

Report to:	EXECUTIVE CABINET
Date:	25 September 2019
Executive Member/Reporting Officer:	Councillor Eleanor Wills – Executive Member Adult Social Care and Population Health Councillor Oliver Ryan – Executive Member Finance and Economic Growth Sandra Whitehead – Assistant Director, Adults
Subject:	APPROVAL OF REVISED DEFERRED PAYMENT POLICY
Report Summary:	<p>In April 2019 Executive Cabinet approved amendments to the Council's Deferred Payment Policy that gave clarification on how the Council will meet its duties and to enter into deferred payment agreements with people who are eligible and permission was given to consult on a number of powers the Council has under Care Act 2014 with regards to deferred payments.</p> <p>This report provides details of the powers that were covered by the consultation and describes the Council's preferred application of these powers.</p> <p>A copy of the revised policy is appended.</p>
Recommendations:	<p>That Executive Cabinet be recommended to approve the following:</p> <ul style="list-style-type: none"> (i) That an administrative fee of £750.00 is introduced from 1 October 2019. This will be reviewed annually and it is proposed that any uplift in the fee is included in the annual Fees and Charges Report in future years to ensure the review and uplift is applied. (ii) That interest is charged at 0.15% above the market gilt rate set bi-annually by the Office of Budget Responsibility. This will be reviewed twice per year and any variation will be communicated to the proprietor. (iii) That the Council will offer two options to pay from income: <ul style="list-style-type: none"> • To pay a contribution that has been determined through the financial assessment process as the maximum amount a service user can afford allowing for a minimum income guarantee; • To allow for additional agreed ad hoc payments to be made against deferred amounts. (iv) That if necessary the Council will arrange insurance to ensure that the property is insured and maintained by the proprietor. (v) Should the proprietor not ensure that the property is maintained the Council has the right to put this place and recharge the individual the full cost of the repairs and/or maintenance. The Council will retain its discretion to carry out maintenance and repairs on properties to be rented out and such decisions will be considered on an individual basis.
Corporate Plan:	Aligned with the Corporate Plan
Policy Implications:	The Adult Social Care Deferred Payments Policy had been in place from August 2015, with some changes being approved at Executive Cabinet in April 2019. Following a consultation exercise it is appropriate to seek permission for further amendments to ensure that it continues to reflect the duties and responsibilities

Financial Implications:
(Authorised by the statutory
Section 151 Officer & Chief
Finance Officer)

placed on local councils under the Care Act 2014.

Section 5 of the report details the proposed additions and amendments to the current Deferred Payment Policy.

Members should note that the proposed administration fee of £750 for introduction from 1 October 2019 will be reviewed annually and in advance of the start of each financial year. The proposed future annual charge will be included within the fees and charges schedule of the Council budget report. Administration fees levied will be allocated to the Exchequer Services directorate budget of the Council.

Any interest charge levied on the deferred payment debt balance as detailed in section 5.1 will be allocated to the Finance directorate budget. Interest will be charged at the national maximum interest rate in accordance with the Regulations. This is currently 0.15% above the market gilts rate specified in the most recently published report by the Office of Budget Responsibility. This is currently published in the Economic and Fiscal Outlook, which is usually published twice-yearly alongside the Budget and Autumn Statement. Market gilt rates have remained reasonably stable over recent years. However, at this stage it is unknown whether this will remain the case once the outcome of the proposed exit of the United Kingdom from the European Union is concluded.

The proprietor will be wholly liable for any costs arranged by the Council that relate to property insurance to safeguard that the related property is appropriately maintained and / or the carrying out of any actual property repairs and maintenance should these be necessary.

Legal Implications:
(Authorised by the Borough
Solicitor)

The revised policy has been developed in consultation with Legal Services and is considered fit for purpose as attached at **Appendix 1**. Executive Cabinet are required to approve policy, to ensure the Council has workable policies and procedures which are fair and robust, and stand up to judicial and ombudsman scrutiny if challenged.

Risk Management:

The risks are outlined in Section 7 of this report.

Access to Information:

Information on this report can be obtained from Sandra Whitehead, Assistant Director Adults

Background Information:

The background papers relating to this report can be inspected by contacting Sandra Whitehead:



Telephone: 0161 342 3414



e-mail : sandra.whitehead@tameside.gov.uk

1. INTRODUCTION

1.1 Services that are assessed by the Council's Adult Services as being needed have been subject to charging policies for a number of years.in accordance with legislation contained in the Care Act 2014 and subsequent regulations. The Care Act allowed local councils some discretion over what and how they charge for their services and prior to this charging was subject to an entirely statutory regime.

1.2 There are three key sets of regulations, made pursuant to powers contained in the Care Act 2014, regarding charging for care and support provided under the Act, setting out statutory requirements and the discretionary elements that are open to local interpretation and decisions.

1.3 The key regulations are:

- The Care and Support (Charging and Assessment of Resources) Regulations 2014;
- The Care and Support (Deferred Payment) Regulations 2014.
- The Care and Support (Deferred Payment) Amendment Regulations 2017

These regulations are subject to amendments.

1.4 The Regulations require councils to offer a Deferred Payment scheme so that service users (usually those living in residential care) can make a decision to postpone paying for their care if they have sufficient resources until such time that is suitable for them. In most cases this relates to people who own their own property and who need to sell it before being able to realise the capital to pay for their care. In these cases a charge is put against the value of the property and any outstanding money is recouped either on the death of the service user, or at such time that the user sells their property or has an ability to pay for their care

1.5 The Care and Support (Deferred Payments) Regulations 2014 as amended byThe Care and Support (Deferred Payment) Amendment Regulations 2017 set out the eligibility criteria for a deferred payment agreement.

The person's needs for care and support are:

- being met under section 18 (duty to meet needs) or section 19 (power to meet needs) of the Care Act 2014 and the care and support plan for the person specifies that the Local Authority is going to meet the adult's needs by providing accommodation in a care home;
- not being met by the Local Authority under section 18 or section 19 of the Care Act 2014 and the Local Authority considers that if it had been asked to meet the person's needs it would have done so by providing the person with accommodation in a care home; or
- not being or going to be met by the Local Authority under section 18 of the Care Act 2014 and are needs that the Local Authority considers it would be required to meet under that section by providing accommodation in a care home, but for the fact that the adult's financial resources exceed the financial limit (which means the upper capital limit) of £23,250 in assets excluding the person's main or only home, in other words the person is a self-funder
- The Local Authority is satisfied that the adult has a legal or beneficial interest in a property that is the person's main or only home, and where a financial assessment pursuant to the Care Act 2014 has been carried out in respect of the person:
- The value of that interest has not been disregarded in the financial assessment for the purposes of calculating the amount of the person's capital (in other words, no spouse, partner or dependants are living in the property); and
- The capital that they own, less the value of that interest, does not exceed £23,250. Alternatively, where a financial assessment has not been carried out in respect of the person, this condition would still be satisfied if such an assessment were carried out.

- 1.6 Following approval at Executive Cabinet in April 2019 to amend the Deferred Payment Policy that had been in place since August 2015, consultation on a number of specific matters has been conducted.
- 1.7 A consultation exercise has been undertaken, via the Big Conversation, from 7 May 2019 to 18 June 2019, to determine views on the proposed inclusions in the DP Policy. This report seeks approval for the powers identified following consultation to be incorporated into the revised policy attached at **Appendix 1**.

2. BACKGROUND

- 2.1 For many years councils have carried out a financial assessment of someone receiving social care support. To do this councils have been required to undertake the following:
 - Make decisions to set the level of charges based on local agreed rates;
 - Assess service user's ability to pay for those services, taking into account their income, assets, various welfare benefits and expenses incurred due to the nature of any disability or ill health in accordance with national policy guidance.
- 2.2 These decisions were set out in the Council's Charging Policy under the direction of Adults Services. Exchequer Services currently carry out the financial assessments based on information provided by social workers and service users to determine a service users' ability to pay for services based on the policy.
- 2.3 Deferred Payments are a key element within the Care Act allowing people to make a choice as to when and how they wish to pay their care costs. If a person has capital and assets that they do not want to use immediately when they move into residential care, they can postpone making the payment to such a time as they feel able or on their death, when their estate will be used to pay off any outstanding debt the person may have accrued. The Council's interests are protected by way of a registered charge against the service user's property.
- 2.4 A cross-service review of the current Direct Payment Policy, Contract and process has been undertaken to ensure that the Council is fulfilling its statutory duties. This has included Audit, Exchequer Services, Legal and Finance.

3. POWERS THE COUNCIL IS CONSULTING WITH THE PUBLIC

- 3.1 A consultation exercise was undertaken using the Council's Big Conversation platform. The consultation was seeking views on the five powers that the Council can use if they wish to apply the following:
- 3.2 To charge reasonable administrative costs – The Council has the power to charge reasonable administrative costs to set up and manage the Deferred Payment. Following consultation and consideration of local conditions in March 2015, the Council determined that it would charge a one-off fee of £600. The service user can choose to pay the administration fee upfront or choose to defer the payment which will accrue interest.

The level of administrative costs and the methodology for calculating the annual uplift of the administrative costs needs to be kept under continual review to ensure the charge is reflective of increases in resource costs, including systems, staffing and valuation fees. The administrative charge must be clearly stated in the revised policy.

It is proposed that the administrative costs are set at £750.00 from 1 October 2019, (see table below) with an annual review of the costs to be undertaken. It is proposed that any uplift in the administrative fee is included in the annual Fees and Charges Report in future years to ensure the review and uplift is applied.

Proposed Administration Fee from October 2019

Land Registration Fee	£190.00
Valuations of the property (Beginning/End)	£400.00
Resources and overheads	£157.00
Communications	£3.00
Total	£750.00

Should there be a change in the methodology to calculate the fee going forwards this will require approval in the future review of the Policy.

- 3.3 To determine if interest is to be charged, and if so the rate of interest to be charged – The Council does currently charge interest on the DP debt balance. The current arrangement is to charge interest at a maximum rate of 2.5% on its Deferred Payment Scheme. The law sets a maximum rate that can be charged, which is 0.15% above the market gilt rate set bi-annually by the Office of Budget Responsibility. It follows, therefore, that the rate actually charged must be regularly reviewed to ensure compliance. The interest rate is to cover the costs associated with lending as well as the risk to the Council which is associated with the lending (i.e. risk of default) as set out in the Care Act Regulations. In arriving at this rate the Council can also demonstrate cost neutrality.

It is proposed that the interest rate be set within the statutory limit which is 0.15% above the market gilt rate as defined by the Deferred Payment Regulations. The interest rate will be reviewed 6 monthly to ensure it is reflective of the gilt rate. This will be included in the DP Policy.

- 3.4 Requirement to pay from income – The current Policy and DPA do not describe the 4 options available to an individual by law sufficiently clearly. The options an individual has when they decide to enter into a DP are:

- To defer the whole assessed weekly care home cost;
- To pay a contribution that has been determined through the financial assessment process as the maximum amount a service user can afford from their income allowing for a minimum income guarantee and defer the remaining cost;
- To pay a level of contribution, as defined by the individual, with the remainder being deferred;
- To allow for ad hoc payments to made against deferred amounts.

The Council is proposing that it offers 2 options:

- To pay a contribution that has been determined through the financial assessment process as the maximum amount a service user can afford from their income allowing for a minimum income guarantee and defer the remaining cost;
- To allow for additional agreed ad hoc payments to made against deferred amounts.

- 3.5 The Council to provide insurance if necessary and re-charge proprietor – It is proposed that this power is included in the DP Policy to ensure that the property is insured and maintained by the proprietor to protect the Council's security.

- 3.6 Maintenance and repairs to be carried out by the Council and re-charge proprietor – It is appropriate that the proprietor arranges annual insurance and regular maintenance of the property. Should this not be in place the Council has the right to put this place and re-charge the individual the full cost of this. The Council will retain its discretion to carry out

maintenance and repairs on properties to be rented out and such decisions will be considered on an individual basis in order to protect the Council's interest in the property. This has been discussed with Estates.

4. RESULTS FROM CONSULTATION

- 4.1 The consultation was open to all members of the public via the Big Conversation web-site – this went live on 7 May 2019. Service Users with Deferred Payment Agreements were advised of the consultation by letter
- 4.2 Overall 11 respondents took part in the consultation exercise, none of whom are current service users who have a Deferred Payment Agreement.
- 4.3 Full details of the feedback received is available at Appendix 2.
- 4.4 There is little detailed and objective comment in the feedback that can be used to inform the decision regarding the application of the powers. One respondent has commented that '*... this seems a sensible policy to manage council finances at the same time as meeting need*'.
- 4.5 One respondent is unhappy about government policy to financially assess and charge individuals to determine their ability to pay towards their care. This is something that is outside of the control of the Council. A concern was also raised that those with access to advice about their wills and how to deflect payments would be at an advantage but, again, this is not something that the Council has control over.

5. PROPOSED INCLUSIONS IN THE DEFERRED PAYMENT POLICY

- 5.1 Having received no significant objections to the proposed inclusions in the DP Policy, it is proposed that the following are included in the revised Policy:
 - That an administrative fee of £750.00 is introduced from 1 October 2019. This will be reviewed annually and it is proposed that any uplift in the fee is included in the annual Fees and Charges Report in future years to ensure the review and uplift is applied. The current fee of £615.00 has not been re-assessed since it was originally set in 2015. The actual cost of delivering this service has been calculated to reflect the Council resource that is employed to administer the Deferred Payment.
 - That interest is charged at 0.15% above the market gilt rate set bi-annually by the Office of Budget Responsibility. This will be reviewed twice per year and any variation will be communicated to the proprietor.
 - That the Council will offer two options to pay from income:
 - (a) To pay a contribution that has been determined through the financial assessment process as the maximum amount a service user can afford from their income allowing for a minimum income guarantee and defer the remainder of the cost;
 - (b) To allow for additional agreed ad hoc payments to be made against deferred amounts.
 - That, if necessary, the Council will arrange insurance to ensure that the property is insured and maintained by the proprietor.
 - Should the proprietor not ensure that the property is maintained the Council has the right to put this place and re-charge the individual the full cost of the repairs and/or maintenance. The Council will retain its discretion to carry out maintenance and repairs on properties to be rented out and such decisions will be considered on an individual basis.

6. EQUALITIES

6.1 The Equality Act 2010 makes certain types of discrimination unlawful on the grounds of:

- Age;
- Gender;
- Race;
- Gender reassignment;
- Disability;
- Maternity;
- Sexual orientation;
- Religion or belief.

6.2 Section 149, of the Equality Act 2010, the public sector equality duty (PSED) requires that a public authority must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination;
- Promote equal opportunities between members of different equality groups;
- Foster good relations between members of different equality groups including by tackling prejudice and promoting understanding.

6.3 Having due regard to these involves:

- Eliminating harassment on the grounds of membership of an equality group;
- Removing or minimising disadvantages suffered by members of a particular equality group;
- Taking steps to meet needs of people who are members of a particular equality group;
- Encouraging people who are members of an equality group to participate in public life; and
- Taking steps to take account of disabled persons' disabilities

6.4 The Act therefore imposes a duty on the Council which is separate from the general duty not to discriminate. When a public authority carries out any of its functions it must have due regard to the matters within the section of the Act outlined above. The Courts have made it clear that a public authority is expected to rigorously exercise that duty.

6.5 A new Equalities Impact Assessment (EIA) has been considered but it is not anticipated that the clarity that will be offered in the reviewed Deferred Payment Policy and the inclusion of the Council's proposed position with regards to its powers as described in the Care Act will impact negatively on any of the groups with protected characteristics.

6.6 An EIA was undertaken in 2016 on the Charging and Deferred Payment policies and no material changes have been made to the Deferred Payment Policy to require an updated EIA. The original EIA is available at **Appendix 3**. The intention of the policy is to create additional options for those facing care whilst achieving an appropriate balance for the taxpayers.

7. RISK MANAGEMENT

7.1 The risk with any deferred payment is that the Council must fund the care service provided for an unknown number of years until the debt is paid upon sale of the property, which is usually upon the death of the service user. The deferred amount is in effect a 'loan' for care fees.

7.2 The number of Deferred Payments in the future has the potential for a significant financial impact; there is an increasing demographic resulting in more people living longer, not necessarily in good health, requiring care and support. In 2017 older people (+65s) made

up 17.7% of the local population (18% of England); by 2030 this is estimated to be 22% of the Tameside population (20% England) according to Projecting Older People Population Information (POPPI).

- 7.3 In terms of amending the Policy, more service users may wish to defer their care service fees and increase the 'loan' value to service users. However the Policy must reflect the intentions of the Care Act and be transparent in its offer to residents.

8. CONCLUSION

- 8.1 The Care Act states that local councils have a duty to offer a Deferred Payment to anyone who meets the criteria and the person has less than £23,250 in other assets.
- 8.2 The Council also has powers to offer a range of other services. It is proposed that the powers, as detailed in section 5, and the Council's application of these, are stated clearly in the Deferred Payment Policy and applied consistently in the process to ensure transparency.
- 8.3 The updated Policy and process will be published on the Council's website and will be shared with relevant staff and teams to ensure all apply the Policy consistently to ensure transparency.

9. RECOMMENDATIONS

- 9.1 As set out at the front of the report.

APPENDIX 1

TAMESIDE COUNCIL'S DRAFT DEFERRED PAYMENT SCHEME POLICY

Deferred Payments Agreement Guidance

Contents

- 1. Introduction**
- 2. Eligibility criteria**
- 3. Permission to refuse a deferred payment agreement**
- 4. Information and advice**
- 5. Arranging a deferred payment agreement**
- 6. How much can be deferred**
- 7. Interest rate and admin charge**
- 8. Circumstances in which the Council may stop deferring care costs**
- 9. Obtaining security**
- 10. Drawing up the deferred payment agreement**
- 11. Responsibilities of the Council whilst the deferred payment agreement is in place**
- 12. Your responsibilities whilst the deferred payment agreement is in place**
- 13. Monitoring the deferred payment agreement & Reviewing the DP Account**
- 14. Terminating the deferred payment agreement**

1. INTRODUCTION

- 1.1 The Care Act 2014 requires local authorities to set up a ‘Universal Deferred Payment Scheme’. This means that people should not be forced to sell their home in their lifetime to pay for the care and support that they require in a residential care setting. By entering into a Deferred Payment Agreement (‘DPA’) with the Council, this means that the person who requires care can delay the selling of their home, or ‘defer’ paying the costs of their care and support until a later date. This will help to provide peace of mind for people during a particularly challenging time or crisis point in their lives, and will help them and their loved ones during the transition into care.
- 1.2 A DPA provides flexibility for when and how someone pays for their care and support. Payment for care and support is deferred and not ‘written off’ – the costs of provision of care and support will have to be repaid by the individual (or a third party on their behalf) at a later date.
- 1.3 Deferred payments are not new – local authorities were given discretionary powers to start deferred payment schemes in the Health and Social Care Act 2001. Since April 2015 the scheme has been universally available throughout England and local authorities have been required to offer deferred payment agreements to people who meet certain criteria governing eligibility for the scheme.
- 1.4 The Council will undertake a financial assessment of each person who approaches them and will determine what their assessed contribution from their income should be, having regard to the national Disposable Income Allowance. Each person will be invoiced for this amount and any shortfall of the cost of care from this contribution may be deferred.
- 1.5 This policy sets out Tameside Council’s Deferred Payment Scheme which is in accordance with the Care and Support (Deferred Payment) Regulations 2014 as amended by The Care and Support (Deferred Payment) Amendment Regulations 2017

2. ELIGIBILITY CRITERIA

- 2.1 A Local Authority is required to enter in to a Deferred Payment Agreement with an adult if three criteria are met:
 - (a) A person has care needs that require the provision of accommodation in a care home, whether arranged by the Council or not;
 - (b) A service user must have less than (or equal to) £23,250 in assets excluding the value of their home (i.e. in savings and other non-housing assets); and
 - (c) A service user’s home is not disregarded for the purposes of a financial assessment.
- 2.2 The Council will use its discretion to offer a Deferred Payment Agreement to people who do not meet the above criteria. Considerations that will be taken into account include (but are not limited to):
 - (a) Whether meeting care costs would leave someone with very few accessible assets (this might include assets which cannot quickly/easily be liquidated or converted to cash);
 - (b) If someone would like to use wealth tied up in their home to fund more than just their core care costs and purchase affordable top ups;
 - (c) Whether somebody has any other accessible means to help them meet the cost of their care and support and/or

- (d) If a person is narrowly not entitled to a DPA given the criteria above, for example, because they have slightly more than the £23,250 asset threshold. This should include people who are likely to meet the criteria in the near future.
- 2.3 The Council may also, at its discretion, enter into DPA with people whose care and support is to be provided in supported living accommodation. However, DPAs cannot be entered into to finance mortgage payments on supported living accommodation.

3. PERMISSION TO REFUSE A DEFERRED PAYMENT AGREEMENT

- 3.1 Where the Council has a duty offer to a Deferred Payment or has chosen to make an offer according to its discretionary powers as set out above, the person will need to consent to the agreement terms and allow the Council to secure the debt by obtaining a Land Registry charge on their property. The law requires that the Council must be able to secure a first charge on the property, which may mean seeking permission from an existing lender. If this is not possible the Council may not be able to proceed with an offer of a Deferred Payment.
- 3.2 The Council will also decline to offer a DPA if a person does not agree to the terms and conditions of the Agreement, for example a requirement to insure and maintain the property, despite someone meeting the eligibility criteria.

4. INFORMATION AND ADVICE

- 4.1 The Council recognises that information and advice is fundamental to enabling people, carers and families to take control of, and make well-informed choices about, their care and support and how they fund it. The Council will provide clear information and advice about the Deferred Payment scheme it offers.
- 4.2 Easy read formats will be made available upon request, other languages, and format accessible to sensory impaired and people with learning disabilities about how the scheme works
- 4.3 Where relevant, the Council will endeavour to provide access to information and advice on DPAs at the earliest appropriate opportunity during the period of the 12-week property disregard. As per the Charging Policy, the Council will disregard the value of a person's main or only home when the value of their non-housing assets is below the upper capital limit for 12 weeks in the following circumstances:
 - (a) when they first enter a care home as a permanent resident; or
 - (b) when a property disregard other than the 12-week property disregard unexpectedly ends because the qualifying relative has died or moved into a care home.

In addition, the Council has discretion to choose to apply the disregard when there is a sudden and unexpected change in the person's financial circumstances. In deciding whether to do so the Council will consider the individual circumstances of the case.

- 4.4 The Council will aim to ensure that people are able to make a smooth transition from the 12-week disregard to the DPA if they opt to enter into an agreement. This means ensuring, as far as possible, that a DPA is available by the first day of week 13.
- 4.5 Where a person may lack capacity to request a Deferred Payment, the Council will complete a formal capacity assessment and a Deputy or Attorney (a person with a relevant

Enduring Power of Attorney or Lasting Power of Attorney) may request a Deferred Payment on their behalf if it is deemed to be in the person's best interest.

- 4.6 If a family member requests a Deferred Payment and they do not have the legal power to act on behalf of the person, then the family member would be advised by the Council to seek legal advice about applying for a Lasting Power of Attorney or Deputyship Order.
- 4.7 The Council will not enter into a DPA with someone acting on behalf of a person lacking mental capacity unless the appropriate arrangements are in place.
- 4.8 The Council will provide the person with information and advice on options for Deputyship, Lasting Power of Attorney and advocacy.
- 4.9 The Council will also be able to provide some advice about renting your property out and getting insurance arranged, etc.

5. ARRANGING A DEFERRED PAYMENT AGREEMENT

- 5.1 Where a person decides that they would like to utilise the scheme, the Council will financially assess them and calculate their assessed weekly contribution to be paid out of their income. It will then discuss with the person what different options for meeting the remaining cost of their care are available in their individual circumstances and provide information on the amounts it is possible to defer. Each person then has a choice as to how they would prefer to meet these costs.
- 5.2 Where a DPA is chosen as a method of meeting these costs, the Council will also discuss with the person that they will need to consider how they plan to use, maintain and insure their property if they take out a DPA, for example if they wish to rent, to prepare for sale, or to leave their property vacant for a period.
- 5.3 The Council will place conditions for maintaining and insuring the property while the DPA is in place which are detailed in the terms and conditions of the Council's DPA.
- 5.4 It is also possible for a person to make payments to their DPA account, for example, where they wish to make regular contributions from income, or where they have savings they wish to use to make payments against the deferred payment account. This should be agreed with the person as far as possible at the outset.

6. HOW MUCH CAN BE DEFERRED?

- 6.1 A person may meet the costs of their care and support from a combination of any four primary sources:
 - Income, including pension income;
 - Savings or other assets they might have access to; this might include any contributions from a third party;
 - A financial product designed to pay for long-term care; or
 - A DPA

The share of care costs that a person defers will depend on the amount they will be paying from the other sources listed above. The Council must have due regard to the 'disposable income allowance'. The disposable income allowance is a fixed amount, currently £144 per week, of a person's income which the Council must allow the person to retain, if the person wants to retain it.

A person may choose to keep less of their income than the disposable income allowance. This might be advantageous to the person as they would be contributing more to the costs of their care from their income and consequently reducing the amount they are deferring. This must be entirely at the individual's discretion and the Council must not compel someone to retain less than the disposable income allowance if the person wants to retain the full amount.

If a person decides to rent out their property during the course of their DPA, the Council will allow the person to retain 25% of any rental income they possess in addition to the disposable income allowance. The decision as to whether or not to rent a property must be the person's and theirs alone.

A person may also contribute to their care costs from payments by a third party, for example any contributions available from a financial product or from their savings. Contributing to care costs from another source would reduce the amount being deferred. The Council must not compel a person to contribute to their fees from these sources.

- 6.2 If the Council is satisfied with the security for the DPA a person will be able to defer part of their care costs up to an agreed limit, to be known as the "Equity Limit", which is up to 90% of the value of the asset, minus any charges secured against the property and minus the lower capital limit. This will be discussed with the person in advance and be incorporated into the Agreement.
- 6.3 As these factors may change over time as property values increase/decrease, any secured charges being paid off or the lower capital limit changing, the deferred payment account will be reviewed on a regular basis and the person will be kept informed.
- 6.4 If a person is considering a top up, the Council will consider whether this would be sustainable given the equity available from the chosen form of security and taking into consideration the Equity Limit described above. To ensure sustainability of the DPA, the Council has discretion over the amount people are permitted to top-up using this scheme. The Council will consider any request for top-ups, but will retain discretion over whether or not to agree to a given top-up. The Council will accept any top-up deemed to be reasonable given considerations of affordability, sustainability and available equity. The Council will be mindful of the duties set out in relation to top-ups and additional costs in the Care and Support and Aftercare (Choice of Accommodation) regulations 2014.
- 6.5 The Council will take into consideration the following to ensure that the top-up is sufficiently sustainable:
 - The period the person would want a DPA for (if they intend to use it as a short term solution);
 - The equity available;
 - The sustainability of a person's contributions from their savings (if applicable);
 - The flexibility to meet future care needs. and;
 - The period of time a person would be able to defer their care costs.

7. INTEREST RATE AND ADMINISTRATION CHARGE

- 7.1 The Council will recoup the administrative costs associated with DPAs, including legal and ongoing running costs by means of an administration charge.
- 7.2 The Council will charge interest on any amount deferred, including any administration charge deferred. This is to cover the cost of lending and the risks to local authorities associated with lending, for example the risk of default.

- 7.3 The Council will charge interest at the national maximum interest rate in accordance with the Regulations. This is currently 0.15% above the market gilts rate specified in the most recently published report by the Office of Budget Responsibility. This is currently published in the Economic and Fiscal Outlook, which is usually published twice-yearly alongside the Budget and Autumn Statement.
- 7.4 The national maximum interest rate will change every six months on 1 January and 1 June to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility. The Council will review this to ensure the interest rate set by the Council does not exceed the national maximum interest rate.
- 7.5 The Council will review the interest rate twice a year and will provide details of payments made for each period.
- 7.6 The same interest rate will be charged on all Deferred Payments within the Council.
- 7.7 The Council will inform people before they make the agreement that interest will be charged, what interest rates are currently set at, and when interest rates are likely to change.
- 7.8 The interest charged and added to the deferred amount will be compounded monthly using an annual rate. The Council will ensure when making the agreement that individuals understand that interest will accrue on a compound basis.
- 7.9 Interest will continue to accrue on the amount deferred even once someone has reached the 'Equity Limit' and no further care charges are being deferred. It will also accrue after someone has died up until the point at which the deferred amount is repaid to the local authority. If the debt is not paid on time and the Council seeks to pursue recovery through the County Court system, the Council will charge the higher County Court rate of interest.
- 7.10 The Council's administration charge will be set each year with other Council charges and will be an amount equal to the actual costs incurred in provision of the Deferred Payment scheme, as provided for in the Regulations. The Council will maintain a publicly-available list of administration charges that a person will be liable to pay. The current charges are set out in the table below and will be provided when discussing whether a DPA is appropriate or not.
- 7.11 Administration charges and interest can be added on to the total amount deferred as they are accrued, although a person may request to pay these separately if they choose.
- 7.12 When agreement has been reached between a person and the Council as to how much will be deferred, the Council will ensure this is clearly set out in the DPA. See Appendix A for draft Deferred Payment Agreement.
- 7.13 The DPA will make clear that all fees deferred, alongside any interest and administrative charges incurred, must be repaid by the person in full. The Council will also notify the individual in writing whenever they are liable for an administration charge.

8. CIRCUMSTANCES IN WHICH THE COUNCIL MAY STOP DEFERRING CARE COSTS

8.1 Circumstances in which the Council may refuse to defer any more charges include:

- (a) When a person's total assets fall below the level of the means-test, and the person becomes eligible for the Council to support in paying for their care;
- (b) Where a person no longer has eligible needs under the Care Act 2014
- (c) If a person breaches certain terms of their contract; or

(d) If, under the Charging Regulations, the property becomes disregarded for any reason and the person consequently qualifies for the Council's support in paying for their care, including but not limited to:

- where a spouse or dependent relative (as defined in Charging Regulations) has moved into the property after the agreement has been made, where this means the person is eligible for the Council's support in paying for care and no longer requires a DPA; and
- where a relative who was living in the property at the time of the agreement subsequently becomes a dependent relative (as defined in Charging Regulations). The Council may choose to cease further deferrals at this point.

- 8.2 The Council should not exercise these discretionary powers if a person would, as a result, be unable to pay any tariff income due to the Council from their non-housing assets.
- 8.3 The Council must cease deferring further amounts when a person has reached the 'Equity Limit' or when a person is no longer receiving care and support in either a care home setting or in supported living accommodation. This also applies when the value of the security has dropped and so the equity limit has been reached earlier than expected.
- 8.4 In any of these cases, interest will continue to accrue on the amount deferred until the agreement is terminated (either by sale of the property, the person's death or by the Council being repaid separately).
- 8.5 If a decision is made to stop deferring care costs, the Council cannot demand repayment in these circumstances, and repayment is still subject to the usual terms of termination.
- 8.6 The Council will provide a minimum of 30 days advance notice that further deferrals will cease and will give the person an indication of how their care costs will need to be met in future. Depending on their circumstances, the person may either receive support from the Council in meeting the costs of their care, or may be required to meet their costs from their income and assets.

9. OBTAINING SECURITY

- 9.1 The Council must have adequate security in place when entering into a DPA. The Council has discretion to consider whether another type of security could be provided if a person cannot secure their deferred payment agreement with a charge on a property.
- 9.2 If a person intends to secure their DPA with a property, the Council will obtain a valuation of the property. A person may request an independent assessment of the property's value (in addition to the Council's valuation). If an independent assessment finds a substantially differing value to the Council's valuation, the Council and the person will aim to discuss and agree on an appropriate valuation prior to proceeding with the DPA.
- 9.3 In cases where an agreement is to be secured with a jointly-owned property, the Council requires both owners' consent (and agreement) to a charge being placed on the property. Both owners must be signatories to the charge agreement, and the co-owner must agree not to object to the sale of the property for the purpose of repaying the debt due to the Council. The Council must obtain similar consent to a charge being created against the property from any other person who has a beneficial interest in the property.
- 9.4 Under the discretionary scheme, the Council has discretion to decide what else may constitute 'adequate security' for a DPA, in cases where a first charge cannot be secured.

- 9.5 The Council will consider the merits of each case individually. Other forms of security the Council may choose to consider include (but are not limited to):
- a third-party guarantor – subject to the guarantor having / offering an appropriate form of security;
 - a solicitor's undertaking letter;
 - a valuable object such as a painting or other piece of art; or
 - an agreement to repay the amount deferred from the proceeds of a life assurance policy.
- 9.6 The Council has full discretion in individual cases to refuse a DPA if it is not satisfied that adequate security is in place.

10. DRAWING UP A DEFERRED PAYMENT AGREEMENT

- 10.1 Where someone chooses to enter into a DPA, the Council will aim to have the agreement finalised and in place by the end of the 12-week disregard period, or within 12 weeks of the person approaching the Council regarding DPAs in other circumstances.
- 10.2 Decisions on a person's care and support package, the amount they intend to defer, the security they intend to use and the terms of the agreement should only be taken following discussion between the Council and the individual. Once agreement in principle has been reached between the Council and the person, it is the Council's responsibility to transpose the details agreed into a DPA, taking the legal form of a contract between the Council and the person.
- 10.3 The Council will provide a hard copy of the DPA to the person, and the person will be provided with reasonable time to read and consider the DPA, including time for the person to query any clauses and discuss the DPA further with the Council.
- 10.4 The DPA will clearly set out all terms, conditions and information necessary to enable the person to ascertain his or her rights and obligations under the DPA.
- 10.5 The Council will aim to ensure at a minimum that people sign or clearly and verifiably affirm they have received adequate information on options for paying for their care, that they understand how the DPA works and understand the agreement they are entering into; and that they have had the opportunity to ask questions about the contract.
- 10.6 All DPA's will be subject to the Unfair Terms in Consumer Contracts Regulations 1999, so the terms will be written in plain, intelligible English and will not be binding if they are unfair to the borrowers. The Council will also have to ensure that they we do not contravene the Consumer Protection from Unfair Trading Regulations 2008.
- 10.7 The Council will not adopt a blanket policy and will consider each case on its own merits.

11. RESPONSIBILITIES OF THE COUNCIL WHILST THE DEFERRED PAYMENT AGREEMENT IS IN PLACE

- 11.1 The Council will provide people with six-monthly written updates of the amount of fees deferred, of interest and administrative charges accrued to date, and of the total amount due and an estimate of the equity remaining in the home taking into account those figures.
- 11.2 The update will also set out the amount deferred during the previous period, alongside the total amount deferred to date, and will also include a projection of how quickly someone

would deplete all equity remaining in the agreed form of security up to their equity limit. This will be for illustrative purposes only

- 11.3 The Council will also provide the person with a statement on request within 28 days.
- 11.4 The Council will reassess the value of the agreed form of security once the amount deferred exceeds 50% of the security (and periodically thereafter), and adjust the equity limit and review the amount deferred if the value has changed.
- 11.5 The Council must accept reasonable alternative maintenance and insurance services.

12. YOUR RESPONSIBILITIES WHILST THE DEFERRED PAYMENT IS IN PLACE

- 12.1 You will need to ensure that the property or asset upon which the DPA is secured is adequately insured.
- 12.2 You will also need to make arrangements to ensure the property is adequately maintained and repairs are carried out.
- 12.3 In some circumstances the Council may be able to assist you with making these arrangements but is under no obligation to do so.
- 12.4 The Council also has a discretionary power to arrange insurance and arrange for repairs and maintenance work, however, this will only be considered in individual cases and in exceptional circumstances and the Council will recharge the person or their estate for any costs incurred in doing this.
- 12.5 You will need to keep the council informed of any changes to either your care arrangements or financial circumstances.
- 12.6 You will need to pay the invoices based on your assessed contribution from your income over time.

13. MONITORING THE DEFERRED PAYMENT & REVIEWING THE DP ACCOUNT

- 13.1 The Council will review the amount being deferred every 6 months to ensure the deferred amount does not exceed the Equity Limit. The Council will have particular regard to the amount deferred as it approaches this limit.
- 13.2 The security will also be revalued when the amount deferred equals or exceeds 50% of the value of the security to assess any potential change in the value that may affect the lending limit. The Council will also re-value the security periodically to monitor any potential further changes in value. If in either case there has been any substantial change the Council will review the agreement.
- 13.3 When the Council is reviewing the deferred payment account particular attention will be given to:
 - (a) The amount of equity a person has available as security to ensure that the amount deferred does not rise above this limit. As set out at 6.1 above, the Equity Limit means that there will be some equity remaining in the security used for the DPA to act as a buffer in case of unexpected market fluctuations and to cover any subsequent interest which continues to accrue as well as to allow for any fees involved in the sale of the asset. In the majority of cases a property will be used as

security so the Equity Limit will provide for the payment of estate agents and legal fees involved with the conveyance.

When reviewing each deferred payment account and considering the equity remaining before the Equity Limit is reached, the Council must also include any interest and fees to be deferred.

When a person is approaching or reaching the point at which they have deferred an amount equal to 70% of the property equity, the Council will aim to review the cost of their care with the person, discuss when the person might be eligible for any means tested support, discuss the implications for any top-up they might currently have, and consider jointly whether a DPA continues to be the best way for someone to meet these costs.

Once a person has deferred payments up to the Equity Limit the Council must refuse to defer any further charges. However, interest can still accrue beyond this point and administration charges can still be deferred.

- (b) The amount the person is contributing to their care costs from other sources, including income and (where the person chooses to) any contribution from savings, a financial product or a third-party as an 'ad hoc' payment.
- (c) The total care costs a person will face, including any top-ups.

14. TERMINATING THE DEFERRED PAYMENT AGREEMENT

14.1 The DPA can be ended at any time: it can be ended by the individual themselves or by someone acting on their behalf in a legitimate capacity, for example family or solicitor.

There are 2 ways in which this can be done:

- (a) By the person or their representative repaying the full amount owed, for example, from a when the property has sold and the Council can be repaid
- (b) When the person has passed away and the full amount owed is repaid to the Council from their estate.

14.2 When the DPA is ended the full amount due will include: care costs, any interest accrued and any administrative or legal fees that are charged. The full amount must be paid to the Council at the point of sale of the property or within 90 days.

14.3 If a person decides to sell their home, they must notify the Council during the sale process. They will be required to pay the amount due to the Council from the proceeds of the sale, and the Council will be required to relinquish the charge on their property.

14.4 The individual may decide to repay the amount due to the Council from another source, or it may be paid by a third party, and if this is the case, the Council will require 90 days' notice in writing of the intention to terminate the agreement. Once the full amount owed has been received by the Council, then the Council must relinquish the charge that has been placed on the property and the agreement comes to an end.

14.5 If the DPA ends due to the person's death, the calculated amount owed to the Council must be paid out of the estate or paid by a third party. A person's family or a third party may wish to settle the debt to the Council by other means of payment. The Council must accept alternative means of payment in these circumstances, provided that the payment covers the full amount owed to the Council.

- 14.6 If there is an Executor of the Will or Administrator of the Estate, they can decide how the amount due to the Council will be paid. This may be from the person's estate (usually the sale of the house) or potentially from a life insurance policy, or from a third party source. The Council will wait at least two weeks following notification of the person's death before approaching the Executor with a full breakdown of the total amount deferred, however, a family member or the Executor can approach the Council to resolve the outstanding amount due prior to this point.
- 14.7 Responsibility for arranging for repayment of the amount due (in the case of payment from the estate) falls to the Executor of the Will. Interest will continue to accrue on the amount owed to the Council after the individual's death and until the amount due to the Council is repaid in full. In the case that a DPA is agreed on the basis of a form of security other than property, the Council will need to make provision in the DPA for conclusion of the DPA in the event that the given security is disposed of/comes to fruition.
- 14.8 If the DPA ends due to the person's death, the amount owed to the Council falls due for full payment 90 days after the person has died. After this 90 day period, if the Council feels active steps have not been taken to resolve the situation and pay the debt or if the Council feels that the Executor is wilfully obstructing the sale of the property, the Council may enter into legal proceedings to reclaim the amount due to them. In such cases the Council will have regard to its debt recovery policy.
- 14.9 In whichever circumstances the DPA is ended, the full amount due to the Council must be repaid and will cover all the costs that have accrued under the DPA. The Council must provide a full break down of how the amount due has been calculated and this should be sent to the person (and/or third party where appropriate). When the full amount owed has been received by the Council, the Council will provide the individual with confirmation that the DPA has been concluded and confirm (where appropriate) that the charge against the property has been removed.

APPENDIX 2

DEFERRED PAYMENT AGREEMENT CONSULTATION OUTCOME

The responses to the consultation are detailed in the table below:

Question 1 - Please indicate which of the following best describes your main interest in this issue		
Interest	Number	Percentage
I currently hold a deferred payment agreement with Tameside Council		
I am relative or a friend of someone who currently holds a DPA with the Council		
I don't currently hold a DPA but may do so in the future	5	45.45
I represent a community or voluntary group	1	9.09
I represent a partner organisation		
I represent a business/private organisation		
I am a Tameside Council or Tameside CCG employee	1	9.09
Other	4	36.36
Total	11	

In terms of 'Other' respondents please see below comments

	Comments
1	There is a charge on a property belonging to my deceased mother in law.
2	I am a resident of Tameside and have an interest as a council tax payer and citizen.
3	Just because I own my own house I and my family are being persecuted.
4	Tameside resident.

Question 2 - The Council is proposing that it offers two payment options. To pay a contribution that has been determined through the financial assessment process as the maximum amount a service user can afford allowing for a minimum income guarantee; and to allow for additional agreed ad hoc payments to be made against deferred amounts. How would these options impact you if you currently hold or may hold in future a deferred payment agreement?
--

	Comments
1	It currently would not impact me directly but this seems a sensible policy to manage council finances at the same time as meeting need.
2	Not known.
3	Why should I and my family be persecuted for owning my home?
4	Means tested on ability to percentage or ratio of total income.

Question 3 - How would the other changes to the policy outlined impact you if you currently hold or may hold in future a deferred payment agreement?
1 Not known.

2	Do we have to state the obvious here! This question is very broad to answer.
---	--

Question 4 – Do you have any other comments you wish to make about the deferred payment policy?

	Comments
1	The policy seems reasonable as an approach that both ensure that people with resources are treated fairly but also that they are not treated favourably in comparison to those without.
2	No comments.
3	I do not agree that the Council should insure and repair ‘the property’ just because they have a financial charge against it. This is for the LPA holder or property owner to do. It seems very much over stepping the mark from state intervention/interference.
4	Robbery.
5	Those who have a Will advisers or solicitors can deflect payment with president legislation, and unfortunately they can avoid any contribution.

Consultation Analysis

Please find below table which summarises the comments made:

Question 2

Comment	Number
Generally positive	1
Generally negative	1
No opinion	1
Other	1

Question 3

Comment	Number
Generally positive	0
Generally negative	1
No opinion	1
Other	0

Question 4

Comment	Number
Generally positive	1
Generally negative	3
No opinion	1
Other	1

Participant Demographic Information

Question 5 – What is your sex?	
Female	1
Male	4
Prefer not to say	0

Prefer to self-describe	0
-------------------------	---

Question 6 – Is your gender identity the same as the sex you were assigned at birth?

Yes	5
No	0
Prefer not to say	0

Question 7 – What is your age?

51 to 60 years old	2
61 to 70 years old	1
71 to 80 years old	2

Question 8 – What is your postcode?

M34	1
OL6	2
SK14	2

Question 9 – What is your ethnic group?	
White: English/Welsh/Scottish/Northern Irish/British	5

Question 10 – What is your religion or belief?	
No religion	3
Christian	2

Question 11 – What is your sexual orientation?	
Heterosexual/Straight	5

Question 12 – Are your day to day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months? Include problems related to old age.

Yes, limited a lot	2
Yes, limited a little	1
No	2

Question 13 – Do you look after, or give any help or support to family members, friends, neighbours or others because of either long term physical or mental ill-health/disability or problems related to old age?	
No	3
Yes, 1-19 hours a week	1
Yes, 20-49 hours a week	0
Yes, 50 or more a week	1

Question 14 – Are you a member or ex-member of the armed forces?

Yes	1
No	4

Question 15 – What is your marital status?

Single	0
Married	3
Civil Partnership	0
Divorced	1
Widowed	1

Question 16 – Are you pregnant, on maternity leave or returning from maternity leave?

Yes	0
No	5

APPENDIX 3

EQUALITY IMPACT ASSESSMENT

Subject	The Care Act 2014 Charging Policy & Deferred Payments Policy	
Service / Business Unit	Service Area	Directorate
Adult Assessment	Adult Services	People
EIA Start Date (Actual)	EIA Completion Date (Expected)	Completion Date (Actual)
August 2015	August 2015	August 2015

Lead Contact / Officer Responsible	Paul Dulson Head of Adult Assessment & Care Management
Service Unit Manager Responsible	Sandra Whitehead Interim Executive Director Adult Service

EIA Group (lead contact first)	Job title	Service
Paul Dulson	Head of Adult Assessment	Adult Services
Michelle Bowler	Service Unit Manager	Exchequer
Sarah Quayle	Operations Manager	Exchequer
Jobada Rahman	Assistant Team Manager	Adult Services
Steve Jamieson	Principal Resource Manager	Adult Services Finance

SUMMARY BOX	
Section 149, of the Equality Act 2010, the public sector equality duty (PSED) requires that a public authority must, in the exercise of its functions, have due regard to the need to:	
• Eliminate discrimination, harassment, victimisation	
• Advance equality of opportunity	
• Foster good relations	
Having due regard to these involves:	
• Removing or minimising disadvantage suffered by persons	
• Taking steps to meet the needs of persons with different characteristics	
• Encouraging people to participate in public life	
• Tackling prejudice and promote understanding.	
• Taking steps to take account of disabled persons' disabilities	
This EIA focusses on the Council's proposals on the new financial charging policy for Adult Social Care as a result of the Care Act 2014 2014 and also the specific details of the Deferred Payment Policy which is an element of the wider Charging Policy.	
A consultation exercise in respect of the proposals on the new financial charging policy took place between 17 November 2014 and 09 January 2015 and a further consultation took place between	

29th May 2015 to 6th July 2015.

The consultation approach included an online questionnaire by means of the Council's Big Conversation as it was appropriate to engage directly with service users and residents. In addition eight focus groups were held across the borough amongst a range of social groups to ensure as many people as possible were engaged. A further 2500 current service users were written to to ascertain their views.

Despite potential barriers to engagement due to the online questionnaire and the fact that many service users do not use the internet, as well as the depth and complexity of the information presented, significant efforts were made to ensure that barriers were removed or alleviated where possible. Considerable exposure through the publicising of the consultation in the local press and on a local radio station, a mailshot to all current service users with the option to request a printed copy of the questionnaire or to call the department for more information (whereby a telephone consultation would also be offered).

Where equality groups were potentially most disadvantaged, such as through disability or age (access to the internet, ability to get to publicly accessible internet provision), or ethnicity (language), these concerns were addressed by specific solutions where need arose. For example it was established that support workers and carers were the best placed people to relay the complex information and proposals within the consultation to any disabled people requiring this extra support that they work with and this was therefore encouraged. Bilingual colleagues within the Adults Finance Service and Welfare Rights were also called upon to support in telephone consultations with people who did not speak English.

Section 1 - Background

BACKGROUND

The Council currently charge for care in residential accommodation and care provided in other settings such as at home. A financial assessment takes place in order to determine how much a service user must contribute towards the costs of their care. The Council consider the service users' income, savings and any assets they own; this might include any investments or property, and then calculate how much the service user can afford to pay towards the cost of their care.

The Council currently charge service users for care and support in residential accommodation and conduct financial assessments for contributions towards that care in accordance with the 'Charging and Residential Guide' and for care in non-residential settings in accordance with the 'Fairer Charging Policies for Home Care and other non-residential Social Services'.

The Care Act 2014 was passed before Parliament on 23 October 2014 which changed the rules governing how local authorities will provide care services in future.

The Act clearly describes a series of new duties and responsibilities on local authorities about care and support for adults and also gives local authorities the powers to decide on a new financial charging policy.

As home to a diverse population – some 220,600 people – Tameside Council seeks to ensure that it provides its services in a fair, accessible, and equitable manner whilst satisfying the requirements of the Equality Act 2010 and the public sector equality duty (section 149) contained therein.

Consultation

The consultation exercise completed pertained specifically to the changes in the new financial charging policy for Adult Social Care services which were implemented from 01 April 2015 in accordance with the statutory Care Act 2014 guidance as released by the Government. Although the guidance is statutory, it did enact a series of discretionary elements which formed the content of

the consultation, these being;

- **Charging for temporary or short term care up to the first 8 weeks as if the person was living in permanent residential care.**
- **Income that is disregarded from a financial assessment**
- **Upper and Lower Capital Limits**
- **Charging for care and support outside of a care home setting**
- **Disability related expenses - standard disregard**
- **Maximum percentage of disposable income**
- **Personal Independence Payments**
- **Severe Disability Premium**
- **Deferring Third Party Top-ups**
- **Extending Deferred Payments to Supported Living Schemes**
- **Renting out a property that is subject to a Deferred Payments Agreement**

This EIA concentrates on the process of developing an appropriate framework for the execution of the Care Act 2014 and the impact of these proposals. Consultation was undertaken in order to ensure that all protected characteristic groups were considered in terms of both the accessibility of the consultation process and the overall impact the changes to the new financial charging policy for Adult Social Care services will have upon those groups.

Hosting the consultation online allowed it to be much more accessible as people do not have to physically attend a consultation, and consultees could access the exercise in their own time and at their own leisure.

The option was given, for those who do not have access to the internet, to request a printed copy of the questionnaire or to call the department for more information (whereby a telephone consultation would also be offered). Considerations were also given to ethnicity and a potential language barrier as a result of the online and printed questionnaires being in English language, therefore the option was given to request printed copies of the question in other languages if required.

Links to an online easy read version of the Care Act 2014 as produced by the Government and a short video outlining the principles of the Care Act 2014 produced by The Social Care Institute for Excellence (SCIE) were included in the Big Conversation.

The consultation was publicised amongst all current and prospective service users

Response Method	Starts	Completions
Big Conversation online questionnaire Nov 14 – Jan 15	142	81
Big Conversation online questionnaire May 15 – July 15	49	49
Telephone consultation	20	20
Paper questionnaire	35 issued	3

Section 2 – Issues to consider

ISSUES TO CONSIDER

The below table details the demographic profile of the overall population of the borough in comparison to the current client base of those in receipt of chargeable adult social care services and that of respondents to the Big Conversation;

Demographic Group	Tameside Population (%)	Client Base (%)	Respondents to Big Conversation (%)
Gender			
Male	49.2	38.1	46.3
Female	50.8	61.9	53.7
Age			
Under 30	37.1	6.0	4.2
30 – 44	19.6	7.8	8.5
45 – 59	20.8	12.1	31.6
60 – 79	18.4	28.4	43.1
80+	4.1	45.7	12.6
Ethnicity			
White	90.9	96.2	95.6
BME	9.1	3.8	4.4
Disability			
Yes	20.9	33.7	53.8
No	79.1	66.3	46.2

Eleven discretionary elements were consulted upon, and following the consultation exercise the Key Decision recommends the implementation of the following outcomes:

- Continue charging for temporary or short term care up to the first 8 weeks as if the person was living in permanent residential care.
- Continue to disregard the value of Income Support/Guaranteed Credit element of Pension Credit plus the buffer of 25%.
- Maintain the lower capital limit and introduce an upper capital limit.
- Introduce a new maximum charge for care and support outside of a care home setting in line with residential care.
- Continue to maintain the disability related expenses - standard disregard
- Continue to set the maximum percentage of disposable income taken into consideration for assessment at 100%.
- To treat Personal Independence Payments as Disabled Living Allowance currently is when carrying out a financial assessment.
- To take the full amount of Severe Disability Premium into account when carrying out a financial assessment.
- Decisions to defer payments including top ups for residential care will be taken on a case by case basis
- The Deferred Payments Scheme will be extended to people living in supported accommodation
- 25% of any rental income from a property subject to a deferred payments agreement will be allowed to be retained by the service user.

In light of the above, in addition to considering the effects on the protected characteristic groups it is important to also consider the following groups who the changes pertain to predominantly;

Property Owners

As of 1 April 2015, the Council must offer a Deferred Payment Agreement to all service users in receipt of chargeable residential services, who own a property and whom meet the qualifying criteria.

The Ageing Population

Tameside's population is currently estimated at 220,600 residents. There has been a growth particularly in the number of people over 65 years by 13% since 2013 and this is projected to continue to increase to 33% by 2025. Older people often have an increasing need for health and social care as they grow older.

It is estimated that in 2008 there were 2,384 people over the age of 65 with dementia in Tameside. By the year 2025 this total is expected to rise by 40.6% to reach 3,351 people.

Prospective Service Users

It is important that those who, although may not currently be in receipt of adult social care services, may be in receipt in the near future and will, therefore, be affected by the changes as outlined in this consultation. In rolling out a comprehensive programme of engagement to ensure maximum rates of participation, the council is therefore mindful of the requirement to satisfy its obligations under the PSED of the Equality Act 2010, and ensure that all groups are able to participate should they wish.

The conclusions drawn from the evidence and analysis of the effects on equality on the protected characteristic groups are detailed in the below table:

Protected Characteristic	Demographic Analysis
Age	<p>Pensioners: Tameside has a caseload of 2998 adults in receipt of social care services who have been financially assessed. There are 2033 service users (68% of the total) who are of pensionable age. There is a greater proportion of older people in receipt of care services than compared to the Tameside population overall in which those of pensionable age form 21% of the population. Census data reveals an increase in an ageing population.</p> <p>Within the last five years 84 people owned property at the time they were placed by the Council into chargeable residential care. All 84 of these service users were of pensionable age.</p> <p>Working age / non-pensioners: 965 service users (32% of the total) are non-pensioners (i.e. have not reached pension credit age) and are therefore of working age.</p>
Disability	<p>The disability profile of the client base of those in receipt of chargeable care services shows that 982 service users (33 % of the total) are disabled. There is a greater proportion of disabled people who are service users compared to the Tameside population overall (21%).</p> <p>Of the 84 people who have been placed into chargeable residential care, who owned property, seven of these (8%) were classified as disabled. The remaining 77 were of the older people category and are likely to have been placed into chargeable residential care due to an age-related deterioration in their ability to manage key day to day tasks or due to dementia.</p>
Gender	39% of the client base are male and 61% female. The gender profile of the client base shows a greater proportion of females compared to the Tameside population overall. The total pensioner client base is 69% female and 31% male. The disabled client base is 48% female and 52% male.

	Of the 84 people who have been placed into chargeable residential care and owned a property 59 (70%) of these were female and 25 (30%) were male.
Race	90% of the client base of those in receipt of chargeable social care services for adults are white and 10% BME. This is largely in line with the ethnicity profile of Tameside overall (91% white and 9% BME). Of the 84 people who have been placed into chargeable residential care whilst owning a property 66 of these were white (79%) and 7 (8%) people were BME. Race details are not held for the remaining 11 (13%) people.
Religion and Belief / Sexual Orientation / Gender Re-Assignment / Pregnancy and Maternity / Marriage and Civil Partnership	Specific data is not available on these protected characteristics for those in receipt of chargeable social care services for adults. However no evidence of any disproportionate impact was discovered.

LIST OF EVIDENCE SOURCES
Big Conversation analytics
Mid-year Population Estimates 2013 (ONS) – age and gender data
Census 2011 (ONS) – ethnicity and disability data
Abacus system reports

Section 3 – Impact

IMPACT
The table below details the proposals addressed within the Care Act 2014 financial charging policy key decision and their impact. For the purposes of this analysis Deferred Payment Agreement administrative fees and interest rates will be considered collectively as both charges will be applied in all instances where the eligibility criteria is met.
PROPOSAL
Continue charging for temporary or short term care up to the first 8 weeks as if the person was living in permanent residential care.
IMPACT
The current Council policy is to charge someone as if they were in residential care if they move

into a residential care home for a temporary period. If the Council was to change this policy to charge as if the person was remaining at home and only paying a homecare charge then the financial impact on the Council would not be significant however given the current financial climate and the need to ensure that people are paying what they can afford recognising the actual cost of the care they are receiving it is proposed to continue with the current policy.

This will only impact on those people who move into residential care for a temporary period up to 8 weeks. Those currently affected will not be further impacted upon.

PROPOSAL

Continue to disregard the value of Income Support/Guaranteed Credit element of Pension Credit plus the buffer of 25%.

IMPACT

This proposal is a continuation of the current policy in that it recognises that the Government has set a baseline that it deems sufficient to live on. The additional 25% buffer that the Council operates ensures that people have that extra income available before any charges are levied on the remaining income beyond the minimum rate plus 25%.

Those people receiving social care services on basic benefits will not be impacted upon however if they have other income (either earned or welfare benefits) then they will be expected to pay towards their care and support costs.

There are currently around 2,500 people in receipt of care who are required to pay something towards their care costs and this will continue as now.

PROPOSAL

Maintain the lower capital limit and introduce an upper capital limit.

IMPACT

This proposal maintains the current lower capital limit but introduces an upper capital limit of £23,250 above which people will be expected to pay the full cost of their care. This will impact on approximately 51 people to varying degrees with only 4 people being expected to pay the new maximum amount for non-residential care of £419.00 per week. This is in line with the minimum amount someone would be expected to pay in residential care and attempts to rebalance an anomaly that has existed for many years in that people living at home irrespective of what savings they had were only required to pay a maximum of £214.50.

PROPOSAL

Introduce a new maximum charge for care and support outside of a care home setting in line with residential care.

IMPACT

This proposal is being made to rebalance an inequality in the Council's current charging policy. People receiving a non-residential package of care currently only pay a maximum of £214.50 per week towards their care. There are people with larger incomes or large amounts of savings who can afford to pay more as they would be expected to do if they were receiving their care in a residential care home. This anomaly currently means that someone may be receiving a care package at home in excess of £2000 per week but still be required to pay only £214.50 despite having the ability to pay more. The proposal is to increase the maximum charge to £419.00 which is in line with the lowest cost of residential care in an off framework home so that people with the ability to pay are not disadvantaged whether living in one environment or the other.

There are currently 13 people who would see their current charges increase by over 50% but all have significant savings or income and are therefore in a position to afford the increases.

PROPOSAL

Continue to maintain the disability related expenses - standard disregard

IMPACT

The proposal is to continue the current policy practice of disregarding £13.24 per week (2015/16

amount) of any income in recognition that people with disabilities and life limiting conditions often have additional expenditure that is directly related to those conditions.

To withdraw this disregard would result in people having to pay a higher charge for the services they receive and would reduce the amount of disposable income they have.

PROPOSAL

Continue to set the maximum percentage of disposable income taken into consideration for assessment at 100%.

IMPACT

This is a continuation of current Council policy and therefore no new people will be adversely affected. Once the minimum income guarantee plus 25% and any disregards are taken into consideration the remaining income that someone has is regarded as disposable and therefore open to be taken into account when calculating a persons charges.

The charge takes into account the persons ability to pay and the actual cost of the care being provided. People who are in receipt of social care services are required to pay something towards the cost of their care. The more disposable income someone has the more they should be expected to pay towards the actual cost. The people who this proposal most affects are those with a large amount of disposable income.

PROPOSAL

To treat Personal Independence Payments as Disabled Living Allowance currently is when carrying out a financial assessment

IMPACT

The Personal Independence Payment (PIP) is a new benefit replacing Disabled Living Allowance (DLA) and will be gradually phased in over the next few years. Currently DLA is split into daytime and night time care and a higher and lower amount is payable depending upon what care needs a person has. The current policy is to only take the night time rate of DLA into account if the person has night time needs that are being met by services. if they don't have such needs then the night time rate is disregarded when calculating a person's charges. This proposal extends the current policy to people in receipt of PIP so that a proportion equivalent to the night time needs rate of DLA is disregarded.

This affects all new recipients of PIP and all existing DLA recipients as their benefits transfer to PIP over the next few years.

PROPOSAL

To take the full amount of Severe Disability Premium into account when carrying out a financial assessment.

IMPACT

Severe Disability Premium (SDP) is another benefit paid to people with a disability (cognitive or physical) and currently the Council disregards the first £10.00 per week when calculating the charges that someone is able to pay. SDP is specifically provided so that the person can continue to lead as independent life as possible but recognises that they may need additional help and support to do this. It is acknowledged that the payment should be used to pay towards the actual cost of social care that the person is receiving.

The proposal is to cease disregarding £10.00 of SDP and instead to take the full amount into consideration when calculating a person's ability to pay for their care. This will mean that all recipients of SDP (currently around 500 people) will have all of their SDP taken into account when carrying out their annual financial assessment.

PROPOSAL

Decisions to defer payments including top ups for residential care will be taken on a case by case basis

IMPACT

If a person chooses a residential or nursing home that operates a top up then this increases the weekly amount that the person is expected to pay for their care. If the payment is deferred then this increase impacts on the Council as it is required to pay the

cost of care until such time as the deferred payment is realised.

Deferred Payments are required to be offered by the Care Act 2014 but take up is relatively small in the borough. Early indications since the implementation of the Act suggest that this number will not increase significantly. Most homes in Tameside do not charge top-ups and therefore the impact is further reduced.

PROPOSAL

The Deferred Payments Scheme will be extended to people living in supported accommodation

IMPACT

The current arrangement is only available to people living in residential or nursing care homes. This proposal extends the opportunity of a deferred payment arrangement to people who move out of their home and move into supported accommodation such as extra care housing.

There are very few people who this proposal will affect as most people who move into extra care housing are either not home owners or still have a spouse or relevant family members still living at home. Also the low take up of deferred payments already within the residential care sector will also mitigate against a significant uptake of this option.

PROPOSAL

25% of any rental income from a property subject to a deferred payments agreement will be allowed to be retained by the service user.

IMPACT

Few people currently request deferred payments and fewer still would be likely to rent out their property once they have moved into residential care. That said if they do wish to rent out their property and continue to defer payments then it is felt that retaining 25% of the rental income would be a fair amount. This will ensure that there is an incentive for renting the property whilst at the same time ensuring the majority of the income is taken into account as an income.

Section 4 – Proposals & Mitigation

PROPOSALS & MITIGATION

PROPOSAL

Continue charging for temporary or short term care up to the first 8 weeks as if the person was living in permanent residential care.

MITIGATION

The current policy will remain the same and people currently in temporary residential care will not be affected any further than they currently are.

A full financial assessment will be carried out on an at least yearly basis and this will calculate a person's ability to pay for the care that they are receiving.

PROPOSAL

Continue to disregard the value of Income Support/Guaranteed Credit element of Pension Credit plus the buffer of 25%.

MITIGATION

This proposal is a continuation of the current policy in that it recognises that the Government has set a baseline that it deems sufficient to live on. The additional 25% buffer that the Council operates ensures that people have that extra income available before any charges are levied on the remaining income beyond the minimum rate plus 25%.

A full financial assessment is carried out prior to calculating a person's ability to pay towards their care costs. The baseline income plus 25% would be taken off before any further calculation is made on the rest of a person's income and savings.

People who are living on only the basic state minimum guaranteed income will not be required to pay anything however most people in receipt of adult social care services will also have other forms of income such as disability benefits and these will be taken into account in the financial assessment and charge calculation.

PROPOSAL

Maintain the lower capital limit and introduce an upper capital limit.

MITIGATION

In introducing an upper capital limit, people whether they live at home or in residential care will be treated equally and the charges will be based on the principle of an ability to pay for the actual cost of the care that they are receiving.

Those people who are most adversely affected will be financially assessed and arrangements will be made for either a gradual increase over a few months or an agreed set date for the new charge to start so as to reduce the immediate financial burden being taken at once.

The Council will carry out financial assessments phased over the next few months until the end of March 2016. As new financial assessments are completed the new arrangements will be implemented. Advance notice of the changes being made to the financial assessment will be given following the Key Decision and subsequently prior to the assessment to ensure that people are made aware of the changes. The key principle of people being able to pay towards the actual cost of their care will be maintained and therefore people will not be left with a weekly amount equivalent to the Governments minimum income guarantee plus a 25% buffer.

PROPOSAL

Introduce a new maximum charge for care and support outside of a care home setting in line with residential care.

MITIGATION

In introducing a new maximum charge, people whether they live at home or in residential care will be treated equally and the charges will be based on the principle of an ability to pay for the actual cost of the care that they are receiving.

Those people who are most adversely affected will be financially assessed and arrangements will be made for either a gradual increase over a few months or an agreed set date for the new charge to start so as to reduce the immediate financial burden being taken at once.

The Council will carry out financial assessments phased over the next few months until the end of March 2016. As new financial assessments are completed the new arrangements will be implemented. Advance notice of the changes being made to the financial assessment will be given following the Key Decision and subsequently prior to the assessment to ensure that people are made aware of the changes. The key principle of people being able to pay towards the actual cost of their care will be maintained and therefore people will not be left with a weekly amount equivalent to the Governments minimum income guarantee plus a 25% buffer.

PROPOSAL

Continue to maintain the disability related expenses - standard disregard

MITIGATION

The proposal is to continue the current policy practice of disregarding £13.24 per week (2015/16 amount) of any income in recognition that people with disabilities and life limiting conditions often have additional expenditure that is directly related to those conditions.

Everyone receiving social care services has a financial assessment and the standard disregard will be taken off their total income prior to calculating any charges. The standard disregard benefits everyone in receipt of services.

PROPOSAL

Continue to set the maximum percentage of disposable income taken into consideration for assessment at 100%.

MITIGATION

This is a continuation of current Council policy and therefore no new people will be adversely affected. Once the minimum income guarantee plus 25% and any disregards are taken into consideration the remaining income that someone has is regarded as disposable and therefore open to be taken into account when calculating a person's charges.

This proposal is based on a person's ability to pay for their care and support and those people with a high disposable income will be expected to pay more towards the cost of their care than those with lower amounts of disposable income. Everyone will receive at least an annual financial assessment which will take into account any disregards or minimum income guarantees and only take actual disposable income into account when calculating charges.

PROPOSAL

To treat Personal Independence Payments as Disabled Living Allowance currently is when carrying out a financial assessment

MITIGATION

The proposal is to bring in line the disregard for both PIP and DLA recipients so that they are equally treated. Although PIP does not have a specific amount identified as night time rate the total payment is the same as DLA and therefore the rate for night time care needs identified for DLA will be used for PIP.

The financial assessment will be able to determine the rate of PIP that someone is in receipt of and if no night time needs are identified then an appropriate amount of the PIP will be disregarded. This will ensure that people are equally treated if they have the same level of need.

PROPOSAL

To take the full amount of Severe Disability Premium into account when carrying out a financial assessment.

MITIGATION

There are currently 500 people in receipt of Severe Disability Premium receiving social care services in Tameside. They currently have £10.00 per week of their SDP disregarded and this proposal means that this will stop.

The Council will carry out financial assessments phased over the next few months until the end of March 2016. As new financial assessments are completed the new arrangements will be implemented. Advance notice of the changes being made to the financial assessment will be given following the Key Decision and subsequently prior to the assessment to ensure that people are made aware of the changes. The key principle of people being able to pay towards the actual cost of their care will be maintained and therefore people will not be left with a weekly amount equivalent to the Governments minimum income guarantee plus a 25% buffer.

PROPOSAL

Decisions to defer payments including top ups for residential care will be taken on a case by case basis

MITIGATION

Numbers are relatively low and when carrying out a financial assessment and application for a deferred payment the value of the property is taken into account ahead of making decisions whether to allow a deferred payment agreement or a timeframe for such an agreement to take place within. If a top up also exists then this will be taken into consideration at the time of the considerations and if it is felt that there is insufficient value in the property or any other mitigating factor then the Council may refuse the application.

Close scrutiny of the application together with a full financial assessment will be maintained to ensure that any arrangement remains viable and with limited risk to the Council.

PROPOSAL

The Deferred Payments Scheme will be extended to people living in supported accommodation

MITIGATION

There are very few people who this proposal will affect as most people who move into extra care housing are either not home owners or still have a spouse or relevant family members still living at home. Also the low take up of deferred payments already within the residential care sector will also mitigate against a significant uptake of this option.

This policy will be regularly reviewed to ensure continued financial viability for the Council.

PROPOSAL

25% of any rental income from a property subject to a deferred payments agreement will be allowed to be retained by the service user.

MITIGATION

This policy is new and will be open to regular review to ensure that both the service user and the Council are not disadvantaged as a result of the proportion currently being proposed. It is unlikely that take up of the deferred payment scheme and possible rental of properties will be on a significant scale.

Section 5 – Monitoring

MONITORING PROGRESS

n/a

Issue / Action	Lead officer	Timescale
n/a	n/a	n/a

Sign off

Signature of Service Unit Manager	Date
Paul Dulson	06/08/2015
Signature of Assistant Executive Director / Assistant Chief Executive	Date
Sandra Whitehead Stephanie Butterworth	06/08/2015 06/08/2015