mental Health Partnership Trust (AWP).

## Policy for direct payments in Bath and North East Somerset

### 1. Legal and policy context

- The legislative basis for enabling direct payments for adult's social care is set out in the Care Act, Section 117(2C) of the Mental Health Act 1983 (the 1983 Act) and the Care and Support (Direct Payments) Regulations 2014.
- For children and young people, it is the Children and Families Act (2014), the Statutory Guidance and Code of Practice for special educational needs and disability 0-25 years (2014) and the 'The Special Educational Needs (Personal Budgets) Regulations (2014).
- For health it is the guidance in relation to personal health budgets which is summarised in Attachment 2.

### 2. Other relevant policies

Other relevant policies are:

- [Care and Support Assessment & Eligibility Policy](#) (November 2015)<sup>1</sup>
- [Care and Support Planning policy](#) (May 2016)<sup>2</sup>
- [Care and Support Financial Charging and Financial Assessment Framework](#) (add the link)
- [Complaints: Assurance Framework for Bath and North East Somerset Council's Adult Social Care Duties](#) (Dec 2015)<sup>3</sup>
- [Ordinary Residence and Continuity of Care policy](#) (Jan 2016)<sup>4</sup>
- [Guidance on Direct Payments for Healthcare: Understanding the Regulations](#) (March 2014)<sup>5</sup>
- The provision of PHBs is being expanded beyond CHC funding and is outlined in the [Local Offer for BaNES](#)<sup>6</sup>
- Special Educational Needs and Disability (SEND) Strategy 2017-2020 <https://www.rainbowresource.org.uk/documents/955-b-nes-send-strategy-2017-2020.pdf>
- Bath and North East Somerset Council Special Educational Needs and Disability Personal Budget Policy June 2019. <https://www.rainbowresource.org.uk/documents/763-banes-personal-budgets-policy.pdf>

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<sup>1</sup> [http://www.bathnes.gov.uk/sites/default/files/siteimages/assessment\\_and\\_eligibility\\_final\\_02.11.2015\\_3.pdf](http://www.bathnes.gov.uk/sites/default/files/siteimages/assessment_and_eligibility_final_02.11.2015_3.pdf)

<sup>2</sup> [http://www.bathnes.gov.uk/sites/default/files/siteimages/care\\_and\\_support\\_planning\\_policy\\_final\\_may\\_2016.pdf](http://www.bathnes.gov.uk/sites/default/files/siteimages/care_and_support_planning_policy_final_may_2016.pdf)

<sup>3</sup> [http://www.bathnes.gov.uk/sites/default/files/siteimages/complaintspolicyandguidance\\_final\\_09.12.2015.pdf](http://www.bathnes.gov.uk/sites/default/files/siteimages/complaintspolicyandguidance_final_09.12.2015.pdf)

<sup>4</sup> [http://www.bathnes.gov.uk/sites/default/files/siteimages/ordinary\\_residence\\_and\\_continuity\\_of\\_care\\_policy\\_jan16.pdf](http://www.bathnes.gov.uk/sites/default/files/siteimages/ordinary_residence_and_continuity_of_care_policy_jan16.pdf)

<sup>5</sup> [http://www.personalhealthbudgets.england.nhs.uk/\\_library/Resources/Personalhealthbudgets/2014/Guidance\\_on\\_Direct\\_Payments\\_for\\_Healthcare\\_Understanding\\_the\\_Regulations\\_March\\_2014.pdf](http://www.personalhealthbudgets.england.nhs.uk/_library/Resources/Personalhealthbudgets/2014/Guidance_on_Direct_Payments_for_Healthcare_Understanding_the_Regulations_March_2014.pdf)

<sup>6</sup> <http://www.bathandnortheast Somersetccg.nhs.uk/documents/links/personal-health-budgets-local-offer>

### 3. Informing people, promoting choice and advocacy

The council and CCG provide free to access information about direct payments to raise awareness of direct payments and how they can be used. This is available on the council and CCG's websites, through commissioned services and in paper format.

When a **s117 after care plan** is being developed, individuals will be advised which of their eligible needs or after care services, if any, may be met / provided through direct payments, and offered this option. Individuals will be provided with information about direct payments (rights and responsibilities and how to use and manage them) so that they can make an informed decision.

People must request a direct payment and may opt in or out of direct payment arrangements by notifying the council or CCG at any time. Requests for direct payments are usually made at the planning stage but may be made at any other time.

People aged 16 years and over (18 and over for CHC clients), who appear to be unable to understand their rights and responsibilities in relation to the ways in which they can receive their personal budget, and have no other appropriate person to support them, will be offered an independent advocate. Children aged 0 – 15 years should be supported in their decision making by their parent / legal guardian.

### 4. Who can receive direct payments

The Council and CCG will offer direct payments at every assessment or review to people who are eligible to receive them.

As long as the conditions described in section 6 below are met in relation to the individual's capacity, the council has a duty to provide direct payments for people (including carers) whose needs for care and support have been determined to meet either the Care Act, or Children and Families Act eligibility.

The CCG will consider the PHB eligibility guidance in order to determine who can receive a PHB as a direct payment. This is available online via the [Personal Health Budgets Local Offer](#)<sup>7</sup>.

### 5. Who can't receive direct payments

Whilst most individuals who meet the conditions in sections 4 and 6 are eligible to receive direct payments, some exceptions do exist. These are in relation to people with drug or alcohol dependencies who have had certain conditions imposed on them by the courts. See Attachment 1 for further details.

In relation to adult social care direct payments, the council will not make a direct payment to individuals who have savings above the threshold (£23,250 currently).

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<sup>7</sup> <http://www.bathandnortheastsomersetccg.nhs.uk/documents/links/personal-health-budgets-local-offer>

See the Care and Support Charging and Financial Assessment Framework for full details.

## 6. Mental capacity – requesting direct payments

The route to receiving a direct payment is for the person to request one, or, in the case of children, for the parents or guardians to request one on behalf of the child.

For adults, the requirements for the council and CCG and those organisations acting on behalf of the council and CCG with delegated statutory duties differ depending on whether the adult with care and support needs has the **mental capacity** to request a direct payment.

An **adult with capacity** who has eligible adult social care needs will be provided with a direct payment when requested as long as the following four conditions are fully met:

1. the adult has capacity to make the request, and where there is a **nominated person**, that person agrees to receive the payments
2. the local authority is not prohibited by regulations from meeting the adult's needs by making direct payments to the adult or nominated person
3. the local authority is satisfied that the adult or nominated person is capable of managing direct payments either by himself or herself, or with whatever help the authority thinks the adult or nominated person will be able to access
4. the local authority is satisfied that making direct payments to the adult or nominated person is an appropriate way to meet the needs in question

For adults with health needs, a person who has mental capacity to make an informed decision to voluntarily accept a level of risk in relation to taking a direct payment is entitled to do so. However, the CCG is not obliged to fund it and may instead offer a commissioned service. The CCG remains accountable for the proper use of public funds. Sufficient evidence and information must be provided for an informed decision to be made by the individual, their representative and the CCG to manage identified risks.

**Adults without capacity** should not automatically be prevented from having a direct payment, as long as there is an **authorised person**<sup>8</sup> to manage the payments on their behalf. For details of who can be an authorised person, please see the glossary.

Direct payments for an adult without capacity with eligible adult social care needs will be provided to an authorised person when requested providing each of the following conditions are met:

- where the person is not authorised under the Mental Capacity Act 2005 but there is at least one person who is so authorised, that person who is authorised supports the person's request
- the local authority is not prohibited by regulations under section 33 of the Care Act from meeting the adult's needs by making direct payments to the

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<sup>8</sup> Clause 8 of the Direct Payment Regulations 2014

authorised person, and if regulations under that section give the local authority discretion to decide not to meet the adult's needs by making direct payments to the authorised person, it does not exercise that discretion

- the local authority is satisfied that the authorised person will act in the adult's best interests in arranging for the provision of the care and support for which the direct payments under this section would be used
- the local authority is satisfied that the authorised person is capable of managing direct payment by himself or herself, or with whatever help the authority thinks the authorised person will be able to access
- the local authority is satisfied that making direct payments to the authorised person is an appropriate way to meet the needs in question

The local authority or CCG will take the following steps to assess whether making direct payments to the authorised person is an appropriate way of meeting needs:

- So far as is reasonably practicable and appropriate, the council / CCG will consult and take into account the views of:
  - anyone named by the adult as someone to be consulted about whether direct payments should be made to the authorised person,
  - anyone engaged in caring for the adult or interested in their welfare,
  - anyone authorised under the MCA to make decisions about the adult's needs for care and support.
- So far as is reasonably ascertainable, the council / CCG will consider:
  - the adult's past and present wishes and feelings, particularly any relevant written statement made by the adult before they lost capacity,
  - the beliefs and values that would be likely to influence the adult's decision if the adult had capacity, and
  - other relevant factors the adult would be likely to consider if they were able to do so.
- The council / CCG will fund a **DBS check** to be carried out for:
  - anyone who will be acting as the authorised person, who is not a close relative of the person with care and support needs, and
  - The person with overall responsibility for the day to day management of direct payments where the authorised person is a body corporate or an unincorporated body of persons.

The authorised person must:

- Be named as the financial representative on the service user's electronic case record to enable payments to be made.
- Notify the council / CCG or their representative if they reasonably believe that the adult has regained capacity.
- Always act in your best interests
- They must use direct payments only to arrange services that will meet the person's eligible needs.
- Direct payments cannot be used to pay themselves.
- Direct payments cannot be used to pay for services provided by the persons spouse, civil partner or partner, or a close relative who lives in the

same household as the person, unless the Council agree that this is absolutely necessary<sup>9</sup>

- Make sure you have as much choice as possible over decisions that affect you and
- They must maintain records which we will want to see when direct payment arrangements are reviewed.
- They must provide us with any information we consider necessary in connection with direct payments.
- We may make direct payments subject to additional conditions if we think this is in the person's best interests.
- DBS check will be carried out on any person<sup>10</sup> from whom a service is secured using direct payments.

Your Direct Payment cannot commence until the authorised person has had the DBS check returned with a satisfactory outcome and they have set up a bank account for the Direct Payment to be paid into.

Parent carers of children and young people manage direct payments on behalf of their children and are not required to undergo a DBS check as legal parental responsibility is in place. Once the young person turns 16, they are eligible for a direct payment in their own right. A review should be carried out to determine whether the direct payment should be paid directly to the young person or continue to be paid to the parent / guardian / authorised person if the child lacks capacity.

### **Fluctuating capacity.**

The Care and Support (Direct Payments) Regulations 2014 allow for direct payments to continue to be made in cases of fluctuating capacity<sup>11</sup>.

If we are satisfied that the regaining of capacity will only be temporary, then we can continue to make direct payments to the authorised person if for the time that the individual has the capacity to make the request and is capable of managing the direct payment, the individual will manage the payments for him or herself and not the authorised person.

## **7. Declining a request for direct payments**

Requests for direct payments will be declined if any condition set out for adults with capacity or the conditions set out for adults without capacity above are unmet, or if any of the conditions within section 5 apply.

The council or CCG or partner organisation will provide a written explanation of why the request was declined including:

- Which conditions are not met,
- Why the condition is considered to be unmet

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<sup>9</sup> Clause 3(1) and (3) and 4(3)(a) of the Care and Support (Direct Payments) Regulations 2014

<sup>10</sup> Clause 5(c) of the Care and Support (Direct Payments) Regulations 2014

<sup>11</sup> Clause 8 of the Care and Support (Direct Payments) Regulations 2014

- What the person making the request may need to do to obtain a positive decision.

Information about how to appeal the decision through the complaints process will also be provided.

The council / CCG or partner organisation will continue the planning process to agree with the person whose needs must be met how this can be achieved without the use of direct payments.

## 8. Calculating the amount of the direct payment

The amount of the direct payment will be calculated after an assessment. If the person meets their needs by directly employing someone, their budget will be calculated to include costs of employment such as training and holiday payments etc. The person (or their authorised person) will be responsible for ensuring the monies allocated for training, holiday pay etc. are used for this purpose.

For further details of how the budgets are calculated, please see the relevant policy:

- **Adult social care:** Care and Support Planning policy (May 2016)<sup>12</sup>
- **Children's social care:** Following an assessment of need from the Disabled Children's team<sup>13</sup>
- **Health:** A PHB is set by first establishing the persons need for care and support. Using the CHC/CCC Decision Support Tool, the Nurse Assessor will have identified the level of care and support likely to be required. With this information an "indicative" budget can be formulated.
- Bath and North East Somerset Council Special Educational Needs and Disability Personal Budget Policy June 2019:
  - <https://www.rainbowresource.org.uk/pages/0-5-years/education-health-and-care-plans/personal-budgets-send>
  - <https://www.rainbowresource.org.uk/pages/5-11-years/education-health-and-care-plans/personal-budgets-send>
  - <https://www.rainbowresource.org.uk/pages/11-14-years/education-health-and-care-plans/personal-budgets-send>
  - <https://www.rainbowresource.org.uk/pages/14-25-years/employment-education-and-training/personal-budgets-send-14-25-years>

For adults: To calculate the indicative Personal Budget practitioners will complete the "Budget Setting Tool (which is in the PHB Toolkit). The indicative budget should then be checked and if appropriate agreed by the nurse assessor's Team Manager. Final agreement for the "indicative budget" will need to be given by the CCG.

For Children: Each request for a PHB will be considered on an individual basis and the "indicative budget" will be set individually.

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<sup>12</sup> <http://www.bathnes.gov.uk/services/care-and-support-and-you/professionals-and-practitioners>

<sup>13</sup> <http://www.bathnes.gov.uk/services/children-young-people-and-families/families-disabled-children/disabled-children>

The council and CCG review the amount of the direct payment on 1 April each year in line with the council and CCG's rate setting process.

## 9. Financial assessment

**Please note this section is relevant only to adult social care direct payment recipients.**

All councils are able to charge for the services they provide under Section 14 of the Care Act 2014. This includes services purchased using direct payments.

The amount that anyone pays towards their care (their charge) is based on a financial calculation which the councils Care Finance team carry out. This takes account of the individual's personal financial circumstances. This is effectively a means test. The charge is not based on the amount of service a person receives, so not everybody has to pay the same amount.

If the Care Finance Officer confirms that the individual should pay an assessed weekly charge, they will inform the direct payment recipient and the professional who assessed them that they will be required to pay this and how it should be paid. People who only have a direct payment must pay their assessed weekly charge into their direct payment / pre-paid card account, if they have a mixed package which includes a direct payment and a commissioned service, the council will invoice them for the full amount of their assessed weekly charge.

If the person declines to provide the financial assessment information the Care Finance Team will carry out a light touch financial assessment and confirm the amount of the assessed weekly care charge, you can ask for a full assessment at any time.

As a general rule the Council expects the person (or their representative) to be available to complete a financial assessment within two weeks of contact from the Care Finance Officer. If the person unreasonably delays completing financial assessment you will be assessed to pay the full costs of your care and support from the start date of the service provision and support and will not receive a direct payment. Further information is available in the Care and Support Charging and Financial Assessment Framework. [Add link](#)

The council will follow its procedures as outlined in the 'Care and Support Charging and Financial Assessment Framework' if the person does not pay their calculated charge.

If the person disagrees with their financial assessment, they should contact the Care Finance Team in the first instance to try and resolve any issues as soon as possible. The team will go through the information to check that the calculation is correct and that the assessment or decisions have considered all the relevant information in line with the Care and Support Charging and Financial Assessment Financial Framework.

NB – people who are eligible for Section 117 aftercare may still require a financial assessment if the care being delivered is independent of the needs arising from the mental disorder e.g. a ‘physical’ need.

## 10. Types of direct payment

- **Adult & Children Social Care**

### *One off*

A single payment made to the recipient for a specific item. These payments can be used for services / items which are non-chargeable such as equipment. See the separate ‘Direct Payments for Equipment’ policy guidance for details of this. One off payment can also be made (for example at the start of an ongoing direct payment) to cover items such as employer’s liability insurance.

### *Ongoing*

On-going direct payments are made every two weeks and are paid in arrears usually from the date that needs are identified. Note that plans are in place to move these payments to every two weeks in advance. This change will be planned and communicated appropriately.

Ongoing direct payments are discussed in more detail later on.

### *Carers*

Carers can receive a social care direct payment in their own right to support them to meet their needs as a carer. Please see the Care and Support Planning Policy for further details.

- **Health**

The following groups of people are currently eligible to apply for a personal health budget:

Right to **have** a personal health budget:

- Adults in receipt of NHS continuing health care funding
- Children and young people in receipt of continuing care funding
- Adults with mental health problems who are receiving after-care as a result of being sectioned under the Mental Health Act
- Wheelchair users who are referred and meet the eligibility criteria of their local wheelchair service, plus people who are already registered with the wheelchair service (these people will be eligible for a personal wheelchair budget when they need a new wheelchair)

The following groups have the right to **request** a personal health budget:

- Children with special educational needs and disabilities as part of their Educational Health and Care (EHC) plans have been able to request a personal budget.
- Children with complex health needs and long-term conditions have had the right to request a PHB.

However, this would need to be agreed by the CCG taking the following into consideration:

- Maintaining existing service provision for other users of a block contract
- Offering a reasonable level of health provision
- Commissioning responsibly (i.e. NHS England or CCG)

The CCG is currently working on expanding PHBs to other groups of people including those requiring End of Life Care

- **Integrated Personal Commissioning**

In July 2014 NHS England announced plans to pilot integrated commissioning approaches. This would involve providing people with a combination of health and social care funding as an integrated personal budget / personal health budget.

Personalisation of healthcare embodies **co-production**. It promotes individuals working in partnership with their family, carers and professionals to plan, develop and procure the services and support that are appropriate for them. It also enables CCGs, local authorities and healthcare providers to work together more effectively to enhance their health and social care provision.

- The personalised approach must support the principles of the NHS as a comprehensive service, free at the point of use, as set out in the NHS Constitution, and should remain consistent with existing NHS policies.
- There should be clear accountability for the choices made.
- No one will ever be denied essential treatment as a result of having a PHB.
- Having a PHB does not entitle someone to more or more expensive services or to preferential access to NHS services.
- There should be good and appropriate use of NHS resources.

- **Special Educational Needs and Disability Personal Budget**

SEND Personal budgets, which can be paid as Direct Payments, are an allocation of the agreed funding made for children and young people with an Education, Health and Care Plan, after an assessment of their needs and will be outlined in the Plan. It should be noted that the allocation of an educational personal budget needs the agreement from the parents/young person, council and educational placement to release the allocated funding. Parents or young people can request a Personal Budget as part of an EHCP Needs assessment, once the decision has been made to issue an Education, Health and Care Plan. An education-health and care plan can remain in place up to the age of 25, provided that it is agreed by the council and young person remains in education and makes progress. A personal budget will cover aspects of the support outlined in the Plan and will not cover the cost of a named educational placement or any social care element which would be covered by any social care Direct Payment allocation.

Families can decide how they want the budget to be managed:

- As a direct payment. (set out in 'Personal Budget Direct Payment Agreement')  
The funding is paid direct to the family or young person (over the age of 16)

with mental capacity) who will manage it to deliver support as set out in the EHCP.

- As a 'commissioned budget' where the council manages the notional budget for the family.
- By a provider (for example a school or voluntary service).
- Or as a combination of the three options above.

## 11. How we pay direct payments

Direct payments, including emergency payments, are paid on behalf of the council and CCG by the council's Client Finance team and are made in accordance with the council's financial policies and procedures.

Direct payments are paid every two weeks in arrears (see 10.1.2 for plans to change this to in advance) and, in the case of adults with social care direct payments, are paid net of any contribution from the person in need of care and support, who should add their assessed weekly contribution (if any) to the direct payment account.

Local authorities cannot require financial contributions for a direct payment for after care services under the Mental Health Act (**MHA**); these must be provided without charge.

All costs must be met within:

- Any agreed personal budget which includes any calculated charge required from the person receiving services
- The amount agreed as sufficient to meet the cost of s117 after care services

The council is currently working towards implementing a pre-paid card solution, and it is expected that the majority of new direct payment recipients will use a pre-paid card as their direct payment bank account once this solution is in place. Pre-paid cards will also be made available to existing DP users for their convenience.

Until pre-paid cards are in place, and for all PHB and IPC budgets, a separate direct payment bank account must be opened which must be used solely for receiving and managing direct payments. The bank account must have no overdraft facility.

One off payment of up to £500 for carers will not need to be made into a separate bank account.

Table 1 below summarises the options for payment:

Direct Payments Recipient	Direct payment options
A child aged under 16	<ul style="list-style-type: none"> <li>• Separate bank account in the name of the parent / guardian only</li> </ul>
An adult (or young person aged 16 and over) with capacity.	<ul style="list-style-type: none"> <li>• Separate bank account in the name of the service user only</li> <li>• Full Financial Account</li> </ul>

Direct Payments Recipient	Direct payment options
An adult (or young person aged 16 and over) with capacity who has a <b>nominated person</b> to assist with the ongoing management of the funds and care.	<ul style="list-style-type: none"> <li>Separate dedicated direct payments bank account in the name of the service user or in the name of the nominated person, or with Client Finance/social worker approval a joint account</li> </ul>
An adult (or young person aged 16 and over) without capacity who has an <b>authorised person</b> who will receive the direct payment on behalf of the person.	<ul style="list-style-type: none"> <li>Dedicated direct payments separate bank account in the name of the authorised person only</li> </ul>

## 12 Using direct payments

Direct payments must be used to pay for the things identified in the care and support plan. If a direct payment includes a payment to cover tax, NI, holiday pay, redundancy insurance etc. it must be used for this purpose.

Direct payments must be used to purchase services which are safe, legal, value for money and which adequately safeguard and promote the person's welfare and wellbeing.

Direct payments may be subject to conditions imposed by the council or CCG and may be discontinued and / or recovered if the council or CCG has reason to believe that direct payments may have been misspent or accumulated without good reason.

The council or the CCG is not responsible for any losses incurred by the recipient of the Direct Payment.

The council and the CCG are required to ensure that the recipient or the nominated authorised person is using the direct payment to achieve the eligible needs and outcomes agreed in the Care and Support Plan/Child's Young People's plan. In the event that fraud, abuse or misuse of the direct payment is suspected the Council, or the CCG shall investigate and terminate/suspend the direct payment as appropriate. Any potential criminal activity shall be referred to the Police for further investigation. The Council or the CCG will provide the care and support in the interim or in the long-term if the direct payment has been terminated.

## 13 Contingency funds

Direct payment recipients can retain an agreed level of contingency funding holding a balance of up to 4 weeks after planned monthly payments have been made. The balance at the start of the month may exceed 4 weeks, however retained balances once all payments have been made should not be over the 4-week contingency level.

These can be used to cover specific one-off requirements and / or fluctuating needs and should be recorded on the person's care and support plan. In specific

circumstances one off payments can be agreed for planned needs and should be recorded in the person's support plan.

**Example: 4 x week contingency**

John receives a direct payment of £50 a week (£200 a month). This means up to £400 can be in his account at any one time. £200 a month is committed on wages for his PA and the remaining £200 is his contingency. John's Care and Support Plan details what this contingency can be used for and includes covering sick pay and annual leave for his PA and additional PA hours when his condition flares up.

## 14 What direct payments cannot be used for

Direct payments **cannot** be used for:

- Care services or support in managing direct payments provided by the adult's spouse / partner or a **close family member** living in the same household as the adult<sup>14</sup>. However, in exceptional circumstances the council / CCG can agree a direct payment to a close family member living in the same household. The Care Act gives the following example of these exceptional circumstances:

**Example: Direct payment paid to a family member where necessary**

**James has severe learning difficulties as well as various physical disabilities. He has serious trust issues and a unique way of communicating that only his family, through years of care as a child, can understand. The local authority agrees that using a direct payment to pay for care from his parents is necessary as it is the best way to meet James's needs and outcomes.**

- Any service directly provided by the council.
- Services, equipment and / or minor adaptations which are the responsibility of other public bodies.
- Agency Fees for 'introductory' home care agencies- If a DP recipient chooses to use an 'introductory' home care agency, the DP may be used to fund the costs of meeting the person's direct care and support needs but not the fee to the agency.
- A social care direct payment cannot be used to provide or arrange any health service or facility which is required to be provided by the NHS.
- Long term residential or nursing care but can be used to pay for:
  - Short stays of up to 4 consecutive weeks in any 12-month period. In calculating the period of 4 weeks, a stay of less than 4 weeks is added to any succeeding stay if the two stays are separated by a period of less than 4 weeks but not otherwise<sup>15</sup>.
  - Non-residential services, for example to trial independent living or to take part in daytime activities.
- Health services such as:

<sup>14</sup> Clause 7 of the Direct Payment Regulations 2014

<sup>15</sup> Clause 3(3) of the Direct Payment Regulations 2014

- Primary medical services provided by GPs, as part of their primary medical service's contractual terms and conditions
- Vaccination or immunization
- Health screening
- The national child measurement programme and
- NHS Health Checks
- Urgent or emergency treatment services such as unplanned in-patient admissions to hospital or accident and emergency
- Surgical procedures
- NHS charges such as prescription or dental charges
- Gambling purposes
- Repayment of a debt
- Anything illegal or unlawful
- Alcohol, tobacco or drugs

Direct payments cannot be used to duplicate public funding that is already coming from another source, for example, transport costs which should be covered by an adults' disability living allowance if received.

Carer direct payments are to meet the carer's own assessed needs and cannot be used to purchase services for the person they care for.

An authorised person must not use direct payments to pay themselves to provide services to the adult without capacity except as expressly authorised in writing by the council or CCG.

Where a support plan (or care and support plan) indicates that the direct payment may be used to fund things that may be seen as non-traditional and 'risky', more frequent reviews and financial auditing may be required to ensure that the expenditure is meeting the person's outcomes as set out in their support plan.

## 15 Managing direct payments

Anyone who agrees to be responsible for managing direct payments must be capable of managing direct payments either independently or with help.

In this section, the following will be referred to as 'the group':

- Adults with capacity
- Parent carers of children aged 0 – 16
- Young people aged 16 and over with capacity
- Authorised persons

Individuals defined in the group above can nominate a third party to assist them to manage direct payments in whatever way they require. The third party is known as the **nominated person** and is usually a family member or a friend.

Individuals in the group defined above may purchase assistance, for example with record keeping, payroll and other employment related services or Full Financial Accounts (in exceptional circumstances – see Attachment 3), from a direct payment support service of their choice.

If the direct payment recipient chooses to use their direct payment to purchase support from a CQC Registered home care agency, they are still able to access support with paying invoices etc from a direct payment support service of their choosing, but they must fund this themselves. The cost of the direct payment support service must not come out of their direct payment.

Regardless of whether an individual in the group above receives support from a third party, the individual in the group above remains responsible and accountable for how direct payments are used.

An authorised person acting on behalf of someone who lacks capacity is in a position of trust and is as liable as a direct payment recipient with capacity would be for any misuse of direct payments.

### **You will need to have a Bank Account**

You must set up a separate bank account for your Direct Payment and set up a standing order to pay your weekly charge (if any) into this account.

We will transfer your Direct Payment (less any charge you are expected to make) into this account every 2 weeks.

You must:

- keep detailed records showing how you have spent your Direct Payment;
- Keep copies of bank statements, receipts, bills, invoices and PA timesheets for a minimum of six years and
- Send a financial return providing details of your Direct Payment spending, together with copies of your bank statements to the Client Finance Team as requested.
- Use the direct payment to meet the care and support identified in your care plan - if you don't, we may end your Direct Payment<sup>16</sup>.
- You must send us your financial return when requested by us– if you don't, we may end your Direct Payment<sup>17</sup>.
- ***Never pay for services or activities with cash - if you do, we will ask you to repay this money.***

## **16 Becoming an employer**

People may use direct payments to employ staff, or to pay an agency to provide services. The direct payment recipient must:

- Be advised that there are legal responsibilities involved in becoming an employer and maintaining good employment practices including registering with HMRC as an employer, more information is available on the HM Revenue and Customs website <https://www.gov.uk/employment-status/selfemployed-contractor> There is also a Status Customer Service Team with whom you can discuss their status. Their telephone number is: 0300 123 2326. It's very important to confirm whether your Personal Assistant

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<sup>16</sup> Clause 7(d) (ii) of the Direct Payment Regulations 2014

<sup>17</sup> Clause 7(d)(iii) of the Direct Payment Regulations 2014

should or should not be treated as self-employed. If you get their status wrong, you could end up having to pay tax, National Insurance Contributions and possibly penalties to HMRC. Whether a person is self-employed will be decided according to Case Law by either HMRC or the Employment Tribunal. A PA may be considered self-employed by HM Revenue and Customs for tax purposes but still considered an employee in employment law.

- Be strongly advised to seek advice about employer legal responsibilities, including being responsible for all employment related costs, for example redundancy, and pension costs,
- Obtain employers' liability insurance if they are to become an employer, and all employers have a legal duty to check that the person they want to employ is entitled to work in the UK before they start working for them. It is important to make document checks on all employees even if you are sure they have the right to work here. You can check which documents you need to see <https://www.gov.uk/check-job-applicant-right-to-work> , or call the Home Office UK Border Agency Employers Helpline on 0300 123 4699. The Skills for Care website provides more information on what a Personal Assistant is and what is involved if you want to use your direct payment to employ this way. <https://www.skillsforcare.org.uk/Recruitment-retention/Employing-your-own-care-and-support/Employing-your-own-care-and-support.aspx> Legally, you must give your employee a written statement of their main terms and conditions within two months of them starting the job. The Skills for Care Toolkits provide more information on employment contracts. You will also find templates on these websites.
- Please ensure that, if you make any changes to the Contract of Employment you have with your PA, you send an updated version to the Client Finance Team.
- As an employer you need to ensure you comply with the Working Time Regulations. The Skills for Care Toolkit 3 'Before your Personal Assistant starts' will go through minimum wage, working hours and health and safety.
- From 2012, it became mandatory for all employers to enrol all their eligible employees into a workplace pension. This is called automatic enrolment.
- You will need to speak to your Payroll Company and ask if they have an Auto Enrolment pension scheme you can use and ask what level of support, they can offer you. You must be ready to start enrolling employees from your staging date. The date will appear on the letter you receive from the pension regulator and this date will depend on when you became an employer. If you don't have this letter, contact your payroll company and ask them to find out for you. Unless your payroll company has a pension scheme that you can use, you will need to approach a pension provider in good time.
- The Government has set up a pension scheme called National Employment Savings Trust (NEST) to accept all employers wishing to use the scheme for automatic enrolment. This is one option, and there are other providers available. To see what other schemes are available go to their website <https://www.thepensionsregulator.gov.uk/en/employers>
- You will need to identify which employees to automatically enrol and which will have the right to join your pension scheme. You will need to tell your employees about how the automatic enrolment affects them. You can find template letters [https://www.thepensionsregulator.gov.uk/en/employers/re-enrolment?utm\\_source=CS1-](https://www.thepensionsregulator.gov.uk/en/employers/re-enrolment?utm_source=CS1-)

[3&utm\\_medium=Reenrolment\\_M3\\_L1&utm\\_campaign=163\\_SMELetters&utm\\_term=writing](http://www.employingpersonalassistants.co.uk/before-your-personal-assistant-starts/)

- There are rules relating to which employees are eligible for a workplace pension. You can find more information on this in Skills For Care Toolkit 3 'Before Your Personal Assistant Starts'  
<http://www.employingpersonalassistants.co.uk/before-your-personal-assistant-starts/>
- You must complete your declaration of compliance when you've automatically enrolled your employees. This must be done up to 5 months from your staging date.
- It is also possible that a PA who is treated as self-employed might fall within the scope of auto-enrolment for a workplace pension (see below) even if they are treated as self-employed for tax purposes.
- For advice and guidance, please ring the employment law helpline provided by your insurance company, or the Pensions Regulator Helpline: 0845 600 1011.

**Note – The Pensions Regulator will issue a fixed notice if you don't comply with statutory notices. This is a fixed sum of £400. If you are issued with a penalty notice, you need to be aware that you cannot use your Direct Payment to cover any penalty costs**

- Insurance & Redundancy: If you are an employer, you are required by law to have certain insurance cover in place. If you are using your direct payment to pay for agency staff, you will not require insurance as they will be covered through the care agency's insurance. You need two types of insurance:
- Employer's Liability Insurance: If your employee is injured whilst working for you and you are held legally liable, you will be protected to cover legal costs and compensation. As an employer, you are legally required to have Employers Liability Insurance in place.
- Public Liability Insurance: This covers you from claims for compensation if you or your employee causes injury or damage to someone else or their property. The insurance must be in place before your Personal Assistant can start work. It is unusual for any household buildings/contents insurance policy to provide cover to protect you from public liability or employer's liability claims and you should check carefully with your insurance provider before assuming it does.
- If you employ someone and your direct payments end, they may be entitled to a redundancy payment. This will depend on how long they have worked for you.
- Your payroll company and the employment law helpline provided by your insurance company will help you or your representative to determine if a redundancy payment is due. There are currently three main providers specialising in providing policies to protect people using direct payments to employ their own personal assistants:
  - [Premier Care https://markbatesltd.com/](https://markbatesltd.com/)
  - [Direct Care https://www.jelf.com/for-business/care/direct-care/](https://www.jelf.com/for-business/care/direct-care/)

- Fish Insurance <https://www.fishinsurance.co.uk/products/independent-living-insurance/>

They all offer similar additional support services such as a telephone helpline for advice on employment issues.

The cost of public and employers' liability insurance will be built into your Personal Budget. When taking out or renewing your employer's liability/public liability insurance policy, it is essential you ensure you have a higher level of insurance cover in place to possibly help meet these costs and to ensure access to their employment law helpline.

- If you or your Personal Assistant has an accident and suffers an injury, you must contact your insurers immediately and tell them about the situation. They will advise about what you need to do to make a claim.
- It is important to keep a record of any accidents or incidents that occur, whether you, your Personal Assistant, or another member of the public, is involved. Be sure to take account of all accidents, irrespective of where they took place (for example inside your home or in a public place), no matter how trivial they may seem at the time, because sometimes injuries can develop later on as a result. A good idea is to keep a notebook in a safe place where you can write down the date and the details of the accident. Make sure your personal assistant knows where this is kept.
- **Car Insurance:** If your Personal Assistant is going to use either your vehicle or their own while working for you, 'business use' must be added to the relevant policy. Some companies charge for this addition and **this is not a cost that is covered by your direct payment**, so you would need to discuss this between you and your Personal Assistant and agree how this cost will be met.
- Satisfy themselves that PAs and / or agency staff are qualified and suitable to carry out identified care and support tasks. (if using PAs or a non-CQC registered introductory agency DP recipients are responsible for this)
- Ensure that adequate contingency plans are put in place to provide continuity of care in the event that a PA is unable to attend a shift (e.g. in the case of sickness, severe weather, or any other event preventing them from attending)
- You can ask to be signposted to the direct payment support service (i.e. the Virgin Care Direct Payment Hub) for further advice and support.
- People with capacity are not obliged to carry out Disclosure and Barring Services (DBS) checks for people they employ through direct payments except where there are children either living in or frequently visiting the home. **However, the council and CCG strongly recommend that DBS checks are obtained for all personal assistants.**
- An authorised person must carry out DBS checking or obtain verification that DBS checking has returned a satisfactory result for any person from whom a service is secured through direct payments where the authorised person is:
  - A body corporate or unincorporated body of persons or

- An individual who is not the adult's spouse / partner, a close family member (as defined in the Glossary) or a friend of the adult who is involved in the adult's care.
- For people employed to support children and young people under the age of 16 DBS checks are required.

#### Useful Websites

**HM Revenue & Customs:** [www.gov.uk/employment-status/selfemployedcontractor](http://www.gov.uk/employment-status/selfemployedcontractor)

**Skills for Care:** [www.skillsforcare.org.uk/individualemployers/](http://www.skillsforcare.org.uk/individualemployers/)

**Skills for Care Toolkit:** [www.employingpersonalassistants.co.uk/](http://www.employingpersonalassistants.co.uk/)

**ACAS:** [www.acas.org.uk/index.aspx?articleid=1461](http://www.acas.org.uk/index.aspx?articleid=1461)

**The Pensions Regulator:** [www.tpr.gov.uk](http://www.tpr.gov.uk)

## 17 Training

It is reasonable to assume that if the care and support plan identifies a need for a PA to carry out specific health / social care tasks, consideration should also be given to their training needs. As the direct payment recipient is the employer, they will be responsible for meeting these needs. Funding may also be needed for training updates, and provision for training for any new skills required as needs change. PAs can access NHS and social care training provided by B&NES and CCG.

Training should be provided by a competent person with a standard recognised as adequate for the task. The PA receiving the training should always keep full records of training given, including dates. There should be written evidence of competence assessments, where possible, against recognised standards such as National Occupational Standards.

There should be clear guidance and protocols in place, so the PA is not required to make clinical judgments outside their competence. There should be an appropriate level of supervision and mentorship available, with on-going development opportunities, to ensure competency is maintained and new competencies are acquired when needed. Supervision and mentorship should be proportionate to the task and the competencies of the PA, and appropriate to the specific needs of the person receiving support.

Risk should be considered and where necessary a risk management plan put in place. There should be regular monitoring of competencies and access to regular training updates. This is especially important where the person receiving support has a condition that is complex, unstable and/or deteriorating.

## 18 Integrating direct payments with other sources of funding

The council and CCG are currently piloting Integrated Personal Commissioning (see Glossary for a description of this) and intend to further develop integrating budgets from different sources (including Education) in the future.

It is our shared intention that integrated budgets will follow an integrated assessment and support plan and will be paid into a single bank account. People with an integrated budget will only have to provide a single set of monitoring information, at the specified intervals.

## 19 The direct payments agreement

Before receiving direct payments, the respective direct payments agreement must be signed, and a copy of the signed agreement provided to all signatories.

There are two direct payment agreements:

- **Standard** agreement – signed by the adult, (and if applicable, by the Nominated Person) where the adult is managing the direct payment
- **Authorised person** agreement – signed by an authorised person managing direct payments for an adult without capacity.

## 20 Monitoring and review of direct payments

The council or CCG or their partners with delegated responsibilities will inform an individual about what records they must retain and what information they will be required to provide at each review before the direct payment agreement is entered into.

For direct payment recipients using a pre-paid card, no receipts will need to be sent in, but all receipts should be retained as directed by the council's Client Finance team (including for personal health budget recipients) in case a full audit is required. Client Finance will still be carrying out scheduled audits on the accounts as per 20.4 below.

For new direct payment recipients not using a pre-paid card, all receipts and bank statements will need to be retained and sent in to Client Finance after 2 months to be audited.

All direct payment accounts will be audited by Client Finance after 2 months. After this first audit, the account will be risk assessed to see whether receipts, invoices and statements should be sent in monthly, every six months or annually.

The regularity of sending returns in to Client Finance will be reviewed regularly. Where there are no issues or queries relating to the direct payment account, the frequency of sending in returns may be reduced.

Reviews of the care and support being purchased via the direct payment and / or the finances will also be carried out at any time when the council or CCG considers that:

- There has been a change in capacity, or

- The person previously eligible, is no longer eligible for S117, or
- Any of the conditions listed at section 6 above are no longer met, or
- Direct payments have not been used as intended, or
- The adult's safety and welfare have been compromised or
- There has been any change which may adversely affect the effectiveness and intention of the support arrangements.

The care and support review will establish if direct payments are being used to meet needs as intended, conditions are met, and public monies are being used effectively.

Care and support reviews must involve the person, any carer(s) the person has, any authorised or nominated person, any family member providing paid administrative or management support (as specifically approved by the council or CCG – see section 15 above) and anyone else that the person requests be involved.

If the person lacks capacity to make such a request, anyone who is authorised under the MCA to make personal welfare decisions (if different from the authorised person) or if there is no such individual anyone who appears to be interested in the person's welfare should be involved.

## **21 When some or all of the direct payment needs to be returned**

The council or CCG will require full or partial repayment of direct payments if any condition attached by the council or CCG is unmet or the council or CCG have reason to believe that direct payments have been used for purposes other than to meet needs as specified in the plan.

The council or CCG may require repayment of any unspent direct payment if they are not required to meet needs as set out in the plan.

The council or CCG will require repayment of excess funds accumulated in the dedicated bank account where there is no reasonable explanation for the surplus.

Direct Payments do not form part of an estate in the event that someone dies while receiving them. The money at all times belongs to the council or CCG and remains public funds.

## **22. Changes in circumstances**

The person should inform their social worker or health professional of any change in the person's personal or financial circumstances that might affect their direct payment e.g. change of address or increase / decrease in their personal income, admission to hospital, or emergency placement.

There may often be occasions when direct payment holders require a stay in hospital or replacement care. However, this should not mean that the direct payment must be suspended while the individual is in hospital. Where the direct payment recipient is also the person requiring care and support, consideration should be given to how the direct payment may be used in hospital or replacement care to meet non-health

needs or to ensure employment arrangements are maintained. Suspending or even terminating the payment could result in the person having to break the employment contract with a trusted personal assistant, causing distress and a lack of continuity of care when discharged from hospital.

In these cases, the council / CCG will explore with the person, their carer and any others the person chooses, the options to ensure that both the health and care and support needs of the person are being fully met in the best way possible. For example, the person may prefer the personal assistant to visit hospital to help with personal care matters. This may be especially so where there has been a long relationship between the direct payment holder and the personal assistant. This should not interfere with the medical duties of hospital personnel but be tailored to work alongside health provision.

Usually direct payment will continue to be paid for up to 4 weeks if you require a hospital stay, if the stay in hospital is longer than 4 weeks the direct payment may be suspended, the council will consider the circumstances on your situation before making a final decision.

In some cases, the nominated or authorised person managing the direct payment may require a hospital stay. In these cases, the council / CCG must conduct an urgent review to ensure that the person continues to receive care and support to meet their needs. This may be through a temporary nominated/ authorised person, or through short-term authority arranged care and support.

## 22 Changing your mind

If you find your Direct Payment isn't working for you contact your social care worker. They will work with you to try and resolve any issues. If things don't get better, they will change you to a managed budget.

If you decide against having a Direct Payment now, you can change your mind later - just talk to your social care worker.

## 23 Ending direct payments

People receiving direct payments, either for themselves or on behalf of another person, may decide at any time that they no longer wish to receive direct payments on giving 4 weeks written notice to the council or CCG. The council or CCG can agree to vary this notice period according to the individual's circumstances.

Notice will be given before direct payments are discontinued, unless in exceptional circumstances.

The council or CCG will end direct payments if it is satisfied that:

- The person is no longer eligible for or no longer requires the services for which direct payments are made.
- The person becomes excluded from receiving direct payments because they have been placed under a condition or requirement by the Courts in

relation to drug and / or alcohol dependencies. See attachment 2 for details

- Any of the conditions listed above on pages 7 and 8 in are no longer met.
- Direct payments are not safeguarding or promoting the person's welfare.
- Failure to adhere to the statutory requirements in respect a Direct Payment may result in the Council withdrawing the Direct Payment<sup>18</sup> and placing you on a commissioned service.

The council or CCG may suspend or end direct payments either permanently or temporarily if:

- The person does not require assistance because their condition has improved and / or they do not need the services that direct payments were intended to secure.
- Any condition attached by the council or CCG is unmet or the council or CCG has reason to believe that direct payments have been used for purposes other than to meet needs as specified in the plan.
- The adult fails to pay any assessed financial contribution (for adult social care direct payments only) into the direct payments account.
- Given all the circumstances, the council or CCG considers it appropriate to end direct payments.

The Council or CCG may end the Direct Payment if the direct payment account is mismanaged or there is any indication of fraudulent activity, this may include, but is not limited to:

- Use of funds for inappropriate purposes;
- Payments being made in cash
- Funds being transferred from the Direct Payment account to an unknown source or into an alternate personal bank account;
- Inaccurate information being provided (financial or otherwise);
- Misleading information being provided (financial or otherwise);
- Failure to provide requested information (financial or otherwise);
- The Direct Payment is allowed to become overdrawn or the contingency fund is used without good reason.

## 25 Complaints

People will be provided with information about how to use the complaints procedure related to the individual organisation carrying out delegated statutory duties on behalf of the council and CCG, including their right to access advocacy as part of the appeals process.

Any person may use the complaints procedure if they are dissatisfied with the decision related to direct payments or the support they receive.

Additionally, people who receive, or consider that they should receive, direct payments have the same rights to access the council and CCG's complaints

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<sup>18</sup> Clause 7(1)9b) and (c) of the Care and Support (Direct Payments) Regulations 2014 and Clause 33 (3) (4) and (5) of the Care Act 2014

procedure as people whose support is provided directly or arranged by the council or CCG.

## **26 Reviewing this policy**

This policy will be reviewed one year from the date of implementation or sooner if required.

Any review of this policy must include individuals who have lived recent experience of direct payments (for example the direct payment champions).

## Glossary of terms

<b>Adult</b>	For the purposes of this policy, an adult is a person who is aged 18 years or over.
<b>Adult with capacity</b>	In the context of this policy, an adult who has the mental capacity to make decisions about direct payments
<b>Adult without capacity</b>	<p>People are always assumed to have capacity until established otherwise. In the context of this policy, where there is any doubt about an adult's capacity to make decisions about direct payments, mental capacity will be assessed in accordance with the Council's Mental Capacity Act policy.</p> <p>An adult will only be deemed to be without capacity when it has been established through a mental capacity assessment that this is the case.</p>
<b>Assessment – of needs</b>	An assessment of an individual's needs for social care, support or s117 after care services to enable them to live as independently as possible.
<b>Assessment - financial</b>	<p>An assessment of an individual's financial circumstances to determine whether or not they must contribute towards the cost of services required to meet eligible needs.</p> <p>No financial assessment is required for s117 after care services, children's social care or personal health budget direct payments as these must be provided free of charge.</p>
<b>Authorised person</b>	<p>An authorised person is someone who:</p> <ul style="list-style-type: none"> <li>• is authorised under the Mental Capacity Act 2005 to make decisions about the adult's needs for care and support (i.e. is the holder of a lasting power of attorney given to them by the adult before they lost capacity or a Court appointed deputy), or</li> <li>• where the person is not authorised as mentioned above, a person who is so authorised agrees with the local authority that the person is a suitable person to whom to make direct payments, or</li> <li>• where the person is not authorised as mentioned above and there is no person who is so authorised, the local authority considers that the person is a suitable person to whom to make direct payments.</li> </ul>
<b>Carer</b>	Someone of any age who provides unpaid support to family or friends who could not manage without this help.
<b>Close family member</b>	<p>Someone who lives in the same household as the adult who is the adult's:</p> <ul style="list-style-type: none"> <li>• Parent or parent-in-law</li> <li>• Son or daughter</li> <li>• Son-in-law/daughter-in-law</li> <li>• Stepson or stepdaughter</li> <li>• Brother or sister</li> <li>• Aunt or uncle</li> <li>• Grandparent, or</li> <li>• The spouse/partner of any of the people listed and living in the same household as the adult.</li> </ul>
<b>Co-production</b>	Co-production is defined by Think Local Act Personal as: <b>"When you as an individual are involved as an equal</b>

	<b>partner in designing the support and services you receive.</b> Co-production recognises that people who use social care services (and their families) have knowledge and experience that can be used to help make services better, not only for themselves but for other people who need social care.” In Bath and North East Somerset, we would expand this to include people with health care needs.
<b>Commissioned service</b>	Commissioned services are those which have been designed, developed and purchased centrally by the council or CCG. As these services are purchased directly by the council or CCG, people with direct payments are not able to purchase them (as this would result in double funding for these services). If a person chooses solely commissioned services, they would not receive a direct payment.
<b>DBS check</b>	Screening through Disclosure and Barring Services. This checks criminal history and identifies people barred from working with children and vulnerable adults.
<b>Delegated statutory duties</b>	The council and CCG have to assess people within Bath and North East Somerset who have or appear to have the need for care and support. This is called our statutory duty. Bath & North East Somerset Council and NHS Bath and North East Somerset CCG no longer carry out this duty themselves but have contracted with a different organisation to do this on their behalf. This means this function has been delegated to a different organisation.
<b>Direct payments</b>	Payment of the council or CCGs contribution towards a personal budget direct to a dedicated bank account, so that the person or someone authorised to act on their behalf can arrange support services instead of having them arranged by the council / CCG. Direct payments may also be provided in most instances to arrange s117 after care services.
<b>Direct payments agreement</b>	The written agreement which sets out the terms and conditions applicable to direct payments.
<b>Duty to make direct payments</b>	Where the council has a legal obligation to make direct payments to eligible people because all conditions are met.
<b>EHCP</b>	Education, Health and Care Plan. This is issued following a needs assessment commissioned by the SEN Team and details needs, outcomes and provision required to support a child or young person with Special Educational Needs
<b>Full Financial Accounts</b>	Full Financial Accounts are used in exceptional circumstances and all requests for a full financial account will require panel approval. All individuals requesting a full financial account will be unable to carry out minimum requirements including: Making payments from their account, particularly to employees, where lack of a managed account would mean that PAs may breach confidentiality by being involved in making payments; Inability to complete paperwork – e.g. for audits.  A full financial account will not be approved for reasons of convenience –e.g. due to lack of time or due to lack of confidence, e.g. in calculating payments.

<b>MCA</b>	Mental Capacity Act 2005
<b>Mental capacity</b>	<p>Having mental capacity means that a person is able to make their own decisions. The Mental Capacity Act says that a person is unable to make a particular decision if they cannot do one or more of the following four things.</p> <ul style="list-style-type: none"> <li>• Understand information given to them.</li> <li>• Retain that information long enough to be able to make the decision.</li> <li>• Weigh up the information available to make the decision.</li> <li>• Communicate their decision - this could be by talking, using sign language or even simple muscle movements such as blinking an eye or squeezing a hand.</li> </ul> <p>The Act is specifically designed to cover situations where someone is unable to make a decision because the way their mind or brain works is affected, for instance, by illness or disability, or the effects of drugs or alcohol.</p>
<b>MHA</b>	Mental Health Act 1983
<b>Minor adaptation</b>	An adaptation is defined as minor when the total cost including supply and fitting is less than £1000.
<b>Mixed package</b>	If a person chooses a direct payment to meet some of their needs and commissioned services to meet others, they have a mixed package of care. All these options should be recorded on the person's care and support plan.
<b>Nominated person</b>	<p>A person nominated by an adult with capacity to assist with day to day management of services and / or management of direct payment funds.</p> <p>The adult with capacity at all times remains responsible and accountable for how direct payments are used.</p>
<b>Notional budget</b>	Notional budgets apply to personal health budget holders and apply where the CCG makes the arrangements for the agreed care and support. They are the same as a commissioned service for adult social care.
<b>Personal budget</b>	The amount of money allocated by the council to fund the assessed eligible care and support required. The personal budget for adults aged 18 and over is means tested. This means the adult may be required to make a financial contribution towards the total amount of their personal budget.
<b>Personal health budget</b>	The amount of money allocated by the CCG to fund the assessed eligible health care and support required.
<b>Personalised care and support</b>	Tailoring care and support to the needs, wishes and preferences as far as this is possible so that the person concerned has as much choice and control over how their needs are met.
<b>Plan</b>	A plan which summarises how a person's needs will be met, and which includes the details of needs to be met from direct payments. This may be either a care and support plan for an adult in need of care, or a support plan in the case of a carer.
<b>Reassessment</b>	A reassessment of needs for social care and / or support.
<b>Review</b>	Monitoring and review of direct payment arrangements to ensure that they continue to meet the needs. Usually carried out concurrently with a review of the person's plan
<b>Service User</b>	A person assessed by the council or CCG as eligible to

	receive health, care and / or support services.
<b>S117 after care services</b>	A wide range of services necessary to meet a need arising from a person's mental disorder when a person ceases to be detained under the MHA.

## Attachment 1

### Adults Whose Needs the Local Authority Must Not Meet By Making Direct Payments

Direct payments may not be used to meet the needs of people who are:

- a) **subject to a drug rehabilitation requirement**, as defined by section 209 (drug rehabilitation requirement) of the Criminal Justice Act 2003 (“the 2003 Act”), specified in a community order (as defined by section 177 (community orders) of that Act, or a suspended sentence order (as defined by section 189 of that Act);
- b) **subject to an alcohol treatment requirement**, as defined by section 212 of the Criminal Justice Act 2003, specified in a community order (as defined by section 177 of that Act), or a suspended sentence order (as defined by section 189 of that Act);
- c) **released from prison on licence –**
  - i. under Chapter 6 of Part 12 (sentencing: release, licenses and recall) of the 2003 Act or Chapter 2 of Part 2 (effect of custodial sentences: life sentences) of the Crime (Sentences) Act 1997 (“the 1997 Act”), **subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug or alcohol related behaviour**; or
  - ii. **subject to a drug testing requirement** under section 64 (as amended by the Offender Rehabilitation Act 2014) (release on licence etc: drug testing) **or a drug appointment requirement** under section 64A (release on licence etc: drug appointment) of the Criminal Justice and Courts Services Act 2000;
- d) **required to comply with a drug testing or a drug appointment requirement** specified in a notice given under section 256AA (supervision after end of sentence of prisoners serving less than 2 years) of the 2003 Act;
- e) **required to submit to treatment for their drug or alcohol dependency** by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act;
- f) **subject to a drug treatment and testing order** imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000;
- g) **required to submit to treatment for their drug or alcohol dependency** by virtue of a requirement of a community payback or probation order within the meaning of sections 227 to 230 of the Criminal Procedure (Scotland) Act 1995 or **subject to a drug treatment and testing order** within the meaning of section 234B of that Act; or
- h) **released on licence under section 22 or section 26** of the Prisons (Scotland) Act 1989 (release on licence etc) or under section 1 (release of short-term, long-term and life prisoners) or 1AA (release of certain sexual offenders) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 and subject to a condition that they **submit to treatment for their drug or alcohol dependency**.

Taken from the Care and Support (Direct Payments) Regulations 2014. Regulation 2, Schedule 1.

## Attachment 2

### Personal health budgets legislative context

- National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) (Amendment) (No. 3) Regulations 2014<sup>19, 20</sup>
- Guidance on Direct Payments for Healthcare: Understanding the regulations<sup>6</sup>
- Direct Payments for Healthcare: Guidance on Ensuring the Financial Sustainability of Personal Health Budgets<sup>9</sup>

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<sup>19</sup> The NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 are the principal regulations as originally made. They were amended by the NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) (Amendment) Regulations 2013, which introduced the “right to ask” for a PHB from 1<sup>st</sup> April 2014.

<sup>20</sup> The NHS Commissioning Board and CCGs (Responsibilities and Standing Rules) (Amendment) (No.3) Regulations 2014 amended the regulations once again, from 1<sup>st</sup> October 2014, to bring in the “right to have” a PHB

## Attachment 3

### Full Financial Account –Principles Direct Payment Support Services Policy

#### Definition:

The definition of a full financial account is as follows:

A third-party arrangement to support people in managing their direct payment.

Direct Payment funds are paid into a direct payment support service provider's full financial Account instead of the recipient's own Direct Payment bank account. All payments such as PA wages or agency invoices are made on behalf of the DP recipient by the support organisation providing this service. They will also prepare and provide the financial audit information when required for monitoring purposes.

Full financial account providers do not take responsibility for the care that is delivered, do not employ personal assistants and do not take responsibility for arranging alternative care and support workers to cover sickness / absence etc.

A full financial account will not be provided for a person who does not have the capacity to request a DP for themselves, or for a nominated or authorised person

Please note that this is an interim policy position for Full Financial Accounts and will be reviewed once pre-paid cards are introduced within B&NES.

#### Criteria for a Full Financial Account:

- All individuals with care and support needs requesting a full financial account will have capacity.
- Full financial accounts will only be offered in exceptional circumstances and all requests for a full financial account will require panel approval.
- All individuals requesting a full financial account will be unable to carry out minimum requirements including:
  - Making payments from their account, particularly to employees, where lack of a managed account would mean that PAs may breach confidentiality by being involved in making payments
  - Inability to complete paperwork – e.g. for audits

A full financial account will not be approved for reasons of convenience –e.g. due to lack of time or due to lack of confidence, e.g. in calculating payments.

#### Required Behaviours by Providers:

- It is essential that the principle of people remaining in control of their direct payment and care is respected by providers of full financial accounts. Therefore, the Council and Virgin Care will not expect to be contacted by providers responding to issues raised by Direct Payment recipients. Instead, recipients, or their advocate will be expected to contact the Council or Virgin Care directly.
- The provider will not make decisions relating to the person's care and support (for example arranging alternative care workers). These decisions remain with the person or their authorised person to make.
- A monthly account of the spend will be given to the DP recipient by the provider
- DP recipients will still have the responsibility for authorising payments and the full financial account provider will not take on this responsibility.

- The support provider will submit returns as required by the Council and will comply with all reasonable requests for information.
- The provider will ensure that the DP recipient is supported to remain independent and will work with them using a strengths-based approach – i.e. enabling but not doing, where they are able to complete tasks and activities themselves.
- The DP recipient will be the employer of any PAs if they want to have their support provided in that way.

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**CARE AND SUPPORT CHARGING AND FINANCIAL ASSESSMENT  
FRAMEWORK**

**ANALYSIS OF CONSULTATION RESULTS  
FINAL REPORT**

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**8<sup>th</sup> January 2020**

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## 1. The consultation questions

1. The Council proposes to introduce a Care and Support Charging and Financial Assessment Framework that aims to provide a fairer system and make it easier to understand for those people who need care.
2. When the Council's Client Finance Team become aware of a new service user, a Care Finance Officer will make several attempts by different means to contact them or their representative.  
The Council will require a service user or their representative to respond within two weeks of the initial contact being made to arrange a financial assessment. If there is no response, the Council will deem the person to be self-funding. This would be considered on a case by case basis.
3. Many service users will be entitled to claim for benefits. These benefits are included in the financial assessments.  
The Council will take into account any benefit that it believes a service user would have an automatic entitlement to, if an application were made. This relates to Pension Guaranteed Credit and Employment and Support Allowance.
4. In some cases, a third party (family or friend) will pay extra costs towards a more expensive service such as a larger room in a care home.  
The Council will require any third party to enter into a formal agreement confirming they will make the required payments. The Council will also carry out a basic financial assessment on the proposed third party to ensure the required payment is affordable.
5. In some cases, a service user is unable to pay for their care as their funds are tied up in a property. Arrangement can be made for service users to enter into an agreement that allows for payment at a later date. This is known as a 'Deferred Payment Agreement'.  
When an agreement is entered into and a yearly fee is charged. The fee covers the administration costs incurred in preparing annual statements, reviewing the equity / level of debt and the value of the property.  
The Council proposes an initial set up fee of £105 and an annual fee of £30.00. These costs will be collected when the Deferred Payment Agreement ends.
6. In some cases, a service user's representatives may be in the process of applying for Deputyship when the service user needs care. Also, there may be times when the service user's property is currently not registered with the Land Registry.  
A new Interim Funding Policy will be applied that allows the Council to fund care for a period of time whilst Deputyship is obtained and / or the property is registered. This will be subject to a four-month review (other situations will be considered). A signed contract will be required confirming the amount to be repaid to the Council. The service user or their representative will be required to keep the Council updated.
7. To ensure there is a fair approach to Disability Related Expenditure, the Council is introducing new amounts. The Council will only pay for expenditure

that is related to a disability. For example: additional laundry, replacement bedding, private domestic help and additional heating costs.

8. The Council will allow Transport and Education costs. These must be set out the service user's care and support plan and will only be allowed if the individual is not in receipt of Disability Living Allowance or any Disability Living Allowance component of Personal Independence Payment (PIP).

9. People receiving care and support at home are currently allowed £189.00 per week to cover the cost of living.

The Council proposes to only allow the cost of the standing charge for gas, electricity, water and sewerage within the financial assessment.

10. In some cases, the Council will arrange care for people who are able to pay for their own care.

A new one-off charge will be applied to any new self-funder where the Council has been asked to arrange the care and support. This is to cover the administrative costs incurred by the Council. It is proposed this is a one-off fee of £250.00 plus VAT.

In addition to the above ten open-ended questions comments were sought on an updated Direct payment Policy and those responding were invited to make any additional comments. The respondents could choose to provide comment on all, some or none of the questions.

Those responding were also asked the same ten questions in a closed-ended format seeking whether the respondent agreed with the proposal or thought the proposal was reasonable. The respondent was asked to confirm 'yes' 'no' 'don't know' 'no opinion' or they could choose to not respond to the question.

## **2. The Consultation**

The consultation was advertised within the press in the following publications:  
Healthwatch Bathnes website, 11 September

<https://healthwatchbathnes.co.uk/news/2019-09-11/care-and-supporting-charging-financial-assessment-framework-your-thoughts-needed>

Keynsham Talking Newspapers, 12 September (audio so no link)

Bath Echo, 16 September

<https://www.bathecho.co.uk/news/health/views-sought-proposals-social-care-funding-framework-86288/>

Somerset Guardian, 26 September (print version)

Keynsham Voice, 17 September (Print version)

Interagency newsletter

- 13<sup>th</sup> September (distribution 884 people (opened by 193, 4 clicks)  
<https://mailchi.mp/9cac0914bbc5/bnes-consultations>
- 28<sup>th</sup> October (distribution 894 people (opened by 167, 14 clicks)  
<https://mailchi.mp/609f5483407e/care-and-support-charging-and-financial-framework>

- 6<sup>th</sup> November (distribution 901 people (opened by 170, 13 clicks)  
<https://mailchi.mp/aa85420f2fcf/interagency-bulletin-november-2019>)

Heathwatch website

- 11<sup>th</sup> September (<https://healthwatchbathnes.co.uk/news/2019-09-11/care-and-supporting-charging-financial-assessment-framework-your-thoughts-needed>)

Direct emails were sent to the following:-

- Local MPs
- All 51 Parish Councils
- Bath Mosque
- BEMSCA
- Disabled Children's Transitioning Team
- GP practices via CCG
- Village Agents
- Swallow
- Dimensions
- BASS
- SWAN
- Your Say

Letters were sent to all 2,100 service users, social works and care providers  
The following documents were available on-line and at the one-stop shops and libraries in Keynsham, Bath and Midsomer Norton between the 24<sup>th</sup> September and 3<sup>rd</sup> December 2019:

- Draft Care and Support Charging and Financial Assessment Framework;
- Draft Direct Payment Policy;
- Consultation document;
- Easy ready consultation document;
- Consultation questionnaire;
- Easy read consultation questionnaire;
- Disability related fact sheet.
- FAQ's

The consultation was publicised through the Councils website, intranet and one-stop shops.

The draft Care and Support Charging and Financial Assessment Framework was reviewed by the Policy Development and Scrutiny Panel, Group Leaders, Informal Cabinet and Directors Group.

The Project Team (Lesley Hutchinson, Sara Dixon and Annemarie Strong) have posted documents to 43 people, responded to 9 specific emailed questions, provided a telephone conference at the request of the service users family member who lived too far away to attend the consultation events and meet with service users representing those within B&NES with disabilities.

The Project Team (Lesley Hutchinson, Sara Dixon and Annemarie Strong) with support from Councillor Appleyard, the Senior Leadership Team, commissioning colleagues and Communications and Marketing have attended 21 face to face consultation events with the public between the 25<sup>th</sup> September and the 27<sup>th</sup> November 2019.

Elected members and members of the public were able to attend any or all events.

<b>Date</b>	<b>Description</b>	<b>Nos</b>
25 <sup>th</sup> September	Carers Centre Management meeting	5
30 <sup>th</sup> September	Healthwatch event	7
2 <sup>nd</sup> October	Session 1 - Midsomer Norton Public event	15
2 <sup>nd</sup> October	Session 2 - Midsomer Norton Public event	6
3 <sup>rd</sup> October	Session 1 - Midsomer Norton Public event	6
3 <sup>rd</sup> October	Session 2 - Midsomer Norton Public event	0
7 <sup>th</sup> October	Keynsham Public event	10
8 <sup>th</sup> October	Compton Martin Public event	10
10 <sup>th</sup> October	Timsbury Public event	4
14 <sup>th</sup> October	BEMSCA	6
17 <sup>th</sup> October	Carers Centre Voice	10
21 <sup>st</sup> October	Swallow Management Committee	14
21 <sup>th</sup> October	Session 1 - Bath Public event	14
21 <sup>st</sup> October	Session 2 - Bath Public event	2
22 <sup>nd</sup> October	Keynsham Public event	11
6 <sup>th</sup> November	Session 1 - Bath Public event	17
6 <sup>th</sup> November	Session 2 - Bath Public event	12
14 <sup>th</sup> November	Preparing for adulthood event	23
22 <sup>nd</sup> November	Dimensions	2
25 <sup>th</sup> November	Action on hearing loss	18
27 <sup>th</sup> November	BASS	4
	<b>Face to Face</b>	<b>196</b>

All questions asked at the consultation events were recorded (Appendix 1) and form the rolling FAQs which have been run throughout the consultation period and have been available on-line. Hard copies of the FAQ's were offered at the consultation events. (Appendix 2)

A consultation event with the MS society was also offered but did not proceed due to a lack of response from the society.

Advocacy support was provided, via SWAN and Your Say, to three service users at their request.

BEMSCA support workers provided assistance to their members in translating documents into Chinese, Mandarin, Gujarati, Punjabi. BEMSCA assisted 2 Chinese families and 6 Indian families, by visiting them at home with their carers.

Action on hearing loss provided assistance to their members and supported their members to complete the consultation questionnaire, we received 21 questionnaires from Action on hearing loss.

### 3. Equalities Impact Assessment

A qualities impact assessment was carried out (Appendix 3).

The documents were available in easy read format on-line and in hard copy. The consultation events were advertised through Keynsham talking Newspapers All consultation events were held in accessible rooms.

There was a failing to provide hearing loops, and the project team have learnt from this for future events, in this instance, the gentleman requesting the hearing loop confirmed he could hear the consultation presentation if the speaker raised their voice. The Project Team further addressed this failing by arranging a consultation event with action for hearing for loss.

Support via the Social Work teams was available and advocacy assistance was available at the service users request.

Translation of the documents was provided as stated above.

Consultation events were held in Timsbury and Compton Martin to ensure inclusivity in more rural areas.

The respondents to the questionnaire provided profile information and confirmation of how the consultation was communicated to them (appendix 4).

### 4. The Quantitative components of the consultation

The quantitative components of the consultation (ten closed-ended questions seeking Yes, No, Don't know, No Opinion or No Response, see numbered list above).

#### **Analysis of responses:**

We had a total of 90 responses to the consultation on line and in paper form of which 57 were standard questionnaires and 33 were Easy Read questionnaires. Looking at a purely mathematical approach to the data analysis the following results can be seen.

Question	Yes	No	Don't Know	No Opinion	No Response
1. The Council proposes to introduce a Care and Support Charging and Financial Assessment Framework that aims to provide a fairer system and make it easier to understand for those people who need	70.0% (63)	25.6% (23)	3.3% (3)	1.1% (1)	0.0% (0)

care. Do you agree with this proposal?					
2. When the Council's Client Finance Team become aware of a new service user, a Care Finance Officer will make several attempts by different means to contact them or their representative. The Council will require a service user or their representative to respond within two weeks of the initial contact being made to arrange a financial assessment. If there is no response, the Council will deem the person to be self-funding. This would be considered on a case by case basis. Do you think this is reasonable?	35.6% (32)	52.3% (47)	5.5% (5)	5.5% (5)	1.1% (1)
3. Many service users will be entitled to claim for benefits. These benefits are included in the financial assessments. The Council will take into account any benefit that it believes a service user would have an automatic entitlement to, if an application were made. This relates to Pension Guaranteed Credit and Employment and Support Allowance. Do you think this is reasonable?	55.6% (50)	30.0% (27)	7.8% (7)	5.5% (5)	1.1% (1)
4. In some cases, a third party (family or friend) will pay extra costs towards a more expensive service such as a larger room in a care home. The Council will require any third party to enter into a formal agreement confirming they will make the required payments. The Council will also carry out a basic financial assessment on the proposed third party to ensure the required payment is affordable. Do you think this is reasonable?	44.4% (40)	36.7% (33)	7.8% (7)	10.0% (9)	1.1% (1)
5. In some cases, a service user is unable to pay for their care as their funds are tied up in a property. Arrangement can be made for service users to enter into an agreement that allows for payment at a later date. This is known as a 'Deferred Payment Agreement'. When an agreement is entered into and a yearly fee is charged. The fee covers the administration costs incurred in preparing annual statements, reviewing the equity / level of debt and the value of the property. The Council proposes an initial set up fee of £105 and an annual fee of £30.00.	37.8% (34)	36.7% (33)	3.3% (3)	18.9% (17)	3.3% (3)

These costs will be collected when the Deferred Payment Agreement ends. Do you think this is reasonable?					
6. In some cases, a service user's representatives may be in the process of applying for Deputyship when the service user needs care. Also there may be times when the service user's property is currently not registered with the Land Registry. A new Interim Funding Policy will be applied that allows the Council to fund care for a period of time whilst Deputyship is obtained and / or the property is registered. This will be subject to a four month review (other situations will be considered). A signed contract will be required confirming the amount to be repaid to the Council. The service user or their representative will be required to keep the Council updated. Do you think this is reasonable?	44.5% (40)	22.2% (20)	11.1% (10)	20.0% (18)	2.2% (2)
7. To ensure there is a fair approach to Disability Related Expenditure, the Council is introducing new amounts. The Council will only pay for expenditure that is related to a disability. For example: additional laundry, replacement bedding, private domestic help and additional heating costs. Do you think this is reasonable?	48.9% (44)	33.3% (30)	5.6% (5)	8.9% (8)	3.3% (3)
8. The Council will allow Transport and Education costs. These must be set out the service user's care and support plan and will only be allowed if the individual is not in receipt of Disability Living Allowance or any Disability Living Allowance component of Personal Independence Payment (PIP). Do you think this is reasonable?	56.7% (51)	18.9% (17)	7.8% (7)	12.2% (11)	4.4% (4)
9. People receiving care and support at home are currently allowed £189.00 per week to cover the cost of living. The Council proposes to only allow the cost of the standing charge for gas, electricity, water and sewerage within the financial assessment. Do you think this is reasonable?	35.6% (32)	42.2% (38)	6.7% (6)	12.2% (11)	3.3% (3)
10. In some cases, the Council will arrange care for people who are able to	23.3%	44.5%	8.8%	15.6%	7.8%

pay for their own care. A new one-off charge will be applied to any new self-funder where the Council has been asked to arrange the care and support. This is to cover the administrative costs incurred by the Council. It is proposed this is a one off fee of £250.00 plus VAT Do you think this is reasonable?	(21)	(40)	(8)	(14)	(7)
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Proposals 1,3,6,7 and 8 show a higher percentage answering ‘yes’ and the proposals at 2,4,5,9 and 10 show a higher percentage answering ‘no’.

Proposals 1,3,6,7 and 8 could therefore be implemented without change. If those who responded, ‘no opinion’ are included the proposals at questions 4 and 5 could also be implemented without change.

The proposal at questions 2,9 and 10 on a purely quantitative analysis, would either require amendment or would not be implemented.

However, the quantitative data should be considered in light of the qualitative data and responses.

### 5. The qualitative components of the consultation

The qualitative components of the consultation (ten open-ended questions seeking comment, see numbered list above) were analysed thematically to examine commonalities, relationships and differences across the responses and identify patterns or themes adopting an approach similar to Braun and Clarke 2006.

The qualitative analysis seeks to use verbatim quotes to illustrate how the findings and interpretations have arisen from the data. Direct quotes are referenced by the age, gender and the type of stakeholder (e.g. member of the public, current service user, carer, representative from voluntary group).

We had a further 2 responses in letter form which did not answer the questions in a quantitative format but rather in a narrative format. A total of 92 responses were therefore considered for the qualitative analysis.

#### Proposal 1:

The responses confirmed that the Care and Support Charging and Financial Assessment Framework was thought to be a good idea.

“The principle is right in that priority will be given to those most in need of support.”  
 61 or over, female, someone else a friend or family member of someone who uses Adult Social Care services.

The responses further showed that whilst the principle of the Care and Support Charging and Financial Assessment Framework was thought to be a good idea some of the details were not necessarily agreed.

“In principle though not in agreement with all details.” 61 and over, female, Yourself, currently in receipt of Adult Social Care and Support services.

“Agree with the proposal but not necessarily with everything suggested.”  
61 and over, female, Yourself, a local resident.

The qualitative data analysis exhibited underlying concerns held by the respondents that were related to but not on all fours with the question/proposal.

“Bath is a university city who don't the Council start charging students rates? Students use more facilities than any other age group of people. The Council is suggesting increased charges and the cost of meetings for 2100 people. Obviously, the Council need to cover their costs for the survey and intend to increase charging substantially. personal care is free in Scotland.”  
61 and over, female, Yourself, currently in receipt of Adult Social Care and Support services.

The data analysis also highlighted some misconceptions in respect of the way in which the Care Act 2014 operates.

“You are planning to include partners income/savings in the charge calculation for the first time so are not dealing with individuals except when someone is living alone. This is a huge change and is buried in one of the lengthy documents: the summary refers to income and savings of 'persons' and there is no mention of the fundamental change in calculation to a household basis. Diverting savings to pay the entire care cost for those in their 60s will massively reduce private resources needed in later life as we live in very uncertain times.”  
61 or over, male, Someone else a friend or family member of someone who uses Adult Social Care services.

The Care Act 2014 is person centred and requires all financial assessments to be carried out in respect of the individual, the savings or income of partners is not included within the financial assessment.

## **Proposal 2:**

The qualitative data and feedback from the public suggests that the timeframe proposed of two weeks is too short.

“Too harsh. Many people affected may need longer to respond if they live alone, for instance.”  
61 and over, male, someone else a friend or family member of someone who uses Adult Social Care services.

"I do not think two weeks is long enough, it doesn't take into account the difficulties that someone may have in contacting a family member or advocate to assist them, I think 3 weeks would be better."

61 and over, female, someone else a friend or family member of someone who uses Adult Social Care services.

"This is an unreasonably short time for appointed representatives to access the necessary detail and respond. In particular it is imperative that the Client Finance Team have access to email, telephone, both mobile and land line and postal addresses. In our case we are often absent from Bath for periods of more than two weeks and postal communications or land line calls would go unanswered. The penalties implicit in terms of the assumption that lack of response indicates self-funding are unreasonable and unwarranted. 30 days is the norm for communications with the DWP and this should be the standard reflected in this policy."

61 and over, female, someone else a friend or family member of someone who uses Adult Social Care services.

"Should have longer time, people get anxious and stressed about meeting and contacting people. I sometimes forget to show letters to my support worker or family. I don't understand they are important. Because of all the new assessments PIP etc, assessments seem really scary and stressful. I would be very worried."  
25-60, male, I am getting adult social care and support.

### **Proposal 3:**

The feedback provided by the public indicates that this proposal is supported on the basis that provision is made to assist those required to make the application for the benefit.

"The council should explain what benefits the service user is entitled to and assist, if required, in the service user accessing such benefits. i.e via a social worker."  
61 or over, male, a local resident.

"If assistance is provided to enable claiming of benefits required."  
61 or over, female, , I am getting adult social care and support.

"If you have informed the clients that they are entitled - do not presume that people are fully aware of what they can claim." 25 -60, female.

Some feedback was more negative but when considered in context that no notional capital will be taken into account for three months after the initial visit by the Care Finance Officer to allow time for the application to be made, on a qualitative analysis remains supportive of the proposal subject to clear guidance being provided to the Service User or their representative.

"The Council should have no right to an assumption that a particular benefit is being received without checking the reason why. There may be many reasons, the application may be in the process of being actioned or there may be other factors. If

an individual is in receipt of such allowances, then it is reasonable to take them into consideration. Otherwise dialogue between the service user or representative and Finance Team must clarify the situation with a clear indication of the actions that will be required on behalf of the service user, and the timescale before further action is taken.”

61 and over, female, someone else: A friend or family member of someone who uses Adult Social Care and Support Services.

#### **Proposal 4:**

The feedback received was limited and therefore analysis was restricted, the feedback received should be read in conjunction with the ombudsman’s guidance that all third party top up payments must be paid by the Council to the Care provider and collected from the third party by the Council. As such there is a financial risk for the Council and a need to ensure that the service user for whom the top up payment is being made is not placed in a position where funding is not available long term.

“It should be made clear to the family or friends that this would be a long-term commitment requiring careful consideration.”

61 or over, male, I am a friend or family member of someone who gets adult social care and support service.

“Many people will want the Council to be involved in this. Surly a private arrangement can be made with the Care home the above is controlling.”

Given the guidance form the ombudsman the Council must be involved in the placement of a service user requiring a third party top up payment and private arrangements with the Care provider are not permissible.”

61 or over, female, For yourself - I am getting adult social care and support service at the moment.

#### **Proposal 5:**

The feedback showed a higher than average number with no expressed view / comment, this may be because the proposal effects only those resident in care home setting.

Some of the comments showed a general dissatisfaction with the current law in respect of the ability to take a person’s home into account in the financial assessment.

“since the national health started, we have all pain our national health stamp the service has already been paid for.” 61 or over, male, for someone else – other.

“What does a person’s home ownership status got to with whether or not you provide a care package? The provision should be there for people who require it.”

25-60, female, for someone else – carer

whilst some responses indicated the Council should continue to increase the fee annually.

“The annual fee should be index linked.”  
61 or over, female, yourself – a local resident.

“It is an excessive increase on the annual fee. we feel a smaller increase that rises annually would be more appropriate.”  
61 and over, female, An Organisation: a voluntary organisation or advocate group for Adult Social Care and Support Service users.

However, some responses did not support the proposal.

“The fee seems excessive.”  
25-60, female, yourself – a local resident

“needs to be set up on an individual basis. any delay to provision increases safeguarding concerns for the vulnerable adult. Needs just a one-off set-up fee.”  
25-60, female, I am a friend or family member of someone who gets adult social care and support service.

### **Proposal 6:**

The proposal received reasonable feedback and comments were varied.

Support of the proposal was shown however some responses indicated a lack on understanding in respect of property ownership and the legal ability to act, this will need to be addressed by the social work teams and care finance officers at the time the need for possible interim funding arises.

“why does the property have to be registered - do not understand the above question.”  
61 and over, female, yourself I am getting adult social care and support service at the moment.

The issue of safeguarding was raised and the need to have independent legal advice and ensure relatives were acting in the persons best interest, currently and going forward all those who express an interest in interim funding are advised to seek independent legal advice and if there is any safeguarding concern then this would be referred to the appropriate officers for investigation.

“This is a minefield. I think all cases should be assessed on an individual basis and access to legal representation given to vulnerable people. This representation should be of an independent nature and not funded by the council in any way. Would safeguarding also be an issue here? Would all relatives be working in the best interest of the individual? Who would monitor the council's auditing and inspecting? Would outside organisations and bodies take on this role?”  
25-60, female, I am a friend or family member of someone who gets adult social care and support service.

Finally, a minority of responses showed such a contract would not be entered into.

“Neither myself or my family members would sign any contract.”  
61 or over, female, yourself – a local resident.

### **Proposal 7:**

The feedback from the public indicates that the proposal is broadly acceptable as long as those with the most need and the most vulnerable in the community are provided with the required care and support.

“So long as the rules are fair and do not leave those with disabilities vulnerable without proper funding.”  
25-60, female, someone else – I am a carer

“It should be on basis to basis concern - one individual with the same condition to another might have same problems but others not. You should be applying a Personal Centre Care Approach for care modelling - this is the new method.”  
25-60, female.

There were also suggestions made of other items that could be included as disability related expenditure.

“The new proposal does not include dietary needs e.g, a gluten free diet can come with additional costs. This was previously allowed and needs to be put back in the new DRE Factsheet. “  
61 or over, male, I am a friend or family member of someone who gets adult social care and support service.

“But it seems to me that the additional heating allowance is too open ended generous, and this might result in excessive costs to the council.  
On the other hand I cannot see why chiropody should be excluded - there should be an assessment.”  
61 or over, prefer not to say, yourself – a local resident.

### **Proposal 8:**

The majority of responses were in favour of the proposal subject to a those with the most need being provided required care and support.

“If you mean you will only allow these costs if the service user is not in receipt of the mobility component of either DLA or PIP then we would agree.”  
61 and over, female, An Organisation: a voluntary organisation or advocate group for Adult Social Care and Support Service users.

“Depends on the individual circumstances, needs and care plans. offered for life learning, social engagement, needs- based vocational training and physical activities.”  
25-60, female, I am a friend or family member of someone who gets adult social care and support service.

### **Proposal 9:**

The public feedback was mainly in support of the proposal.

“For the purposes of clarity, the allowed standing charge ought to be linked to specific companies, eg British Gas.”

61 and over, prefer not to say, yourself – a local resident.

“You could also advise people of schemes such as 'winter warmer' scheme for electricity and gas during the winter. I did not know I was eligible for this because. no one ever told me.”

25-60, something else, yourself I am getting adult social care and support service at the moment.

There was some interchangeability between the comments in respect of this proposal and proposal 8.

“People who are housebound/bedbound need more help with heating costs as they are home all day.”

61 and over, female, yourself I am getting adult social care and support service at the moment.

### **Proposal 10:**

Not all respondents were in favour of the proposal and it was expressed that the amount was too high.

“Whilst a charge may be made the proposed £250 plus VAT is far too high.”

61 and over, female, yourself I am getting adult social care and support service at the moment.

“This is very high.” 25-60, female, yourself – a local resident

“£250 could be detrimental to people applying for care and off putting (even if they are self-funders).”

61 and over, female, yourself I am getting adult social care and support service at the moment.

Further there appeared to be a misconception in respect of who would incur the charge and in what circumstance.

“If the person is not able to set up their own care package, they have a statutory right under the Care Act to have care arranged for them, including a Care Act Assessment. This is a right for all people who need care, regardless of whether or not they are self-funding. It is just a case of the council phoning around care providers on behalf of the service user, and no Care Act Assessment is done for this person, £250 is outrageous.”

25-60, female, an organisation / private sector.

“Can it be lower or in instalments for those who cannot afford the fee?” 25-60, female, yourself – a local resident.

**Direct Payment Policy:**

The feedback received will be considered.

Some positive feedback was received.

“The choice is good.” 61 and over, female, yourself – a local resident

It was highlighted that this is a complicated system and the advice could be provided by alternate sources.

“it is a complicated system for anyone to manage especially those who need help.” 61 and over, female, yourself: I am currently in receipt of Adult Social Care and Support Services.

“I did not understand the old system and was not well enough to administer it. Direct payments probably work for adults who care for someone in their home and can manage the paperwork it is not for some....” 61 and over, female, yourself: I am currently in receipt of Adult Social Care and Support Services.

“This was only done two years ago. Inserting new information regarding employer’s legal responsibilities and the Inland Revenue self-employed definition should be the job for the Hub to advise on, and not the council.” 25-60, male, yourself I am getting adult social care and support service at the moment.

“Not available to enough people now.” 25-60, males, An Organisation: a voluntary organisation or advocate group for Adult Social Care and Support Service users.

**General feedback:**

The consultation and the proposed Care and Support Charging and Financial Assessment Framework received mixed general comments.

“I appreciate the value of these consultations and hope that they are well attended and that you get some good ideas.” 61 and over, female, yourself – a local resident

“I heard on the news the Government are providing more money for Social care in the next financial year. Also give the 'green light' to Councils to increase rates. I personally pay the full council tax and agree with the move personal care in Scotland is free. B&NES Council has encouraged more students to reside in bath, but they do not pay rates. many local people are annoyed about this, 2100 service users would not be penalised if perhaps students made a greater contribution. the Council has already to force users to relinquish their properties!”

61 and over, female, yourself I am getting adult social care and support service at the moment.

“I appreciate this consultation period. Now there needs to be a further period of reflection and dissemination of feedback. Where I hope there will be further invitations to discussion meetings. We are focusing on some of the most vulnerable people in our society. We all have a moral and social duty to ensure their physical, health, emotional, psychological, financial, educational, social and safety needs are met. Any financial cuts to service is very alarmingly.”

25-60, female, someone else a friend or family member of someone who uses Adult Social Care services.

## **6. Decisions**

### **Proposal 1: Accepted**

Reason: In principle most people supported the proposal, however there were elements within the Care and Support Charging and Financial Assessment Framework that raised concern.

### **Proposal 2: Not accepted – amended**

Reason: Following the level of concern expressed regarding the 2-week time period for the service user or their nominated representative to make contact with the Care Finance Officer the Council has decided to extend this timeframe to 4 weeks.

### **Proposal 3: Accepted**

Reason: The Council notes individuals concerns regarding support and signposting and will review the information already available to support people and develop a guidance document explaining what the person or their representative needs to do to make an application for the designated benefit.

### **Proposal 4: Accepted**

Reason: The Council acknowledges there was a level of concern, however this was mainly in regard to the principle of third-party payments and the use of the same rather than the agreement and/or financial assessment. The use of third-party payments is a matter of statute. There were a small number of people who felt it was an infringement of their rights however the decision to agree to a third-party payment is optional and therefore any person who did not wish to provide financial information would not have to do so.

### **Proposal 5: Accepted.**

Reason: The Council found that statistically those in favour were only marginally more than those respondents that answered ‘no’, however it should be noted that the fee is not payable at the outset but added to the debt and is payable when the deferred payment agreement is ended.

It was also noted that there was a general dissatisfaction with the current law in respect of property ownership and care costs, however this is a matter for central government.

Further the Council sought confirmation, via the national association of financial assessment officers forum, from other Local Authorities in respect of the setup fee charged which ranged between £64.00 and £397.00, however, some Local Authorities did not charge a single fee opting to charge an hourly rate or a mixture of both making comparison difficult, the £105.00 was an average of our nearest neighbouring Local Authorities, therefore the Council felt the sum of £105 was reasonable, this figure is in line with practice across the Country and will increase annually in April in accordance with the Consumer Prices Index including owner occupiers' housing costs (CPIH), to allow for the increase in property prices.

#### **Proposal 6: Accepted**

Reason: The proposal is accepted, however more detail will be provided in a specific leaflet to those who may require assistance via interim funding to ensure the agreement and principle is clear.

#### **Proposal 7: Accepted**

Reason: Some concerns were raised in respect of people's individual needs being taken into account, for example dietary requirements, the intention has always been to work with people on an individual basis to ensure genuine disability related expenditure is taken into consideration.

#### **Proposal 8: Accepted**

Reason: The response showed clear support for the proposal.

#### **Proposal 9: Accepted**

Reason: Whilst there is clear concern that people may be adversely affected due to items such as additional heating costs caused by a disability need for greater heat this would fall under proposal 8 and be a disability related need and would be considered in any Care Act assessment and assessed accordingly.

In addition, any person aged over 60 would be in receipt of a winter fuel allowance and those in receipt of certain benefits may be eligible for the cold weather payment.

#### **Proposal 10: Accepted**

Reason: The Council sought confirmation, via the national association of financial assessment officer's forum, from other Local Authorities in respect of administration charges for those who are deemed as self-funding but request the Council to

arrange care. The other Local Authorities confirmed a charge between £125 plus VAT and £500 many also charged an annual fee in addition to the initial charge.

The Council acknowledges that the consultation feedback showed a response that the proposed sum of £250 plus VAT was too high but given the evidence from other Local Authorities and the fact that the use of the service is at the persons discretion the Council felt that the proposal was reasonable.

This cost will not cover the full cost to the Council but will allow the Council to recoup some of the costs of the officer time, social worker time, checking the appropriateness of the options of care available, negotiating on the persons behalf and setting up the package of care. The cost will increase annually in April in accordance with the Consumer Prices Index including owner occupiers' housing costs (CPIH), to allow for inflation.

The Council will provide all those who are self-funders and express they wish the Council to carry out this work their behalf a leaflet explaining the options in respect of arranging care.

It should be noted that private agencies who provide this service charge a higher rate, the rates charged by private agencies range between £255 plus VAT and £695 plus VAT.

### **Direct Payment Policy: Agreed**

Whilst some concerns at language and accessibility were raised, the easy read version will remain available on-line and in hard copy by request. If any individual has a concern about the implications of the Direct Payment Policy, they can speak with their social worker or care co-ordinator.

Further following feedback in respect of pre-paid cards, to clarify, pre-payment cards will be optional if used in the future.

### **Next steps:**

The FAQs will remain available on-line and will be periodically updated when appropriate.

An easy read version of the policies will be available on-line. The project team will provide further engagement with appropriate groups to update them on the agreed policies and answer any further questions.

We would highlight that the appeals and complaints procedure remains unchanged. If you do not agree with the Councils decision you can make a formal complaint to the Complaints and Data Protection Team Manager:

[complaints\\_cypandadults@bathnes.gov.uk](mailto:complaints_cypandadults@bathnes.gov.uk)

The Councils complaints procedure can be viewed at <http://www.bathnes.gov.uk/services/your-Council-and-democracy/complaints-and-customer-feedback/complaints-about-adult-social>

If you are not satisfied with the decision made by the Councils complaints team you can refer the matter to the Local Government and Social Care Ombudsman <https://www.lgo.org.uk/>

The Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH  
Telephone: 0300 061 0614

**Conclusions:**

The project Director believes the team made every effort to consult as widely, inclusively and fairly as possible.

The conclusions drawn have taken into account concerns raised and made amendments where necessary.

The project Director and team would like to thank all those who have taken part and taken the time to respond and express their views.

## Appendices:

### Appendices 1 – Consultation figures and questions

#### Summary of attendance at Public Consultation events

Date	Description	Nos
25 <sup>th</sup> September	Carers Centre Management meeting	5
30 <sup>th</sup> September	Heathwatch event	7
2 <sup>nd</sup> October	Session 1 - Midsomer Norton Public event	15
2 <sup>nd</sup> October	Session 2 - Midsomer Norton Public event	6
3 <sup>rd</sup> October	Session 1 - Midsomer Norton Public event	6
3 <sup>rd</sup> October	Session 2 - Midsomer Norton Public event	0
7 <sup>th</sup> October	Keynsham Public event	10
8 <sup>th</sup> October	Compton Martin Public event	10
10 <sup>th</sup> October	Timsbury Public event	4
14 <sup>th</sup> October	BEMSCA	6
17 <sup>th</sup> October	Carers Centre Voice	10
21 <sup>st</sup> October	Swallow Management Committee	14
21 <sup>th</sup> October	Session 1 - Bath Public event	14
21 <sup>st</sup> October	Session 2 - Bath Public event	2
22 <sup>nd</sup> October	Keynsham Public event	11
4 <sup>th</sup> November	Dimensions (rescheduled see below)	0
6 <sup>th</sup> November	Session 1 - Bath Public event	17
6 <sup>th</sup> November	Session 2 - Bath Public event	12
14 <sup>th</sup> November	Preparing for Adulthood event – stall	23
22 <sup>nd</sup> November	Dimensions (rescheduled)	2
25 <sup>th</sup> November	Action on Hearing Loss	18
27 <sup>th</sup> November	BASS	4
	<b>Face to Face</b>	<b>196</b>

## **Carers Centre Support Team meeting 25<sup>th</sup> September 2019**

### **No of people 5**

Q1 – Will there be support for service users applying for the additional benefits?

Q2 – Is the top up agreement compulsorily?

Q3 – Is the third party top up agreement new?

Q4 – Presumably the agreement will also offer a safety net for service users?

Q5 – Is that why the light touch financial assessment is required?

Q6 – What was the fee originally?

Q7 – Does the deferred payment agreement come into play if a couple lives in the house?

Q8 – As part of this consultation, will it be possible for service users to help shape the framework?

Q9 – Is it because some people use it as a way to protect their money?

Q10 - If someone was a self-funder can the debt be attached to their home?

Q11 – If a son or daughter was living in the family home and caring for another family member, they would be put under considerable financial constraints particularly if they are under 60 years old and the property was included in the financial assessment. This seems unfair.

Q12 – Some people put properties in Trust for family members. Does it have to be put in place for 7 years?

Q13 – If a person is already in care, can they then put their property in Trust?

Q14 – Does this impact on personal budgets?

Q15 – Once the new policy comes into effect, how long will the new process take?

Q16 – Do a lot of people ask for the care to be arranged?

### **Comments**

- People are living longer, I am concerned that there is not enough funds for myself, I am also concerned about funds for future people?
- Might be worth having some examples for each of the questions
- Found the information a lot clearer and easier to read
- We will encourage people to take part in the consultation

## **Healthwatch event 30<sup>th</sup> September 2019**

### **No of people 7**

Q1. Does the Deferred Payment Agreement still allow for 12 weeks grace?

Q2. What is the interest paid?

Q3. Does that apply if a partner is living in the home?

Q4. I presume that those people receiving an attendance allowance will be taken into account when the financial assessment is completed?

Q5. A lot of people are going through critical changes and it is important that a care assessment is done as soon as possible. However, care assessments are not being done in the timescales.

Q6. This is a very complex system and will impact on people financially, what support is available for people when the framework comes into place?

Q7. The points you are consulting on seem reasonable, is there an appeals procedure if people are not happy with the process?

Q8. How many people are you supporting in BANES?

Q9. Has everyone you support been contacted about the consultation?

Q10. Will all existing clients be notified of the final changes?

- Q11. Will that mean everyone will be reassessed?
- Q12. When will the changes for new service users come into place?
- Q13. Is there a transition period?
- Q14. The people currently in the system waiting for a care assessment, have they been notified of the changes?
- Q15. Are you open to changing the two week notice period?
- Q16. For people who are self-funding, is there any point in having to get a care assessment?
- Q17. Is there support for people to apply for benefits?
- Q18. Does this cover supported living?
- Q19. I don't understand how the prepayment card will work?
- Q20. When someone has a financial assessment done, will the Council share this with anyone?
- Q21. What support do you have in place for people with Autism or Dementia to take part?

### **Comments**

- Care assessments are taking much longer than 28 days, it is more like weeks and months.
- This is a problem for Virgin.
- Whether the care is for residential care or at home, the 12 month reviews are not being completed.
- If you are failing the targets for care assessments why don't you change the timescales.
- With regards to benefits, there is a resource issue for support agencies to assist people in filling in forms. It can take up to three months to get benefits sorted for various reasons.
- The two week period seems too short.
- If you are asking the local authority to pay out then there has to be assessment.
- The presentation has to be simplified, people will not understand the proposals. The information on each slide is too much. We need to know what it means for individuals. It needs a headline for each one. Don't need to have all the details about Direct Payments.
- In the rural areas, Direct payments are difficult to set up, however we would like to set up more.
- New people coming through could be done before the policy is implemented.

### **Midsomer Norton Council Chamber – 2<sup>nd</sup> October 2019**

#### **Session 1 – 4.30pm – 6pm**

#### **No of people 15**

- Q1. My daughter is in supported living with a private company and doesn't own her own home, will these changes impact on her and will her fees go up?
- Q2. Will the income thresholds change?
- Q3. Will any of the fees be back dated?
- Q4. What are the actual changes, what is the difference?
- Q5. What will be the new fees for the Deferred Payment Agreement?

- Q6. With the new procedure for Deferred Payment Agreements, will the fees be annually?
- Q7. Will the fees go up for existing service users who have Deferred Payment Agreements?
- Q8. I don't really understand what is meant by unregistered properties in relation to the Interim Funding Policy.
- Q9. Are you still going to include cleaning costs for a home?
- Q10. You are assuming people will be able to get Pension Tax Credit, I applied as I was told by someone I would be eligible, but I wasn't. How will you ensure that people will not be disallowed?
- Q11. When will the changes come into effect?
- Q12. Will the Council tell us in advance what the new charges will be before its implemented?
- Q13. Will people be notified even if there are no changes?
- Q14. Is the Government allowance affected?
- Q15. Are there changes to the financial assessment?
- Q16. So if the income hasn't changed, will the amount change?
- Q17. What is the change to Direct Payments?

### **Comments**

- I got the letter and thought I would have to wait until April.
- She has a house manager and they arrange for the package. They deal with the financial side of things and send through an invoice. If they can't go to work its bad. Its their only income
- If you sent a letter to my daughter asking for her to respond within two weeks, she would not be able to, she would not know what to do. I think you need to review it. Two weeks is a very short timescale. It is a very stark.
- You can't assume that everyone will be eligible for these benefits.

### **Midsomer Norton Council Chamber – 2<sup>nd</sup> October 2019**

#### **Session 2 – 6.30pm – 8pm**

#### **No of people 6**

- Q1. My wife has been in a nursing home for seven years, will it be back dated?
- Q2. If an elderly couple lives in a home, one needs to go into a home, will the property be taken into account?
- Q3. We have a three bedroom house in joint name and I still live at home, my wife is in a care home. If I wanted to move into a flat will the property be taken into account?
- Q4. If the situation arises, can we get advice from the Council regarding a Deferred Payment Agreement?
- Q5. If a house was sold for £200,000 and the care home fees were £400,000 would the Council pick up the difference?
- Q6. If you were topping up for an elderly person, what happens if you have financial difficulties?
- Q7. Will it be backdates if she moved to a bigger room years ago?
- Q8. Who can top up?
- Q9. Does there have to be a financial link with the individual?
- Q10. Why are you making a distinction, can't the person pay it themselves?

- Q11. Can we get advice directly about deferred payments?
- Q12. Are you able to confirm whether the mobility aspect of the allowance is not changed?
- Q13. How will people pay for the usage costs of their utility costs?
- Q14. If we do not bank on-line how would the pre-payment cards work?
- Q15. Will you still be able to send out statements to us (pre-payment cards)?
- Q16. If someone was already in receipt or had just had their financial assessment, will they be required to have a review?
- Q17. Do you have any idea of the extra amount that you will clawback from people?
- Q18. I'm assuming that once the policy is in place, service users will receive information.

### **Comments**

- There is an expectation that we should do it (pre-payment cards) on-line and I feel quite strongly that this is not fair.
- Note – all the final documents should be put in the One-stop-Shop and Libraries and use the Direct Payment champions to assist.
- We just have to trust the system that it gets it right (in relation to benefits)

### **Midsomer Norton Council Chamber – 3<sup>rd</sup> October 2019**

#### **Session 1 – 2.30pm – 4pm**

#### **No of people 6**

- Q1. Will the Employment Support Allowance be taken into account?
- Q2. What about when you have a dependent son, what allowances will be made for that?
- Q3. Is the question really when you are supporting someone at home, will your household expenses be taken into account?
- Q4. Could you explain Disability Living Allowance?
- Q5. My wife goes to the day centre, our funds are so low, is there a charge?
- Q6. Is there a feedback form on-line?
- Q7. You mentioned if you own your own home, if another family member is living at home how does that work? This is a real worry if you have a dependent child?
- Q8. My son moved from a Commissioned Service to Direct Payment (DP). The DP service is not good. On occasions the support is not given. Does the council review this?
- Q9. If someone is already in receipt of a Direct Payment Agreement that it will not change?
- Q10. My son is receiving Mental Health Services, he has Downs syndrome and Dementia. How does it work in relation to him?
- Q11. What is the difference between Direct Payments and Commissioned Services?

### **Comments**

- At no state within my son's assessment did they account for living at home and paying rent. Nothing was allowed for.
- So we have to make our son homeless then the Council will have to arrange for his care.
- The benefits are squeezed, there isn't enough to support him.

- They did allow a certain amount for housekeeping £60 to be taken into account.
- They need to know the pressures we are at either end.
- I have been told that if my pension is over a certain amount, I will not be able to receive certain benefits.
- My wife is going into rest bite care for a week arranged by Alzheimers, we get charged for this, its quite a lot, I find that very difficult.
- We do understand that there are pressures in getting good professional support workers.
- I like the sound of the pre-payment cards – it will help with the paperwork.

### **Midsomer Norton Council Chamber – 3<sup>rd</sup> October 2019**

**Session 1 – 4.30pm – 6pm**

**No of people 0**

### **Keynsham Community Space – 7<sup>th</sup> October 2019, 6.30pm – 8pm**

**No of people 10**

Q1. What is the current situation in relation to the two weeks?

Q2. Is it an arbitrary two weeks or is it based on other research with other organisations?

Q3. What would happen if there were no beds available in a care home within the price range, what would the Council do?

Q4. What is a person's set amount for daily living costs?

Q5. Do you have to bank on-line to use pre-payment cards?

Q6. You mentioned the allowance for people with Creutzfeldt-Jacob Disease, why is this singled out?

Q7. What if a person that doesn't get DRE need transport costs, they just need to use a wheelchair friendly car, can they still get the costs paid?

Q8. My son lives in a supported living accommodation, he goes to Day Centre and there is a charge, will this charge change?

Q9. When we get the assessment will it tell us what we have to pay?

Q10. Do they make allowances for rent?

#### **Comments**

- Is it legally binding the two weeks response time. It does not seem reasonable, its not long enough.
- Easy read version, a lot of people with learning difficulties don't understand the word 'assume'.
- We needed to find a care home for my brother but they were expensive. The only one we could find was 20 miles away and it was terrible. The only toilet was on the floor below, this was not suitable. In the end, we have decided to care for him at home.
- The rate proposed for Deferred Payments seems rather high.
- You shouldn't need to send all the supporting paperwork for the pre-payment cards.

- I had PIP when I was 60 because my brother was 67 when he got ill, he wasn't entitled to it.
- Questions about your at the end of the questionnaire – need to make it clearer in the future about whether this is the person filling in the form or someone else.

**Compton Martin Village Hall – 8<sup>th</sup> October 2019, 10.30am – 12pm**

**No of people 10**

Q1. My brother attends a Day Centre, will the costs of the transport be covered?

Q2. A lot of what you have said is about elderly people, what about people with Learning Disabilities will they be affected?

Q3. We have a 60 year old son who now lives in Bristol. He has lived in different places over the years, and sometimes he has come home to live. Which council would we have to deal with?

**YMCA building, Timsbury – 10<sup>th</sup> October 2019, 2.30pm – 4pm**

**No of people 4**

Q1. My father has a care package, he goes to the Day Centre twice a week and singing for the brain. Will this any of this change?

Q2. How will the changes affect my situation regarding Direct Payments and care at home?

Q3. Will the pre-payment cards make it easier?

**BEMSCA, Fairfield House – 14<sup>th</sup> October 2019**

**No of people 6 (3 services users & 3 staff)**

Q1. With the Introduction of a third party Top up Agreement, will this see “means tests” being carried out on the third party?

Q2. How will the equity be valued when only part of the home is owned?

Q3. When somebody identifies as in need of a care package, what is the timeframe that should be expected from the Council in providing the support?

Q4. People try to manage on their own if they see a delay blocking them from going home. How can we avoid people being delayed in discharge from hospital when wait times for support is high?

Q5. How can elderly people be helped when they experience difficulties with the technology that is involved with the use of pre-payment cards?

Q6. Can it be made simple for the managing returns of paper receipts?

Q7. Do the reports that are produced for pre-payment cards help with picking up on patterns that show that care is being missed out of a care package?

Q8. What support would be available to support people who move to the use of pre-payment cards?

Q9. Can small amounts of cash be withdrawn using a direct payment card?

Q10. How is the allowance for transport needs calculated?

Q11. Do we have the information available on other languages?

Q12. Can a translator be used to help with consultation?

Q13. How can BEMSCA become a part of care plans used by social services?

**Carers Centre – 17<sup>th</sup> October 2019**

**No of people 10 (9 carers plus 1 officer)**

- Q1. Will the financial assessment identify whether an individual could claim for benefits?
- Q2. Who will undertake the financial assessment?
- Q3. What is the procedure to get a social worker to visit?
- Q4. Are the financial costs worked out automatically?
- Q5. What about PIP?
- Q6. What do you mean by a short period?
- Q7. If someone need to change rooms in a care home because they needed a bigger room for a hoist, will the third party top up apply?
- Q8. Is there interest charged on Deferred payments?
- Q9. Is NAFaO endorsed by the Department of Health and how do they advise councils?
- Q10. You have got the costs for gas and electricity but not for oil. I have oil heating, what are the allowances for oil?
- Q11. What is NAFAO, how does it relate to this?
- Q12. Does NAFAO have influence over the Council?
- Q13. £250 for Deferred Payment agreement, what do other council's charge?
- Q14. Is it possible for self-funders to ask the Council to pay the fees to the care home and then the individuals pay back the Council?
- Q15. Could you not do it as a loan?
- Q16. As an alternative to care at home is live in care. I arranged it some years ago for my parents. What is B&NES policy for live in care currently?
- Q17. Is there enough time for you to consider the result of the consultation?
- Q18. Will a letter be sent out to everyone to explain the changes?
- Q19. Does all the money get spent on Virgin?

**Comment:**

- It doesn't always follow that you get a new care worker straight away.
- I do have a big issue with Disability Related Expenditure. This is statutory and any disability related expenditure should be taken into account. It's therefore not discretionary.
- I have tried to find out about NAFO as they are not a publically accessible organisation.
- You could make the DRE factsheet really simple by saying that everything is a disability related expenditure.
- I have submitted a complaints to the team earlier this year about specialist shoes for my wife. They cost £120 each and they would only allow funding for 2 pairs. Most people have more than 2 pairs of shoes. I ended up paying for extra shoes for her. This is a disability related expenditure.
- The heating allowance rates on the DRE factsheet doesn't seem correct. I have a HIVE system at home so I know how my heating usage compares with others, these figures don't seem to work.
- The Council should ask people to change supplier so that they get a better rate. They need to find out what they are paying and get them to provide evidence. If they cant do it they should get a family member to help out.
- Individuals need support to help with applying for the benefits they need. The Council should support them to do this when the financial assessment is done

or from the initial meeting with the social worker. They need support, some people are reluctant to apply for funding. The support needs to be part of the process. The problem is that too many people coming in, another new face, causes difficulties and concerns.

- They have already taken £30 a month for my daughter for gluten free out of her benefits. They have stopped it completely. Her medication has made her put on weight, she is going to weightwatchers. I had to go to the bank and get a statement of expenditure and then pay the balance. It took a lot of time.
- My wife has MS, I saw an article about the amount of additional monies needed for people with MS which was £420 per month. This needs to be widely accepted by government.
- Sometimes small things get on my nerves, why should VAT be included in the fee for self funders as disabled people are excluded from paying VAT.
- We had to wait 7 months for care, if the Council doesn't respond in two weeks then the social workers should be charged.
- Its all the services. OT as an example, we wanted to get some grips and a stall it takes weeks. We didn't get a response so I brought them.
- Very personal feeling. Self funders are taken advantage of as they are charged more for the care, it is not fair.
- I have dealt with a number of local authorities and B&NES is far far better than most.

NOTE the Carers Centre can send out the details of the final decision and changes.

### **SWALLOW Management Committee – 21<sup>st</sup> October 2019**

#### **No of people 14 (11 service users, 2 staff plus 1 trustee)**

Q1. If you don't have anyone to help you in relation to a deferred payment, who can help?

Q2. What do I do if I have an accident at home, I don't have an alarm or if the alarm doesn't work?

Q3. Will we still get our disability allowance benefits?

Q4. Who will help with Direct Payments?

#### **Comments**

- I have seen on the television about people claiming money they shouldn't. There are some
- The Council are the worst people to get hold of.
- A lot of people are being bullied in care homes.
- I have a Community Alarm for my epilepsy. Some people have it around their arm or leg.
- I cannot use my bus pass on the dial a ride bus. My dad takes me everywhere.
- I am looking into doing a Makaton training course.
- I have booked a holiday and don't want to go on my own.

**Brunswick Room, Guildhall, Bath - 21<sup>st</sup> October 2019**

**Session 1 – 14 people (4.30pm – 6pm)**

- Q1. Can you clarify what you mean by 'if circumstances change in the future' in relation to the Third Party Top Up Agreement?
- Q2. Do you have set response times for new assessments or financial assessments? It is currently taking a long time.
- Q3. What about the financial assessment?
- Q4. If it does not happen in the timeframe, what is the process?
- Q5. I don't understand the difference between the social worker/finance routes.
- Q6. Who does the actual financial assessment?
- Q7. Who decides how much the Council will pay?
- Q8. What if it is a direct payment?
- Q9. So, the social worker does the assessment for need and the financial assessment prepares the care plan.
- Q10. So, it's not a case of yes or no to care but what people can afford to contribute.
- Q11. When people are self-funding, can they get a direct payment?
- Q12. How much of the house is taken into consideration when someone receives care at home?
- Q13. What about their spouse?
- Q14. What about short term measures if someone becomes suddenly incontinent?
- Q15. Who decides what is discretionary – the finance team?
- Q16. Are you suggesting that people give examples of other disabilities as part of the consultation?
- Q17. How are you dealing with utilities at the moment?
- Q18. Is there any discretion going to be applied?
- Q19. Are you asking for an honest reckoning?
- Q20. Would the figures show utilities on the financial statement?
- Q21. Is the £300 fee (Fee for self funders) the same figure for those on direct payment?
- Q22. (Direct Payments and pre-payment cards) Do you consult with banks? My son is autistic and cannot read, write or count. There is no point asking him to sign something. We understand that the bank has to follow procedures, his signature looks different each time and this caused issues. Also, there was money coming in from the Council at a different times. It all became too stressful. Can you pick a couple of banks and work with them to simplify things?
- Q23. What is the £300 charge for self-funders for?
- Q24. Is this a new service that was not there before?
- Q25. I was told that the Council did not provide this service for self-funders?
- Q26. What is the rationale for the Direct Payment policy?
- Q27. How has the Direct Payment Policy been updated? I don't see any clarity, flexibility or transparency yet.
- Q28. What are the benefits of the pre-payment card?
- Q29. Are there any other ways the pre-payment cards can be used, can they be used for day to day expenditure?
- Q30. You mentioned DLA – what about PIP – my son gets this now.
- Q31. You said you are going to take into account any benefits – what about attendance allowance?
- Q32. Will attendance allowance be taken into account?
- Q33. The £5 for laundry and extra bedding – is this a new amount?

Q34. What is the monthly allowance?

**Comments**

- Letters from the Council take up to a week to arrive so two weeks is not long enough. You must use a private company to deliver them.
- That's not been my experience (implied that financial assessments are carried out by social workers).
- I have been through the process and it wasn't clear.
- I have had a very different experience, it is over complicated process as self funders are getting letters.
- It depends what other benefits the person can get, a self funder may not get it.
- I wanted to get the telecare service and went to the Council and social worker but no-one could tell me if we could have it.
- More information about what is discretionary in the DRE is needed within the information.
- It is not clear who makes that decision (about DRE) its difficult to know who to go to
- The system is falling apart – we don't know who to contact. There is no co-ordination and it can take months. It took three months to organise pads.
- In one of the documents the average costs for utilities are very high. £1,300 is a lot for a single person in a flat.
- We had a similar problem we have deputyship and had three different bits of advice. It doesn't help when the Court of Protection is behind in their work with lots of parents not being able to quickly resolve the issue. There is such disparity of the response from the Court of Protection.
- We found Smile Bank the best as they were flexible.
- Q25. I was told that the Council did not provide this service for self-funders?
- You need to make people aware (internally) of the service for self-funders
- It is good for the Council to work with people to help shape this service. There could be a lot more rules that make it harder.
- If you have a young person with a lifelong disability it is a lifetime of battles with criteria.
- The Direct Payment Policy was finalised 9 months ago.
- It says it was approved in January (Direct Payment Policy). It sounds reasonable until you put it into practice.
- Removing something small may not seem important but it can be. We've had four social workers in six weeks.
- It sounds like we are always complaining, there are some very good officers in the Council who have been very helpful.
- The Direct Payment policy implies that we will employ carers rather than using self employed carers.
- So you are penalising people who choose not to apply for the benefits.
- So, if you have ascertained that some is eligible for Pension Credit, this will be treated as income.

## **Brunswick Room, Guildhall, Bath - 21<sup>st</sup> October 2019**

### **Session 2 – 2 people (6.30pm – 8pm)**

Q1. Who is likely to be eligible for pension credit?

Q2. What assets are connected to deferred payments?

Q3. I was on the CCG Community Champions Group and looked at the Direct Payment Policy, have you changed it since then?

Q4. What about disposal of capital?

Q5. You wouldn't take into account a car then – I need my car.

Q6. What if the house is part-owned?

Q7. What happens when the consultation closes?

### **Comments**

- Two weeks is a short time frame. Someone supports me with my finances but if they are not available, two weeks is not long enough.
- The term 'serve notice' is quite alarming for people.
- Everyone has different disability needs and expenditure will vary according to their lifestyle. Life doesn't fit into these neat boxes.
- Something available to the public is not being treated as a disability expenditure but it may be that the person has more needs. For example, my electricity bill is very high as I have to charge a lot of things and I use more water. I allow £300 a month for these. The law says £189 per week is sufficient to live on. I cannot increase my income.
- I find it hard to use cards as have difficulty putting in a pin number so prefer to use cheques.

## **Keynsham Community Space- 22<sup>nd</sup> October 2019**

### **11 people (6.30pm – 8pm)**

Q1. Is it a BANES Policy?

Q2. Do you know how big a problem it is in BANES (unclaimed benefits)?

Q3. Is ESA also included?

Q4. Is it a nominal charge for deferred payments?

Q5. Minimum Income Guarantee is the annual income set by Government, do the Government call it something different?

Q6. Is there a different rate for disabled people Minimum income guarantee?

Q7. Is DLA now called PIP?

Q8. Are there any changes proposed to personal budgets?

Q9. Is the Deferred Payment agreement fee an annual charge?

Q10. If someone is in a care home will they have a financial assessment?

Q11. Is the financial assessment chargeable?

Q12. The two weeks response time, are you stuck with that time?

### **Comments**

- Is that one of the most under-claimed benefits (Pension Tax Credit). You should advertise the fact that this has not been claimed.
- If you know the process (claiming benefits) it helps, My mum was looking into it, she gave up and has not done anything about it since. It was difficult at the

time as my mum didn't want to go down with route. If that has an impact that makes it a horrible situation and makes it worse.

- Not only getting the bit of the cherry for the Council (claiming benefits).
- If you know the process (claiming benefits) it helps. My mum was looking into it, she gave up and has not done anything about it since. It was difficult at the time as my mum didn't want to go down that route. If it happens it makes it a horrible situation and makes it worse.
- It's ironic that the benefit changes should mean that it can all be done in one go.
- Can I tell everyone that B&NES figures are right at the bottom end. The isle of Wight is £2,100 per year. For self-funders BANES is proposing £300, they charge £900. BANES pay the highest rates for agency staff outside of London. B&NES spends 83p in the £1 for adult and social care. BANES are under a lot of pressure. If we are not claiming all the benefits from Central Government it places pressure on the Council. BANES pay the highest charge for its care homes.
- Direct Payment policy includes information about employing people. You have a hub to help with that. These things are likely to change. I thought it might be simpler to direct people to the hub rather than the policy.
- I have to say that Annemarie presents the information really well and there are very complex questions that she responds to. Please pass on our thanks to her for her efforts and explanation on a difficult subject. (Commented after the presentation)

### **Alkmaar Room, Guildhall, Bath – 6<sup>th</sup> November, 2.30pm**

#### **Session 1 – 17 people**

Q1. Why Creutzfeldt-Jacob Disease?

Q2. Regarding the additional benefits, does that mean when they come to retirement they get less pension?

Q3. That is quite detrimental to move people Care Homes, why can't they pay themselves?

Q4. Aren't Third Party Top Up agreements going on already?

Q5. Why is there a difference between the age groups for Minimum Income Guarantee?

Q6. If you have expensive heating bills, will it be considered if it's a health need?

Q7. Is it as result of the Care Act that you are able to charge these specific amounts? It does seem very unfair for self-funders, they worked got their own property and have to use it for their care.

Q8. Would this proposal change if we had a change in government? You started by saying in the consultation document that the Government has reduced funding. Will the costs saved be given to disabled people? Effectively some of us will be hit, with extra costs some may have to go without extra care, increase care and fuel costs.

Q9. Does the third party top up affect those people already in care homes?

Q10. Who do we refer into?

Q11. Transport and Education costs, in what context do you mean?

## Comments

- Two weeks for a disabled person is a short period of time. It makes no attempt to understand disabled people. I often get stranded at my mothers. Why two weeks? Who was consulted, did anyone ask disabled people about this timeframe. I would say for lots of impairments that it should be altered to be beneficial to disabled people.
- It is the same with DWP if you don't respond. That is why many people have been made homeless. You can't get back into the system. Central Government is very harsh in terms of its timeframes.
- We had a patient who had no support. She needed domestic help she was put in touch with someone and it was the wrong person. She was lucky enough to have friends who supported her but they had to travel. Social services are not visiting. There was no social worker at the hospital to help set up before leaving hospital.
- Each time my mum has left hospital recently the nurses don't tell you about social workers. It's the nurses that block it. They don't want to refer to social workers as it blocks the bed. I haven't had the time to take this up with the RUH. 50% - 60% you don't get what you need.
- I need to say many of us Disabled People would be affected by this. Virgin Care don't employ people who are qualified social workers. Whoever designed the factsheet didn't include all impairments. DRE is massive and the DRE factsheet only includes a small element of things. Many people don't have access to a social worker. Its not based on people with disability and has not been produced by disabled people.
- My annual review as not undertaken by a social worker, it was a review officer.
- I can talk about it in more detail, my care package reduced as a result of the reviewing officer. I want to be reviewed by a social worker.
- Does sound like they are being persecuted if they can't manage themselves (Self-funders).
- The support for direct payments is currently rubbish.
- We worked with the Council to update the policy. We wanted choice over pre-payment. A lot of us are confused with the information on Virgin Care website. We did have some input but its not working well for us.
- When the system goes wrong its very hard to access.
- Pre-payment cards isn't included, although I am not going to go for it.
- Want more discussion about pre-payment cards.
- In your hand out you say that SWAN and Your say provide advocacy support. I am a trustee of SWAN and We don't run this service any more.
- Initial reaction was shocked at the number of people in BANES 189,000 and you are looking at a small amount. This doesn't represent the number of disabled people that are most vulnerable group. Most of them don't have a

property or savings. BANES is looking after 2,100 people, there are likely to be more people.

### **Alkmaar Room, Guildhall, Bath – 6<sup>th</sup> November, 2.30pm**

#### **Session 2 – 12 people**

- Before the Care Act came in, did you consider take into account attendance allowance?
- Do you mean Universal Credit?
- If you have a disagreement about DRE then can you go to appeal?
- Is the appeals process the same for Virgin Care?
- This is all great news, it is separate from Virgin Care. Will it always remain the same?
- Dietary needs are not included in DRE Factsheet, is this one of the grey areas? It used to be on the list.
- Dietary needs need to be mentioned. Should have a list of things that are grey. It was on the list and it does seem strange it is not now.
- Will the social workers have same training?

#### **Comments**

- If a vulnerable person who is not in receipt of any benefits, that would be the failing of the system.
- I can see what you are saying a vulnerable disabled person should not have any income.
- All energy suppliers are vastly different.
- Confused why the government makes assumption that seniors have higher heating costs. Who makes that decision in government presumably they have a disability expert. Really strange can't get head around it.
- Some Direct Payment Users are meeting with the commissioners, there are problems we are experiencing. Need a lot more explanation of service users basically on various aspects.

### **Preparing for Adulthood - Bath College Event – 14<sup>th</sup> November**

#### **23 People**

#### **Comments**

- Policy needs to take account of parents living costs particularly if the child is still living at home.
- Questions asked about transitioning from children's to adult services.

### **Dimensions – 22<sup>nd</sup> November**

#### **2 service users**

#### **Comments**

- Questions about transitioning service users

- Explanation given about minimum income guarantee that this is met by central government

**Action on Hearing Loss – 25<sup>th</sup> November  
18 service users**

1. Not sure how the amount payable is calculated as seems to be unfair.
2. Not sure how benefits are taken into account and if this varies depending on the individual.
3. Are allowances made for additional hearing support.

**Comments**

- Further events, such as this, giving an explanation and assistance to users would be very helpful.
- It is a very complex area and people are confused the ability to ask questions and have an answer would be really helpful.

**BASS event – 27<sup>th</sup> November, 2pm**

**No of people 4 (2 service users plus 2 support workers)**

1. Not sure of eligibility because I have some finance.
2. When you say we, is that the council will contact?
3. If a call is made from a withheld no, that could be an issue, people should know who is calling.
4. Need to do email as well as telephone call.
5. Reminder in two weeks, how often will the reminders be?
6. Experience with Autism, promoting is very helpful.
7. Will it be recorded in the care assessment to show that a person has Autism?
8. Will it be the social worker's responsibility to argue for the allowance?
9. Disabilities Expenditure - what about buying more clothes, and travel and what about sound proofing for sensory issues.
10. Will the framework change things even if you get support?

**Comments**

- I use Brain in Hand specifically to help me as I don't have anyone that can support me. I am going to hopefully get it funded through social care. It costs between £60 - £120, the top end provides 24 hours support. It is cheaper than having a care worker.

## **Appendices 2 – FAQ's**

### **Care and Support Charging and Financial Assessment Framework consultation 24th September – 3rd December 2019**

#### **Frequently Asked Questions**

##### **About the consultation**

##### **How many people are you supporting in BANES?**

There are approximately 2,100 people receiving care and support services either within residential care or at home.

##### **Will it be possible for service users to help shape the framework?**

Definitely. Whilst some areas within the framework are set out in the Care Act, we do have discretion for others and these are the areas we are consulting on. We want to hear from people about our proposals as we aim to provide a fair and consistent process for everyone.

##### **The points you are consulting on seem reasonable, is there an appeals procedure if people are not happy with the process?**

Yes, the appeals process will not change.

##### **What are the actual changes proposed?**

There are 10 areas within the Framework that the council is consulting on. These are explained more fully in the consultation document – found here [www.bathnes.gov.uk/cascharging-consultation](http://www.bathnes.gov.uk/cascharging-consultation).

##### **Have you contacted everyone who is affected by these proposals?**

Yes. Everyone receiving care and support has received a letter. These letters were sent out two weeks prior to the consultation starting.

##### **What support do you have in place for people with Autism or Dementia to take part?**

There are a number of public events planned throughout the consultation including specific events with Dimensions and the Carers Centre. In addition, Swan and Your Say Advocacy organisations will provide assistance to anyone that requires support with participating in the consultation.

##### **Where can I get help to take part in the consultation if I need support with this?**

Swan and Your Say Advocacy organisations will provide assistance to anyone that requires support with participating in the consultation. To arrange please contact us by email [cafaconsultation@bathnes.gov.uk](mailto:cafaconsultation@bathnes.gov.uk) or by telephone on 01225 477810.

##### **When will the changes for new service users come into place?**

The changes will come into effect from the 6th April for existing and new service users.

**Is there a feedback form on-line?**

You can take part by completing an on-line survey which is available via the following address: [www.bathnes.gov.uk/cas-charging-consultation](http://www.bathnes.gov.uk/cas-charging-consultation) or you can request a paper copy of the survey, by contacting us by email [cafaconsultation@bathnes.gov.uk](mailto:cafaconsultation@bathnes.gov.uk) or by telephone on 01225 477810.

**Do you have the information available on other languages?**

We will arrange translation for anyone that requires the information in other languages. To arrange please contact us by email [cafaconsultation@bathnes.gov.uk](mailto:cafaconsultation@bathnes.gov.uk) or by telephone on 01225 477810

**What happens when the consultation closes?**

We will review all the consultation results and make amendments to framework, where necessary. The final decision made by Full Council in early 2020. The policy will be implemented from the 6th April 2020

**I'm assuming that once the policy is in place, service users will receive information.**

Yes, everyone will be contacted prior to the policy being put into place.

**Will all existing clients be notified of the final changes and what support is available for people?**

Yes. The Care and Support Charging and Financial Assessment Framework, if approved by Full Cabinet in early 2020 will allow a transition period of around 3 months where we will be able to apply the policies to existing people and notify them of any alteration to their assessed weekly charge. Advocacy support will be offered to people including support from their social workers.

**Process for Financial assessments****Are there changes to the financial assessment?**

No, the way in which financial assessment will be carried out will not change but the amount payable may change.

**If someone was already in receipt or had just had their financial assessment, will they be required to have a review?**

No, not everyone will require a re-assessment. If there is a need for a re-assessment the Council will notify you.

**Will that mean everyone will be reassessed?**

No, we will contact any person who requires a re-assessment but not everybody will.

**If someone is in a care home will they have a financial assessment?**

Yes, everyone receiving care and support who wants financial assistance from the Council will require a financial assessment.

**When somebody identifies as in need of a care package, what is the timeframe that should be expected from the Council in providing the support and what is the process if those timescales are not met?**

The usual timeframe for the care and support assessments is 28 days from the date of request. The usual timeframe for the Care Finance Officer to contact the person is within a few days of the referral form the social worker requesting the financial assessment. How long it then takes for the financial assessment to be completed will depend on individual circumstances. If the timeframes are not met this will be reviewed with the teams.

**Who does the actual financial assessment?**

A Care Finance Officer will carry out the financial assessment.

**I don't understand the difference between the social worker and the finance routes.**

The assessments are carried out separately and by separate people. The first assessment is carried out by the social worker who will visit the person who is in need of care to identify the person's care needs. This is called a Care Needs Assessment. A Care Finance officer will then visit the person and undertake a financial assessment.

**Who decides how much the Council will pay?**

This will depend on a number of factors including what income the person receives including any benefits and property, savings and other assets they own.

**So, it's not a case of yes or no to care but what people can afford to contribute.**

The council has a duty under the Care Act and is required to identify what care is needed and work out how much that care will cost. The Care Assessment and the financial assessment are provided free of charge and the care will be provided even if the financial assessment shows the person cannot afford to contribute anything.

**Are you open to changing the two week notice period?**

We will consider all the feedback we receive during the consultation and where necessary we will amend the proposals.

**Is it an arbitrary two weeks or is it based on other research with other organisations?**

We have done research looking at timeframes other local authorities allow. Most other authorities local allow 2 weeks.

**DRE**

**Are you still going to include cleaning costs for a home?**

This will depend on the financial assessment and the care and support needs. The Disability Related Expenditure Factsheet will explain what rates are proposed to be applied in the future. More information is found here: [www.bathnes.gov.uk/cas-chargingconsultation](http://www.bathnes.gov.uk/cas-chargingconsultation).

**What about short term measures if someone becomes suddenly incontinent?**

This is a health need and the social workers will be able to assist by signposting you to the correct health provider.

**Who decides what is discretionary?**

The social workers will need to evidence any disability related expenditure in the care and support plan, depending on the nature of the need this may then have to be signed off by their manager.

**Are you suggesting that people give examples of other disabilities as part of the consultation?**

We are keen to hear from anyone who has any suggestions about what other areas that should be included.

**How are you dealing with utilities at the moment?**

Utilities are an allowance within the non-residential assessment this Care and Support Charging and Financial Assessment Framework is looking to make it very clear what the allowed rates are. The water allowance will depend on if your water is provided by Wessex Water or Bristol Water and if you are on a meter or not:

**Service Provider Price per annum 2019/20**

Metered	Non Metered		
Wessex Water Fresh Water	£24.00	£7.00	
Wessex Water Sewerage	£56.00	£7.00	

**Total Standing Charge £80.00                      £14.00**

**Service Provider**

**Price per annum 2019/20**

Metered	Non Metered		
Bristol Water Fresh Water	£41.00	£33.00	
Wessex Water Sewerage	£56.00	£7.00	

**Total Standing Charge £97.00                      £40.00**

This rate will be reviewed every April in line with the water companies possible annual increase date. Gas and Electricity will be the actual amount paid for the standing charge as shown on your bill. If you are a current service user and we have not had sight of your bill we will allow the standard tariff British Gas Rate of £1.83 per week for gas and £1.83 per week for electricity until such time as you provide us information of your current actual charges.

**Would the figures show utilities on the financial statement?**

Yes, this is set out within the financial statement.

**The £5 for laundry and extra bedding – is this a new amount?**

This is an increase to the current allowance of £3.75 per week

**How is the allowance for transport needs calculated?**

This will be for the social worker to evidence in the Care and Support and plan, the Care Finance Officer will then confirm the cost when the financial assessment is carried out.

**How will people pay for the usage costs of their utility costs?**

The Government allows £189 per week (the minimum income guarantee) for those aged over 60 this is to cover daily living costs including usage of utilities.

**What is a person's set amount for daily living costs?**

The Government allows £189 per week (the minimum income guarantee) for those aged over 60. This figure is review annually by the Government in April.

**Is there a different rate for disabled people Minimum income guarantee?**

No, there is a different rate for those aged 18-25 and 25-60.

**My wife goes to the day centre, our funds are so low, is there a charge?**

This will depend on the service and your Care and Support plan.

**My brother attends a day centre, will the costs of the transport be covered?**

This will depend on the Care and Support plan and what benefits the person receives.

**Do you have any idea of the extra amount that you will clawback from people?**

The Care and Support Charging and Financial Assessment Framework is about creating transparency and an equitable procedure for all not about costs savings.

**Are there many self-funders who ask the Council to arrange for their care?**

No, it is a relatively small number.

**Is this a new service that was not there before?**

No the council currently offers this but does not charge. The Care Act allows Councils to make and administrative charge to cover the costs of carrying out the work but B&NES have not done this to date.

**Will any of the fees be back dated?**

No. Any changes will come into effect from the 6th April.

**Additional benefits**

**Do you know how big a problem unclaimed benefits area across BANES?**

We do not know within B&NES and it is not possible for us to obtain this information from our systems.

**Will there be support for service users applying for the additional benefits?**

Yes, the Council's benefits team can assist as well as Age UK and the Citizen's Advice Bureau.

**I presume that those people receiving an attendance allowance will be taken into account when the financial assessment is completed?**

Yes attendance allowance is taken into account in the financial assessment.

**You are assuming people will be able to get Pension Tax Credit, I applied as I was told by someone I would be eligible, but I wasn't. How will you ensure that people will not be disadvantaged?**

The new system will use the same parameters as the DWP so should only identify those people who should be entitled but if we thought someone was entitled and they turned out not to be if they let us know we would not take the benefit into account.

**Who is likely to be eligible for pension credit?**

Pension Credit is a benefit entitlement for retired people with an income within certain parameters set by the DWP. It is a means tested benefit but this means test is limited.

**Will the Employment and Support Allowance (ESA) be taken into account?**

ESA is being phased out and if you apply now you would apply for universal credit. If you are currently in receipt of ESA this is taken into account.

**If you support someone at home will your household expenses be taken into account?**

That will depend on the individual's personal circumstances.

**Could you explain Disability Living Allowance?**

Disability Living Allowance is money for people who have extra care needs or mobility needs as a result of a disability. You can no longer make a new claim for DLA if you are 16 or over. You may be able to claim Personal Independence Payment (PIP) instead.

**Are you able to confirm whether the mobility aspect of the allowance is not changed?**

This will depend on the care and support package and assessment carried out by the DWP.

**You mentioned the allowance for people with Creutzfeldt-Jacob Disease, why is this singled out?**

This decision was made by the Government.

**Agreements for Third Party Top Up**

**Is the Third Party Top Up agreement compulsory?**

Yes. Where a family member or friend is requesting a placement that requires extra funding, they will be required to agree and sign the Third Party Top Up agreement.

**Is the third party top up agreement new?**

No, we are putting in place more formal arrangements.

**Presumably the agreement will also offer a safety net for service users?**

The agreement will ensure that all parties understand their commitments.

**Is that why the light touch financial assessment is required?**

The financial assessment is necessary to ensure the family member or friend understands fully their financial commitment.

**If you were topping up for an elderly person, what happens if you have financial difficulties?**

The agreement will set out clearly what is expected from the person who has agreed to pay the addition fees and the council will undertake a light touch assessment to see if they can afford to pay. If circumstances change then the placement would be reviewed by a Social Worker and the service user may be moved depending on the outcome of the review by the Social Worker.

**Who can top up?**

Anyone, a family member, friend, or organisation.

**Does there have to be a financial link with the individual?**

No, however they will need to agree to a light touch financial assessment being undertaken.

**Amendment to Q5**

The details of the fees proposed set out in Question 5 were incorrect. It should read:

**The council is proposing that the annual fee will increase from £30 to £105 and the set-up fee will not change.**

**Deferred Payments**

**What was the original fee for Deferred Payments?**

We are proposing to increase the fee from £30 to £105. This is an annual charge until the home is sold. This is an average of other local authorities in the area.

**With the new procedure for Deferred Payment Agreements, will the fees be annually?**

Yes the fee is an annual fee and will be added to the statement and paid when the agreement ends.

**Will the fees go up for existing service users who have Deferred Payment Agreements?**

No, any agreement completed before the 6th April 2020 will incur the fee of £30 per annum.

**If the situation arises, can we get advice from the Council regarding a Deferred Payment Agreement?**

Yes, you can contact the council the details of who to contact can be provided by the Care Finance Officer. However, we can only advise on the procedure we cannot provide legal advice and would always encourage you to seek independent legal advice.

**If you don't have anyone to help you in relation to a deferred payment, who can help?**

If you do not have capacity your social worker will make a referral to the B&NES Deputyship team who may, depending on your circumstances become your deputy, or they may ask the Court to appoint a solicitor as your deputy. If you have capacity you can if you wish appoint a solicitor to act for you.

**Does the Deferred Payment Agreement (DPA) still allow for 12 weeks grace?**

Yes the Care Act requires the property to be disregarded for the first 12 weeks from the date the person first resides in a residential placement. If a person is resident in a care home as a self-funder for more than 12 weeks before a request for funding from the Council is made then the 12 week disregard does not apply as they have already had this time.

**What is the interest paid on DPA?**

Interest is payable and is currently set at 0.15% above the gilt rate and is currently 1.45% until the 31st December 2019. All fees are added to the debt. A six-month statement is sent to service users.

**What assets are connected to deferred payments?**

For the purposes of deferred payments, assets are defined as your property. the charge secured by the deferred payment agreement is secured against the property.

**If a house was sold for £200,000 and the care home fees were £400,000 would the Council pick up the difference?**

The equity limited is estimated in the Deferred Payment Agreement, this is then reviewed annually once the equity limit is reached the Council will pay the costs that were being deferred and service user will continue to pay there assessed weekly charge based on their income.

**What would happen if there were no beds available in a care home at the fairer price of care rate, what would the Council do?**

The Council must fund the placement at the rate available on the day, so if on the day only a home a higher rate was available the Council would fund this placement subject to the service user's financial assessment. if however a person wants a more expensive home than a home available on the day the difference between the available rate and the higher rate would need to be paid via a top up.

**Does the deferred payment agreement come into play if a couple lives in the house?**

If one of the couple will remain at the property and is aged over 60 or in receipt of incapacity benefits then the property will not be taken into account, if both people go into residential care then the property will be taken into account 50% for each person (subject to any different percentage spilt being noted on the Land Registry).

**If an elderly couple lives in a home, one needs to go into a home, will the property be taken into account?**

If one of the couple remains at the property and is aged over 60 or in receipt of incapacity benefits then the property will not be taken into account, if both people go into residential care then the property will be taken into account 50% for each person (subject to any different percentage spilt being noted on the Land Registry).

**We have a three-bedroom house in joint name and I still live at home, my wife is in a care home. If I wanted to move into a flat will the property be taken into account?**

If you sold the property, the 50% of the proceeds of sale would go to your wife and

depending on how much that was she may becoming self-funding for a period of time, you could then use your 50% share of the sale proceeds to buy another property.

**My daughter is in supported living with a private company and doesn't own her own home, will these changes impact on her and will her fees go up?**

With a private company they will determine the fees and rent charged. Whether the changes will impact on the amount of her weekly assessed care charge will depend on her individual circumstances.

**If someone was a self-funder can the debt be attached to their home?**

If the person is a self-funder then the Council would not be funding and there would be no debt.

**You mentioned if you own your own home, if another family member is living at home how does that work? This is a real worry if you have a dependent child?**

This would depend on the circumstances, but if an adult child was resident in the home and in receipt of disability benefits it is probable that the property would be disregarded.

**Some people put their property in Trust for family members. Does it have to be put in place for 7 years?**

No the Trust can be put in place at any time. The 7-year rule does not apply to funding for care and support.

**If a person is already in care, can they then put their property in Trust?**

This may be considered as a deprivation of assets. This means that someone has made a gift or transfer of assets to a third party, usually a relative, to avoid or reduce their liability to pay for care.

## **Interim Funding Policy**

**I don't really understand what is meant by unregistered properties in relation to the Interim Funding Policy.**

If a property is not registered with the land registry it is unregistered, since 1992 on sale it has been compulsory to register your property but there are still some properties that are unregistered and if you want to apply for a deferred payment agreement you will need to apply to the land registry for first registration of the property.

## **Pre-payment Cards**

**I don't understand how the prepayment card will work?**

The pre-payment cards are not compulsory. They can be used to pay personal budgets to people who have been assessed as eligible for direct payments.

**If we do not bank on-line how would the pre-payment cards work?**

You do not need to bank on-line for prepayment cards to work as far as we know but the plan to introduce pre-payment is at a very early stage so once we have further

information we can let people know.

**What are the benefits of the pre-payment card?**

They should reduce the amount of paperwork that the person administering the direct payment needs to send into the Council so the account can be audited.

**Are there any other ways the pre-payment cards can be used, can they be used for day to day expenditure?**

Yes they can be used like a bank card so any day to day costs of the care can be paid for using the card.

**What support would be available to support people who move to the use of prepayment card?**

The implementation is at a very early stage but one we have more information we will let people know.

**Can small amounts of cash be withdrawn using a pre-payment card?**

Yes, it will work in the same way as a bank card.

**What if a person that doesn't get the mobility element of the relevant benefits needs transport costs, they just need to use a wheelchair friendly car, can they still get the costs paid?**

This will depend on the care and support plan.

**Direct Payments Policy**

**What is the change to Direct Payments?**

There are no changes to the way in which Direct Payments are paid, we have updated our policy and provided some more detailed guidance. The Council is exploring introducing pre-payment cards the details of which are currently being drawn up, however this will not be compulsory.

**Does this impact on direct payments?**

Yes, the Care and Support Charging and Financial Assessment Framework will apply to anyone in receipt of funding for care and support.

**Who will help with Direct Payments?**

The social worker, together with Virgin Hub will provide support.

**When people are self-funding, can they get a direct payment?**

No, self-funders are not eligible for direct payments as they are not receiving financial support from the Council.

**My son moved from a commissioned service to direct payment (DP). On occasions the support is not given. Does the council review this?**

Yes. The council would like to hear from any service user or their representative if there are any problems with the care and support they are receiving.

**What is the difference between Direct Payments and Commissioned Services?**

A commissioned service is when the Council arranges the care and a direct payment is when the Council give the person money to arrange the care themselves.

**My son moved from a Commissioned Service to Direct Payment (DP). The DP service is not good. On occasions the support is not given. Does the council review this?**

Yes the Council does undertake reviews. If you have concerns, we do need to know about this, please do let us know and we can investigate it.

**If someone is already in receipt of a Direct Payment Agreement that it will not change?**

No there will not be any changes to the policy just clarifies what should be happening anyway. However, dependent upon the care and support plan there may be some changes and this will be subject to the Care and Support and Financial Assessment Framework being approved by Full Council.

**Are there any changes proposed to personal budgets?**

The level of the personal budget would not change as this is set by the care and support plan but the amount of the weekly assessed care charge may change dependant on the financial assessment in line with the Care and Support Charging Financial Assessment Framework.

**Please note the final Direct Payment Policy will include the following:-  
Special Educational Needs and Disability Personal Budget**

SEND Personal budgets, which can be paid as Direct Payments, are an allocation of the agreed funding made for children and young people with an Education, Health and Care Plan, after an assessment of their needs and will be outlined in the Plan. It should be noted that the allocation of an educational personal budget needs the agreement from the parents/young person, council and educational placement to release the allocated funding. Parents or young people can request a Personal Budget as part of an EHCP Needs assessment, once the decision has been made to issue an Education, Health and Care Plan. An educational and healthcare plan can remain in place up to the age of 25, provided that it is agreed by the council and they remain in education and make progress. A personal budget will cover aspects of the support outlined in the Plan and will not cover the cost of a named educational placement or any social care element which would be covered by any social care Direct Payment allocation.

Families can decide how they want it to be managed: As a direct payment. (set out in 'Personal Budget Direct Payment Agreement')

The funding is paid direct to the family who will manage it to deliver support as set out in the EHCP.

As a 'commissioned budget' where the council manages the notional budget for the family. By a provider (for example a school or voluntary service).  
Or as a combination of the three options above.

### Appendices 3 – Equality Impact Assessment

#### Equality Impact Assessment / Equality Analysis

<b>Title of service or policy</b>	Care and Support Charging and Financial Assessment Framework
Name of directorate and service	Adult Social Care, Complex & Specialist Commissioning
<b>Name and role of officers completing the EIA</b>	Annemarie Strong; Louise Murphy
Date of assessment	December 2019

Equality Impact Assessment (or 'Equality Analysis') is a process of systematically analysing a new or existing policy or service to identify what impact or likely impact it will have on different groups within the community. The main aim is to identify any discriminatory or negative consequences for a particular group or sector of the community, and also to identify areas where equality can be better promoted. Equality impact Assessments (EIAs) can be carried out in relation to service delivery as well as employment policies and strategies.

This toolkit has been developed to use as a framework when carrying out an Equality Impact Assessment (EIA) or Equality Analysis on a policy, service or function. It is intended that this is used as a working document throughout the process, with a final version (including the action plan section) being published on the Council's and NHS Bath and North East Somerset's websites.

1.	Identify the aims of the policy or service and how it is implemented.	
	Key questions	Answers / Notes
1.1	<p>Briefly describe purpose of the service/policy e.g</p> <ul style="list-style-type: none"> <li>● How the service/policy is delivered and by whom</li> <li>● If responsibility for its implementation is shared with other departments or organisations</li> <li>● Intended outcomes</li> </ul>	<p>This EIA relates to the consultation and implementation of the draft Care and Support Charging and Financial Assessment Framework which sets out the charges for both residential and non-residential care and support services. Care. The ability to charge has been in place since the 1990s. Local authorities are required to carry out a financial assessment to calculate what an individual can afford to pay towards their care and support. The Care Act 2014 provides the Councils charging basis however some decisions are discretionary.</p> <p>The proposed draft Care and Support Charging and Financial Assessment Framework will ensure that there is transparency and equality for those people in need. It aims to:-</p> <ul style="list-style-type: none"> <li>● Provide consistency in the Council's decision making regarding individual care and support packages;</li> <li>● Ensure that people are not charged more or less than is statutorily permissible for them to pay for care and support;</li> <li>● Offers a transparent and equitable process for all;</li> <li>● Bring in line with other local authorities.</li> </ul>
1.2	<p>Provide brief details of the scope of the policy or service being reviewed, for example:</p> <ul style="list-style-type: none"> <li>● Is it a new service/policy or review of an existing one?</li> <li>● Is it a national requirement?).</li> <li>● How much room for review is there?</li> </ul>	<p>The Care and Support Charging and Financial Assessment Framework proposals are:</p> <ul style="list-style-type: none"> <li>● All financial assessments will take into account Pension Guaranteed Credit this does not require the service user to have an individual financial assessment even if they are not currently being claimed.</li> </ul>

		<ul style="list-style-type: none"> <li>• New charging rates will be used for Disability Related Expenditure eg cleaning. The Council will use the National Association of Financial Assessment Officers based guidance.</li> <li>• There will be a standing charge only allowed as part of the financial assessment for gas, electricity and water and sewerage.</li> <li>• Transport and education costs will be included subject to need.</li> <li>• A fixed deadline to reduce unreasonable delays from clients responding to requests. This is proposed to be two weeks.</li> <li>• A new Interim Funding Policy for Deferred Payment Agreements for those properties that are unregistered with Land Registry and for those who are waiting on obtaining deputyship to allow them to act on the client's behalf. The policy may also be implemented in other situations subject to assessment</li> <li>• A new third party Top Up agreement will be implemented for families/friends/organisations who wish to make a top up payment on behalf of a service user.</li> <li>• The administration fees charged to those who enter into a deferred payment agreement will be reviewed and amended.</li> <li>• Arrangement fees would be charged to self-funders who ask the Local Authority to arrange their care and support and those who wish the Local Authority to obtain a solicitor's undertaking whilst a property is sold.</li> <li>• It is proposed that the Appeals Procedure will remain the same.</li> </ul> <p>This Care and Support Charging and Financial Assessment Framework only relates to care and support packages for individuals 18 and over.</p> <p>If approved, implementation will be undertaken by April 2020.</p>
<b>1.3</b>	Do the aims of this policy link to or conflict with any other policies of the Council?	No

## 2. Consideration of available data, research and information

Monitoring data and other information should be used to help you analyse whether you are delivering a fair and equal service. Please consider the availability of the following as potential sources:

- **Demographic** data and other statistics, including census findings
- Recent **research** findings (local and national)
- Results from **consultation or engagement** you have undertaken
- Service user **monitoring data** (including ethnicity, gender, disability, religion/belief, sexual orientation and age)
- Information from **relevant groups** or agencies, for example trade unions and voluntary/community organisations
- Analysis of records of enquiries about your service, or **complaints** or **compliments** about them
- Recommendations of **external inspections** or audit reports

	<b>Key questions</b>	<b>Data, research and information that you can refer to</b>
<b>2.1</b>	What is the equalities profile of the team delivering the service/policy?	Social workers are key in developing and implementing the Care and Support Charging and Financial Assessment Framework. It will be essential to engage managers and their teams at the start of the process to seek their views and input prior to wider engagement. Social workers will play an important role in supporting clients through the engagement period as well as during the implementation.
<b>2.2</b>	What equalities training have staff received?	New staff undertake an Induction programme which includes equality and diversity. There is also an equality and diversity course for staff which is part of the corporate training programme.
<b>2.3</b>	What is the equalities profile of service users?	The Council currently supports around 2,100 individuals, of which 740 are currently in care homes and 1,350 are in receipt of non-

		residential care packages. <i>Note, these figures do fluctuate and are subject to change</i>
<b>2.4</b>	What other data do you have in terms of service users or staff? (e.g. results of customer satisfaction surveys, consultation findings). Are there any gaps?	Reports from ContrOCC and Liquid Logic.
<b>2.5</b>	What engagement or consultation has been undertaken as part of this EIA and with whom? What were the results?	<p>A full consultation process took place from 24 Sept and 3<sup>rd</sup> December 2019. A full description of the consultation process and findings is contained within the main report (Consultation Results Final Report). Equality related issues raised within the consultation have been added to this template in section 3.</p> <p>In advance of the public consultation, the council's Independent Equality Advisory Group (IEAG) was consulted at a meeting on 31st July. This meeting focused on the consultation plan (to check it was as inclusive as possible and to identify any potential barriers in taking part for different groups of people). Some of the issues raised by IEAG included:</p> <ul style="list-style-type: none"> <li>• a request for a factsheet for organisations and agencies to assist them in supporting people.</li> <li>• a briefing sheet for Council staff (including those in the One Stop Shops and Council Connect) who often get enquiries when big issues are consulted on like this.</li> <li>• a briefing to be held for staff and service users of BEMSCA (Bath Ethnic Minority Senior Citizen's Association) where staff will be available to interpret.</li> <li>• a request to review the current consultation questions to simplify and provide a glossary of terms or jargon-buster.</li> <li>• a request that helpers are available at consultation events to assist in completing surveys.</li> <li>• some updates to the Easy Read version to make it clearer.</li> <li>• Some clarity over how many attempts at contact will be made</li> </ul>

		and that different methods will be used.	
<b>2.6</b>	If you are planning to undertake any consultation in the future regarding this service or policy, how will you include equalities considerations within this?	The consultation process was designed to enable as wide a group as possible to take part (service users, carers, providers, B&NES residents etc). There were a number of different ways to take part (by paper survey; by online survey via the Council's E-consult process; by attending one of several consultation events taking place across B&NES). Advocacy and/or communication support was made available for people who needed assistance to take part. The consultation documents were available in paper and electronically. Easy Read format versions were available. Documents could also be made available in other formats on request. For full details of the attempts to make the consultation process as accessible as possible, see the Consultation Results Final Report	
<b>3. Assessment of impact: 'Equality analysis'</b>			
	Based upon any data you have considered, or the results of consultation or research, use the spaces below to demonstrate you have analysed how the service or policy: <ul style="list-style-type: none"> <li>● Meets any particular needs of equalities groups or helps promote equality in some way.</li> <li>● Could have a negative or adverse impact for any of the equalities groups</li> <li>● Any ways that adverse impact might be mitigated</li> </ul>		
		<b>Examples of what the service has done to promote equality</b>	<b>Examples of actual or potential negative or adverse impact and what steps have been or could be taken to address this</b>
3.1	<b>Reducing Health inequalities</b> - health inequalities are the preventable and unfair	In B&NES, as with other areas of the country, people living in the least deprived areas live longer in good health than people in the most	Charges will increase for some day care service users and residents of residential care. Charges may decrease for some. For Adult Social Care, people are assessed to make a payment on the basis of their

	<p>differences in health status between groups, populations or individuals that arise from the unequal distribution of social, environmental and economic conditions within societies, which determine the risk of people getting ill, their ability to prevent sickness, or opportunities to take action and access treatment when ill health occurs.</p>	<p>deprived areas.</p> <p>The aim of the policy is to ensure we have a fair charging system for all, that gives everyone the opportunity to lead a healthy life, no matter where they live or who they are</p> <p>The changes may raise extra income which could benefit all client groups.</p> <p>Cases of individual hardship can be considered on a case by case basis. In certain exceptional cases discretion can be applied with senior management approval.</p>	<p>income and assets and within nationally defined guidelines. Therefore, no-one will be asked to pay more than their assessed weekly care charge.</p> <p>Attempts were made to engage with as wide a group as possible within the consultation phase, in order to draw out any potential issues within the proposals that could have an impact upon health inequalities</p>
<b>3.2</b>	<b>Sex</b> – identify the impact or potential impact of the policy on women and men.	No issues identified	As women slightly outlive men, it is possible that women are more likely to be affected by these changes than men
<b>3.3</b>	<b>Pregnancy and maternity</b>	No issues identified	No issues identified
<b>3.4</b>	<b>Gender reassignment</b> – identify the impact/potential impact of the policy on transgender people	No issues identified	No issues identified
<b>3.5</b>	<b>Disability</b> - identify the	The consultation documents,	Some service users affected by the Care and Support

	<p>impact/potential impact of the policy on disabled people (ensure consideration both physical, sensory and mental impairments and mental health)</p>	<p>including Information about the changes (and the wider charging policy) were made available in Easy Read format. The consultation documents were also made available in different formats (e.g. Braille) and other languages on request.</p> <p>It was possible to respond online or via completion of a paper survey.</p> <p>Documents were checked for accessibility in terms of font size, contrast etc. Online versions were available in HTML format for those who use screen readers.</p> <p>Anyone wishing to attend a consultation event who had access/communication support was asked to notify organisers in advance who tried to arrange necessary support.</p> <p>Advocacy support was available to anyone who wished to take part in the consultation event or return a survey (but needed support to do so).</p> <p>Consultation meetings were held in accessible venues.</p>	<p>Charging and Financial Assessment Framework are likely to have some form of disability (including Learning Disability). There are changes within the proposals that relate to Disability Related Expenditure (DRE) – and clear criteria have been put in place about what can and cannot be treated as DRE. This may mean that certain expenditure that has been deemed as DRE in the past will no longer be deemed as disability related under the new guidance.</p> <p>At one consultation event the hearing loop was not working. The individual who needed it said that they could manage without it if the speaker spoke a little louder. An additional separate consultation event was also held at Action on Hearing Loss.</p> <p>Within the consultation, some concerns were raised about proposal 2 (allowing a two-week period for a response). This two-week period has been extended to four weeks, in part to allow for additional time that some disabled people may need (e.g. if they are unwell).</p> <p>Within the consultation concerns were raised about proposal 9 (to allow for only the standing charge for utilities to be taken into account). Concerns were raised about the extra heating costs that might be incurred by some disabled people. However, disabled people who need additional heating due to their disability could, subject to their care and support plan confirming eligibility, have this added to their assessment as Disability Related Expenditure, along with other higher</p>
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		<p>A range of disability support organisations took part in the consultation (see Consultation Response Final Report).</p> <p>A clear communication strategy will be needed to make sure disabled people fully understand the results of the consultation and how the changes will affect them as individuals.</p>	<p>utility costs that might be incurred due to disability (additional electricity for more than average washing machine costs etc).</p> <p>Cases of individual hardship can be considered on a case by case basis. In certain exceptional cases discretion can be applied with senior management approval.</p>
<b>3.6</b>	<b>Age</b> – identify the impact/potential impact of the policy on different age groups	<p>Advocacy support was available to anyone who wished to take part in the consultation event or return a survey but needed support to do so.</p>	<p>Service users affected by the proposed change to charging policy are likely to be predominantly older people. Also, adults with Learning Disability.</p> <p>If there are increases in the assessed weekly care charge people are required to make towards the cost of care – could this result in them choosing to cancel services which are contributing to their wellbeing? Social Workers will need to be mindful of this – and to continue to consider what options are appropriate to combat loneliness and social isolation</p> <p>Cases of individual hardship can be considered on a case by case basis. In certain exceptional cases discretion can be applied with senior management approval.</p>
<b>3.7</b>	<b>Race</b> – identify the impact/potential impact on different black and minority ethnic groups	<p>Communication of the changes will be especially important. For those who do not have English as a first language, there was an option to request documents to be made available in alternative languages via</p>	<p>No adverse impacts in respect of race were identified in respect of the proposals.</p> <p>A clear communication strategy will be needed to ensure that service users and carers who do not read English are able to understand how any changes will</p>

		<p>the council's commissioned interpreting and translation service Oncall.</p> <p>An additional consultation event was scheduled in with the staff and service users of BEMSCA (Bath Ethnic Minority Senior Citizen's Association). BEMSCA interpreting staff were present at this meeting, and were also paid for the additional time they spent with a number of clients who needed the proposals to be interpreted into their language.</p>	affect them.
<b>3.8</b>	<b>Sexual orientation</b> - identify the impact/potential impact of the policy on lesbian, gay, bisexual, heterosexual people	No issues identified	No issues identified
<b>3.9</b>	<b>Marriage and civil partnership</b> – does the policy/strategy treat married and civil partnered people equally?	No issues identified	No issues identified
<b>3.10</b>	<b>Religion/belief</b> – identify the impact/potential impact of the policy on people of different religious/faith groups and also upon those with no religion.	No issues identified	No issues identified

3.11	<p><b>Socio-economically disadvantaged*</b> – identify the impact on people who are disadvantaged due to factors like family background, educational attainment, neighbourhood, employment status can influence life chances <b>(this is not a legal requirement, but is a local priority).</b></p>	<p>The aim of the policy is to ensure we have a fair ASC charging system for all, that gives everyone the opportunity to lead a healthy life, no matter where they live or who they are</p> <p>The changes should raise extra income which could benefit all client groups.</p>	<p>Charges will increase for some day care service users and residents of residential care. Charges may decrease for some. For Adult Social Care, people are assessed to make a payment on the basis of their income and assets and within nationally defined guidelines Therefore, no-one will be asked to pay more than their assessed weekly care charge.</p> <p>Cases of individual hardship can be considered on a case by case basis. In certain exceptional cases discretion can be applied with senior management approval.</p>
3.12	<p><b>Rural communities*</b> – identify the impact / potential impact on people living in rural communities</p>	<p>Consultation events were held across the B&amp;NES area including the Hollies in Midsomer Norton.</p> <p>Within the proposal, transport costs could be allowed for people in rural areas to access services.</p>	<p>Anyone from a rural area who wished to attend but could not do so was able to do so because of disability/age was able to request advocacy support to enable them to attend a consultation event.</p>

\*There is no requirement within the public sector duty of the Equality Act to consider groups who may be disadvantaged due to socio economic status, or because of living in a rural area. However, these are significant issues within B&NES and have therefore been included here.

#### **4. Bath and North East Somerset Council & NHS B&NES Equality Impact Assessment Improvement Plan**

Please list actions that you plan to take as a result of this assessment/analysis. These actions should be based upon the analysis of data and engagement, any gaps in the data you have identified, and any steps you will be taking to address any negative impacts or remove barriers. The actions need to be built into your service planning framework. Actions/targets should be measurable, achievable, realistic and time framed.

Issues identified	Actions required	Progress milestones	Officer responsible	By when
The need for clear and accessible information on the proposals	Easy read format version of the policy and the consultation documents Alternative formats available on request	Easy Read versions complete and ready  Strapline telling people to ask for alternative versions on documents.	AS LH and consultation team	Sept 19
Consultation process – the need to design a consultation process that is as accessible as possible	Variety of methods to take part in the consultation (online, paper survey) or by attending an event (several being held across B&NES at different times of the day/evening to fit in with other commitments.  Advocacy support available to anyone wishing to take part who needs support to do so	Consultation timetable set up  SWAN and YOUR SAY Advocacy commissioned	AS LH and consultation team	Sept 19
Signposting to advice and support for those who may be affected by the changes	Sign posting was done via social workers, easy read document and consultation to:  <b>Bath &amp; North East Somerset Council</b> 01225 477000 (Benefits department) <a href="http://www.bathnes.gov.uk/contact-us">www.bathnes.gov.uk/contact-us</a>		AS LH and consultation team	Sept 2019

	<p><b>Citizens Advice</b> 0344 848 7919 <a href="http://www.citizensadvice.org.uk">www.citizensadvice.org.uk</a></p> <p><b>Age UK</b> 01225 466135 (BANES) 0800 055 6112</p>			
<p>The need for a clear and accessible communication strategy to notify individuals of any changes that will affect them during implementation.</p>	<p>Existing clients will all receive a letter informing them of the results of the consultation. Within this initial letter, all clients who may be affected by notional capital will be informed and referred to the agencies listed in the box above for advice and support.</p> <p>Individual letters to clients will go out in April, combined with the annual uplift letter.</p> <p>Agencies such as Healthwatch and other organisations that provide support (e.g. Age UK, BEMSCA) will be given a briefing on the consultation findings so that they are equipped to advise their service users.</p>	<p>Initial letters sent out</p> <p>Copies of the Consultation Report available online and also within One Stop Shops</p> <p>Easy read version with a summary of the consultation and decision.</p> <p>Briefings offered to key organisations</p>	<p>AS LH and consultation team</p>	<p>Jan 2019</p>

### **5. Sign off and publishing**

Once you have completed this form, it needs to be 'approved' by your Divisional Director or their nominated officer. Following this sign off, send a copy to the Equalities Team ([equality@bathnes.gov.uk](mailto:equality@bathnes.gov.uk)), who will publish it on the Council's and/or NHS B&NES' website. Keep a copy for your own records.

### **Signed off by:**

A handwritten signature in black ink, appearing to be 'L Hutchinson', written in a cursive style.

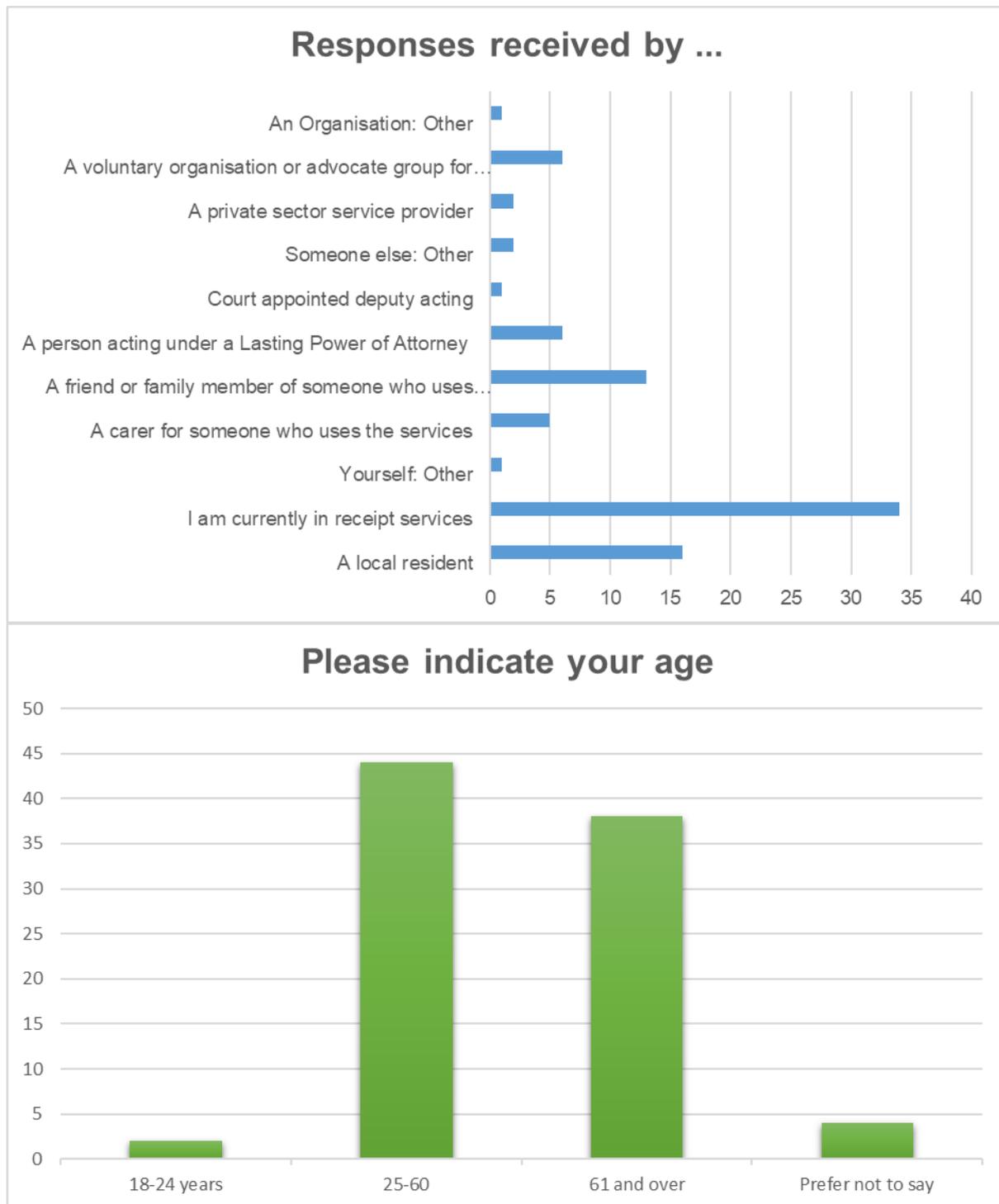
(Nominated senior officer: Lesley Hutchinson)

**Date: 08.01.2020**

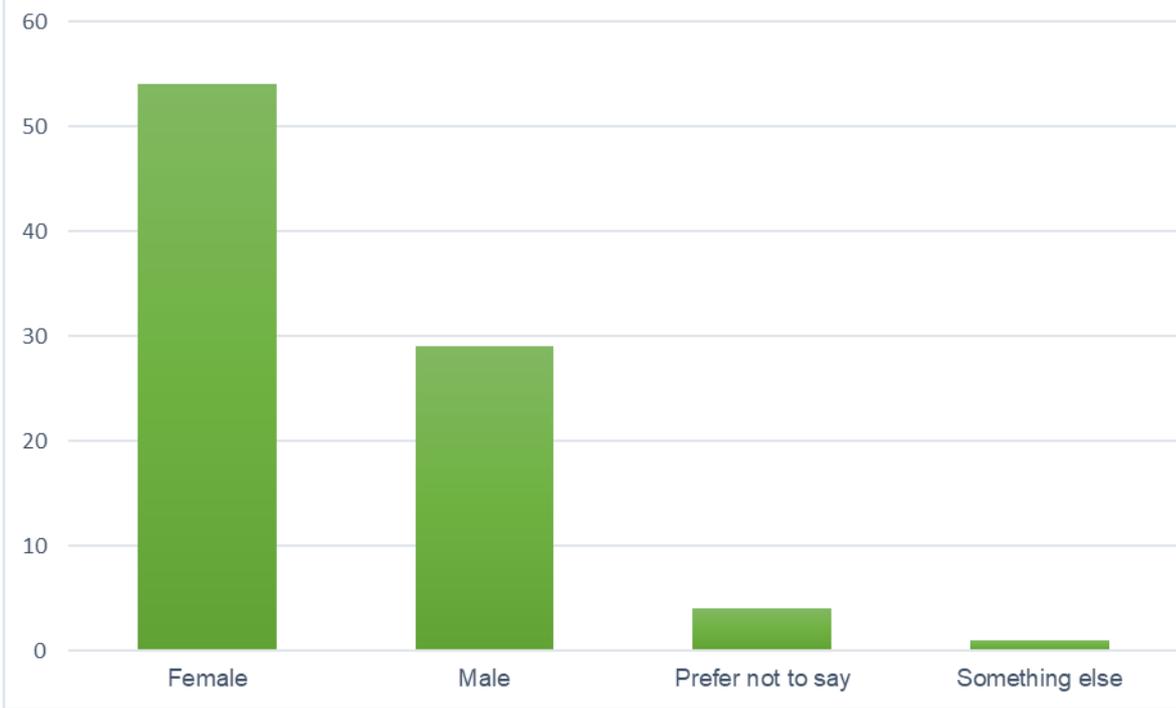
## Appendices 4 – Profile information

### About the respondents

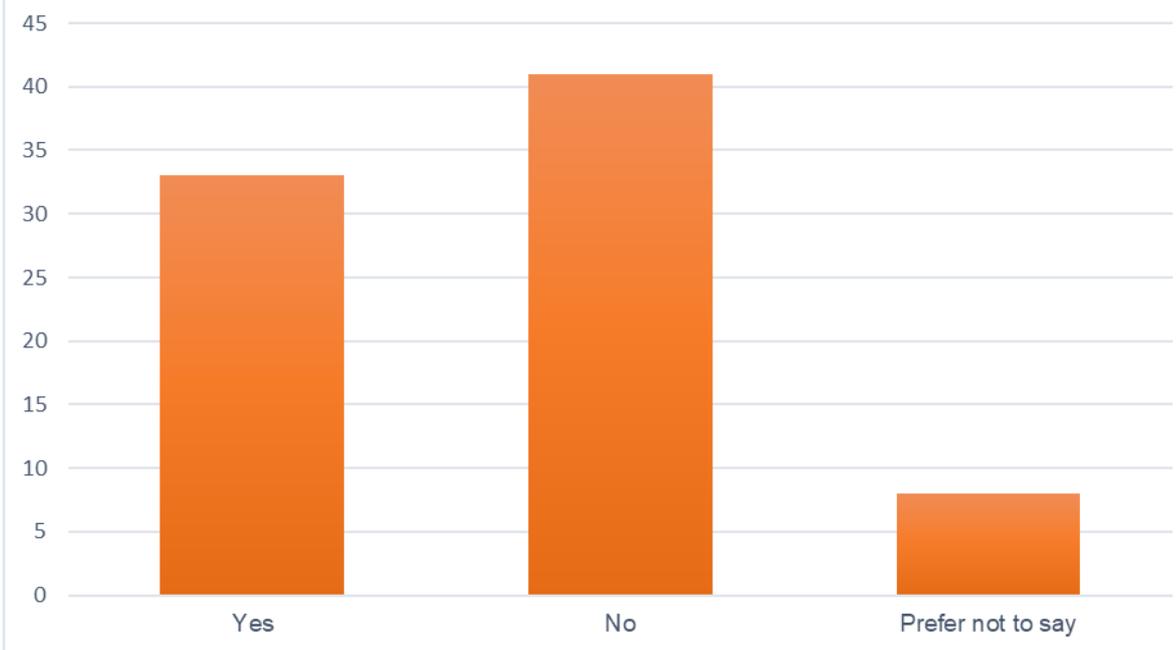
Care and Support Charging Framework – December 2019



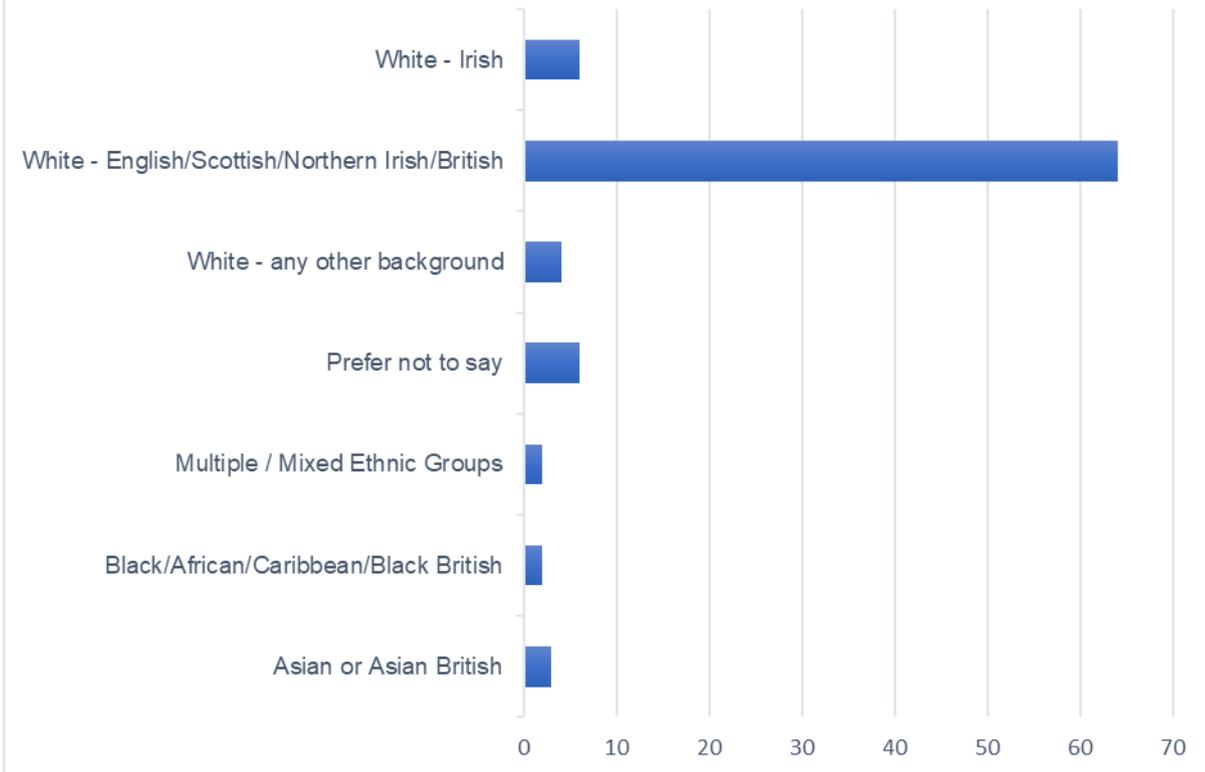
### Are you....



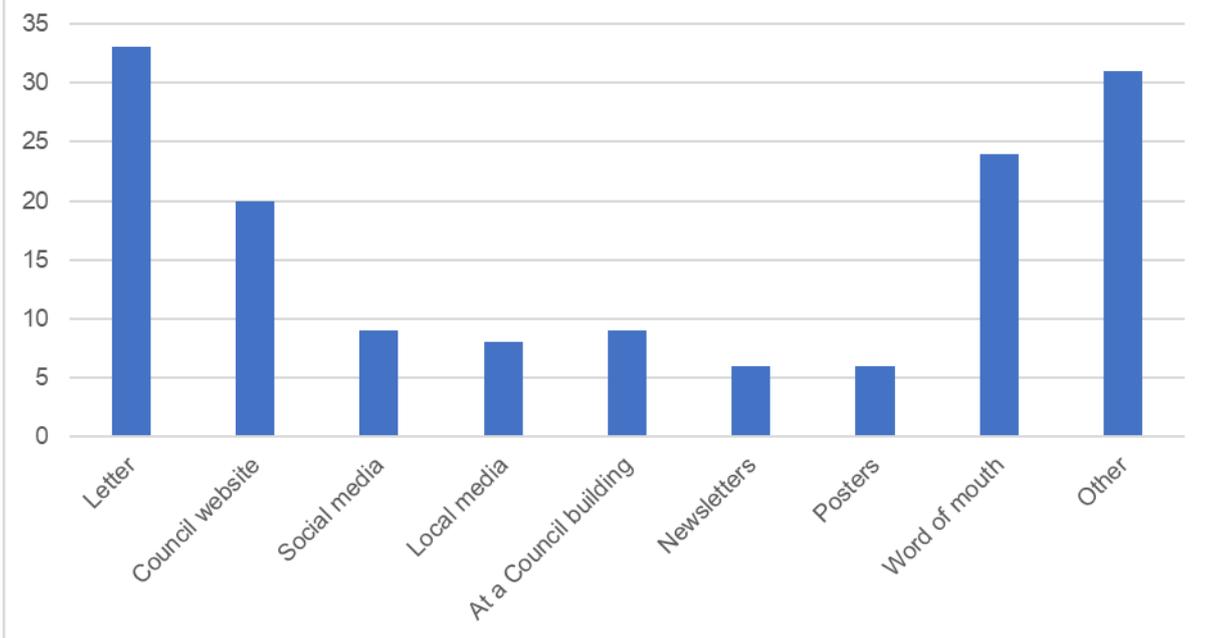
### Do you consider yourself disabled?



## What is your ethnicity?



## How did you find out about the consultation?



Respondents were able to select more than one answer to this question.

Other included: Zap, Support worker, BASS, Action on Hearing Loss. Staff, Team Manager, information from outreach meeting, Percy House, BEMSCA.

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RISK REGISTER LITE - QUARTER 'No.' - 'Financial Year'

Number	SERVICE / TEAM RISK DESCRIPTION (Description of 'event' & 'implication')	RISK OWNER	Likelihood					Impact					CURRENT RISK STATUS	PERIODS AGO			COMMENTARY ON ACTION PLAN (e.g. actions implemented /outstanding; implementation of actions to timescales)	ACTION PLAN LEAD OFFICER	
			1	2	3	4	5	1	2	3	4	5		1	2	3			
			Score					Score											
1	There is a risk caused by not implementing the Care and Support Charging and Financial Assessment Framework. Failure to not implement will risk continued inconsistency, inequality, complaints and possible referral to the Ombudsman and Judicial Review leading to reputational and financial burden.	Lesley Hutchinson	1										5	Medium				Implement the Framework and ensure the public consultation is carried out robustly to enable implementation by 06.04.2020.	Lesley Hutchinson
2	There is a risk caused by no or poor consultation resulting in an inability to implement the Framework and adversely affect the Councils reputation (including potential judicial review).	Lesley Hutchinson	2										5	Medium				Ensure robust and fully inclusive engagement.	Lesley Hutchinson
3	There is a risk caused by implementing the Framework resulting in increased complaints as some service users will be adversely affected by the change in their care charge.	Lesley Hutchinson			4							2	High				Ensure robust and fully inclusive engagement. Ensure social work and advocacy staff are aware of the changes in advance and can prepare service users. Ensure services users are sign posted appropriately for correct benefits. Ensure Complaints Team are fully briefed.	Lesley Hutchinson	
4	Increased staff workload across multiple teams particularly (but not limited to) Control and Performance Team, social work team, Exec Office	Lesley Hutchinson			5							2	High				In order to carry out the consultation there will be increased staff time this will be mitigated by time of in lieu; managing the backfill may need to take place and is being discussed with Head of Service.	Lesley Hutchinson	

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## CHILDREN, ADULTS, HEALTH AND WELLBEING POLICY DEVELOPMENT AND SCRUTINY PANEL

This Forward Plan lists all the items coming to the Panel over the next few months.

Inevitably, some of the published information may change; Government guidance recognises that the plan is a best assessment, at the time of publication, of anticipated decision making. The online Forward Plan is updated regularly and can be seen on the Council's website at:

<http://democracy.bathnes.gov.uk/mgPlansHome.aspx?bcr=1>

The Forward Plan demonstrates the Council's commitment to openness and participation in decision making. It assists the Panel in planning their input to policy formulation and development, and in reviewing the work of the Cabinet.

*Should you wish to make representations, please contact the report author or, Democratic Services (). A formal agenda will be issued 5 clear working days before the meeting.*

*Agenda papers can be inspected on the Council's website and at the Guildhall (Bath), Hollies (Midsomer Norton), Civic Centre (Keynsham) and at Bath Central, and Midsomer Norton public libraries.*

Ref Date	Decision Maker/s	Title	Report Author Contact	Director Lead
<b>28TH JANUARY 2020</b>				
28 Jan 2020	<b>Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel</b>	<b>Maternity Service Reconfiguration Update</b>	Lucy Baker	Director of Integrated Commissioning
13 Jan 2020 20 Jan 2020 28 Jan 2020 Page 316	<b>Corporate Policy Development and Scrutiny Panel</b>  <b>Climate Emergency and Sustainability Policy Development and Scrutiny Panel</b>  <b>Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel</b>	<b>Draft Corporate Strategy</b>	Andrea Benham, Andy Thomas Tel: 01225 394322	Director Partnership & Corporate Services

Ref Date	Decision Maker/s	Title	Report Author Contact	Director Lead
28 Jan 2020	Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel	Food Poverty Action Plan	Cathy McMahon, Rebecca Reynolds Tel: 01225 394064, Tel: 01225 394074	Director of Public Health
28 Jan 2020 25 Feb 2020	Children, Adults, Health and Wellbeing Policy Development and Scrutiny Panel  Council	Care and Support Charging and Financial Assessment Framework	Lesley Hutchinson, Annemarie Strong Tel: 01225 396339,	Director of Safeguarding & Quality Assurance
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<b>19TH MAY 2020</b>				
<b>14TH JULY 2020</b>				
<b>15TH SEPTEMBER 2020</b>				
<b>3RD NOVEMBER 2020</b>				
The Forward Plan is administered by <b>DEMOCRATIC SERVICES:</b> <a href="mailto:Democratic_Services@bathnes.gov.uk">Democratic_Services@bathnes.gov.uk</a>				

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