

TITLE	Care Act 2014 - Changes to Charging for Adult Social Care Services
FOR CONSIDERATION BY	The Executive on 25 June 2015
WARD	None Specific
DIRECTOR	Stuart Rowbotham, Director of Health and Wellbeing
LEAD MEMBER	Julian McGhee-Sumner, Executive Member for Health and Wellbeing

OUTCOME / BENEFITS TO THE COMMUNITY

The implementation of these new charges are aligned to the Council's priorities of:

- Offering excellent value for your Council Tax
- Looking after the vulnerable
- Improving health, wellbeing and quality of life

The proposed financial framework based on the principles of transparency and fairness is in line with the Care Act 2014 currently being implemented by the Council.

RECOMMENDATION

That, further to the Government's introduction of the Care Act 2014, the Executive agrees to introduce new social care charges for social care customers in Wokingham Borough. The Care Act requires the Council to review all of its charges for care services. The recommendations set out at 1) to 4) below are consistent with current practice; recommendation 5) is a new charge; and recommendation 6) updates current practice to be Care Act compliant. The recommendations are as follows:

- 1) That, in accordance with current practice, the council does not set a maximum charge for non-residential services;
- 2) That , in accordance with current practice, the council does not include any further disregards within the financial assessment other than those determined by the Department of Health;
- 3) that no charges for services provided to the carer will be introduced prior to April 2016 and then only by decision of the Executive;
- 4) that, in accordance with current practice, respite services continue to be treated as being provided for the cared for person and not the carer;
- 5) That for new Self-funders an administration charge for non-residential services is introduced from 1st July 2015. The charge to be £260 set up and £194 annually thereafter (both amounts exclusive of VAT). However for existing customers the effective date of the Annual charge will be 1st October 2015
- 6) That for Deferred Payment Agreements (DPA) effective from 1st July 2015:
 - a) an administration charge is introduced to be £755 or £600 plus disbursements at set up, and £261 or £172 plus disbursements annually thereafter (both amounts exclusive of VAT); and
 - b) an interest rate equivalent to the maximum set by the Department of Health is applied to all new agreements; and

- c) the Council set an equity review limit of 70% of the asset value. However the Director of Health & Wellbeing could increase this to 80% as an exception to be determined on a case by case basis; and
- d) the only acceptable security should be property related; and
- e) the Council set the maximum rental income that can be retained at 50%. However the Director of Health & Wellbeing can increase this on an exceptional basis; and
- f) that the DPA policy at Appendix D is approved.

SUMMARY OF REPORT

The legal framework for charging and financial assessment is now subject to the Care Act 2014. This required the Council to review its current policies and consult upon a revised Charging Framework in accordance with the Care Act 2014 and associated regulations. The following section sets out the issues to be considered and options for the Council.

Mandatory Changes to Existing Policy

The Care Act requires Local Authorities to develop and maintain a charging policy for any care and support that is delivered in a non-residential care setting. In designing this policy local authorities should consider the objectives of care and support charging and how it can;

- a) ensure that people are not charged more than it is reasonably practicable for them to pay;
- b) be comprehensive, to reduce variation in the way people are assessed and charged;
- c) be clear and transparent, so people know what they will be charged;
- d) promote wellbeing, social inclusion, and support the vision of personalisation, independence, choice and control;
- e) support carers to look after their own health and wellbeing and to care effectively and safely;
- f) be person-focused, reflecting the variety of care and caring journeys and the variety of options available to meet their needs;
- g) apply the charging rules equally so those with similar needs or services are treated the same and minimise anomalies between different care settings;
- h) encourage and enable those who wish to stay in or take up employment, education or training or plan for the future costs of meeting their needs to do so; and
- i) be sustainable for local authorities in the long-term.

Assessing the Maximum Amount to be Charged

The Care Act gives Local Authorities flexibility within the charging framework for Adult Social Care services: in essence to operate a more generous policy. For example, the Council may choose to disregard additional sources of income, set maximum charges, or charge a person a percentage of their disposable income. The impact of applying a further disregard would be to reduce the financial assessment which is the maximum amount an individual can be asked to pay. This in turn may reduce the contribution an individual is required to make thereby reducing the level of income available to the Council.

The Care Act also gives discretion to the Council to set a maximum charge for non-

residential services which in effect would mean that those whose care package is above this maximum and who are assessed as being able to fund this higher cost would be subsidised.

The additional cost to the authority of adopting either of these options is not considered to be a sustainable option for the Council in the medium term and would limit the amount of care and support services the Council can provide to people in times of reduced central government funding. It would also be inequitable in that some people with the means to pay a higher contribution would not be required to do so and would be contrary to the Council's existing policy of non-subsidisation of services and full cost recovery.

It is **recommended** that the council does not set a maximum charge for non-residential services; and does not include any further disregards from the financial assessment other than those determined by the Department of Health. This recommendation is consistent with current practice. It should be noted that even though with above the threshold of £23,250 in savings are charged the full cost of non-residential care, this still represents a better position than residential care, which would also include the value of the person's home in the mean test.

New Care Act Charges

Carers

The Care Act brings in, for the first time, a legal duty to provide services for Carers with eligible needs. It is recommended by the Department of Health that councils consider and consult on charging for these services. To date the council has not charged for services provided to carers.

It is **recommended** that the policy of the Council is that no charges for services provided to the carer will be introduced prior to April 2016 and then only by decision of the Executive. The increase in the cost of carers services will be closely monitored and charges will only be recommended if the costs have a significant impact on the Council's finances

It is further **recommended** that respite services continue to be treated as being provided for the cared for person and not the carer. This recommendation is consistent with current practice.

Self-Funding residents

The Care Act enables the council to recover its costs when supporting clients who are able to fully fund their own care needs but either lack the capacity to do so or their wealth is locked into a realisable asset not presently available to them.

These charges relate to:

- Deferred Payment Agreement administration charges
- Deferred Payment Agreement interest rate
- Self-funder administration charge for non-residential services

It is **recommended** that the Council introduces a charging policy to reflect this support from 1st July 2015.

However the council currently supports a number of self-funding clients receiving non-

residential care services. To introduce a charge without the opportunity of a family member/carer (or equivalent) to determine whether they wish to continue to be supported in this way and pay a charge, or make alternative arrangements, is considered to be unreasonable. It is therefore **recommended** that for existing customers the charge is applied from 1st October 2015.

Deferred Payment Agreement Equity limit

The Care Act sets an equity limit representing the maximum debt that can be held against an asset, usually a property. This is defined as the property value, minus 10%, minus a further £14,250. It is then for the Council to determine when a detailed review of the case will take place should the value of debt reach a certain percentage of the equity limit.

It is **recommended** that the Council set the equity review limit at 70% of the asset value. However the Director of Health & Wellbeing could increase this to 80% as an exception to be determined on a case by case basis.

Background

The Care Act - New Charges

The Care Act introduces scope for local authorities to increase the number of services that can be charged for. These are not mandatory, and it is for each council to determine whether to charge for specific services or not, and, within laid out parameters, what those charges could be.

As there are choices for the council, the Executive is asked to agree the proposals put forward in terms of new charges.

The services listed below have been provided free and the Care Act does not change this; they are:

- a) Intermediate care, including reablement, which must be provided free of charge for up to six weeks. However, local authorities must have regard to the preventative support set out in Chapter 2 of the Care Act guidance. This sets out that neither should have a strict time limit but should reflect the needs of the person. The council can apply discretion to offer this free of charge for longer than six weeks where there are clear preventative benefits, such as when a person has recently become visually impaired.
- b) Community equipment (aids and minor adaptations). These must be provided free of charge whether provided to meet or prevent / delay needs. A minor adaptation is one costing £1,000 or less.
- c) Care and support provided to people with Creutzfeldt-Jacob Disease.
- d) After-care services / support provided under s117 of the Mental Health Act 1983.
- e) Any service or part of service which the NHS is under a duty to provide. This includes Continuing Healthcare and the NHS contribution to Registered Nursing Care.
- f) More broadly, any services which a local authority is under a duty to provide through other legislation may not be charged for under the Care Act 2014.
- g) Assessment of needs and care planning may also not be charged for, since these processes do not constitute "meeting needs".

Outcome of Consultation

Appendix A sets out the questions asked and at Appendix B can be found the accompanying leaflet. The consultation was agreed at the 29th January 2015 Executive, started on 3rd February and closed on 5th May 2015. The information was only available on line but printed copies were available on request. Notice of the consultation was sent by letter to all existing adult social care customers affected by the proposed charges, by email to partnership boards and customers groups, all adult social care suppliers, third sector and partner organisations. In addition a media notice was issued and information about the consultation was included in the March edition of Wokingham Borough News which is delivered to approx. 63,000 households in the Borough.

The number of questionnaires completed totalled 20; a detailed analysis can be found at Appendix C.

Carers

A decision is required whether or not the Council charges carers who can afford to pay for the cost of the service provided; or provide support to carers free of charge. Due to

the significant variation in potential numbers (as set out below) and costs, it is therefore difficult to estimate a cost to the council. The current average cost per carer is in the region of £1,700 per annum. However for budget planning purposes the working assumption is an increase of 330 carers at a part year cost for 2015/16 of £400k including assessment and increased support to the 3rd sector.

The Department of Health grant announced on 18th December 2014 that Wokingham will receive £93k funding for the carers element. However it should be noted that funding for the Care Act is received from several grants and taking the position as a whole and excluding the change in eligibility, the position for Wokingham is broadly breakeven.

Where care and support services are provided directly to an adult with care needs as a result of their carer's eligible needs, the care and support provided directly to that individual must not be charged to the carer, but to the individual receiving the care. In those cases, the financial assessment policy for non-residential charging would apply to that individual. Typically these services relate to respite care and it is **recommended** that respite services continue to be treated as being provided for the cared for person and not the carer. From April 2015, carers are entitled to new services such as help with housework and gardening. These new services come with a potential high cost to the Council.

There is little hard information available to estimate the likely impact of these changes for Carers on council finances. The council directly supports 616 carers and Berkshire Carers have 620 recorded and are in active contact with approx. 250, whilst Crossroads have 310. However it is not known at this time what proportion are known to all three organisations.

It is known that 1,140 residents receive Carers Allowance and the 2011 census shows that 13,902 residents identified themselves as Carers. Of this group 2,315 state they are providing in excess of 50 hours per week unpaid care (of whom 28 are aged under 24); 1,397 between 20 and 49 hours per week (82 aged under 24); and 10,190 at less than 20 hours per week. The number of young carers supported is 14 although the census suggests that this could be as high as 110.

There is a risk that if the council were to apply charges, it may be one of only a handful of local authorities that charge carers. However, there is also a risk of an adverse impact on the Council's finances if carers are not charged for their services and the impact of the increased access to carers services will be closely monitored.

Should the Council decide to charge (subject to a financial assessment) then there is a risk of an increase in demand for care services (and potentially increased cost) from the Council should the current carers withdraw their support.

It is **recommended** that no charges be introduced prior to April 2016 and then only by decision of the Executive.

Universal Deferred Payment Arrangements (DPA)

The Care Act establishes a universal deferred payment scheme meaning that people should not be forced to sell their home in their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be

challenging (or even a crisis point) for them and their loved ones as they make the transition into care.

The council currently operates a deferred payment scheme albeit take up has traditionally been very low. Although the eligibility criteria for the universal scheme are the same as that currently applied by the council, the Care Act guidance encourages councils to consider a wider eligibility criteria to include:

- (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 someone 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 deferred payment agreement 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.

The council could extend this criteria at its discretion to include people moving into supported living or extra care arrangements which formed part of the consultation. Until the full financial impact of the new statutory scheme is known it is not proposed to extend the scheme in this way. The eligibility criteria proposed in the policy document (section 5 of Appendix D) are:

- Has capital of less than £23,250. Capital includes savings and other non-housing assets, excluding the value of the person's main home;
- Where the main home is taken into account as part of the financial assessment and not disregarded in accordance with Section 17 of the Care Act 2014
- The person must have capacity to enter into a deferred payment agreement, or must have a Deputy or Attorney (a person with a relevant Enduring Power of Attorney or Lasting Power of Attorney) to act on their behalf, or have someone who is their deputy appointed by the Court of Protection.
- The person must agree to all the terms and conditions in the deferred payment agreement.
- The Council must be able to secure a first charge against the persons property.

Although the Care Act guidance sets out how the scheme should function and the minimum eligibility conditions, the council has discretion to charge for administration and set an interest rate. The council must also determine an equity limit as set out in the Care Act guidance. This states that where a property is used as security to offer a deferred payment agreement, the equity limit must be set at the value of the property minus ten percent, minus £14,250 (for financial year 2015/16, this is in line with the lower capital limit) and the amount of encumbrance already secured on it. This limit provides some protection to local authorities against changes in the value of the security (such as possible house price fluctuations) and the risk that they may not be able to recoup the full amount owed, but also should mean that people qualify for local authority support if they deplete the equity available in their property (and are consequently not at risk of having to sell their home to pay for care).

Although the current DPA policy is Care Act compliant at its most basic level it does not

include the matters that this report addresses as recommended by the Care Act guidance. It is **recommended** that the Executive approve the DPA policy set out at Appendix D.

Deferred Payment Agreement Security:

The new scheme regulations enable a council to accept as security assets other than a property, such as art or other valuable objects. However at this juncture Officers **recommend** that the only security acceptable to the council should be property related. As more experience of the new scheme becomes known amongst councils this will be kept under review and may be revisited in the future.

Local authorities should, when someone is approaching or reaches the point at which they have deferred 70% of the value of their chosen security, 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 deferred payment agreement continues to be the best way for someone to meet these costs.

It is **recommended** that the Council sets the equity review limit at 70% of the asset value. However in consultation and agreement of the Director of Health & Wellbeing this could be increased to 80% as an exception to be determined on a case by case basis.

Property subject to DPA

The Care Act encourages councils to consider offering incentives for a property subject to a DPA to be rented although it remains the individual's decision. In this respect the Council can allow up to 50% of the rental income to be retained by the individual although this will increase the amount deferred and interest applied. The Council could also offer other incentives to encourage the use of a potentially otherwise empty property. There are no other proposals to offer additional incentives for a DPA property to be rented.

It is **recommended** that the Council set the maximum rental income that can be retained at 50%. However the Director of Health & Wellbeing can increase this on an exceptional basis.

Administration and Interest charges

The Council cannot currently charge for administering the scheme or charge interest (except to the estate) but from April 2015 it is possible to charge for both. The Care Act guidance confirms that the deferred payment agreement scheme is intended to be run on a cost-neutral basis. The council will be able to recoup the costs associated with deferring fees by charging interest. It can also recoup the administrative costs associated with DPA's, including legal and ongoing running costs, via administration charges which can be passed on to the individual. 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. The agreement must make clear that all fees deferred, alongside any interest and administrative charges incurred, must be repaid by the person in full. The council must notify the individual in writing whenever they are liable for an administration charge.

The council has the ability (from April 2015) to charge interest on new DPA's for any amount deferred, including any administration charge deferred; existing DPA's are unaffected by these changes. These new charges are to cover the cost of lending and

the risks to the council associated with that lending, e.g. risk of default. Where interest is charged it must not exceed the maximum amount specified in regulations. The council may (but is not required to) charge the nationally set maximum interest rate. The same interest rate must be charged on all deferred payments within a local authority unless the debt is subject to court action, when the interest rate set by the court will prevail.

The national maximum interest rate will change every six months on the 1st January and 1st July to track the market gilts rate specified in the most recently published report by the Office of Budget Responsibility, it is currently set at 2.65%. The interest charged and added to the deferred amount will be compounded, and local authorities should ensure when making the agreement that individuals understand that interest will accrue on a compound basis.

Local authorities must set their administration charge at a reasonable level, and this level must not be more than the actual costs incurred by the council in provision of the DPA Scheme, as set out in regulations. Relevant costs may include (but are not limited to) the costs incurred whilst:

- a) registering a legal charge with the Land Registry against the title of the property, including Land Registry search charges and any identity checks required;
- b) undertaking relevant postage, printing and telecommunications;
- c) costs of time spent by those providing the service;
- d) cost of valuation and re-valuation of the property;
- e) costs for removal of charges against property;
- f) overheads, including where appropriate (shares of) payroll, audit, management costs, legal service.

The Council should maintain a publicly-available list of administration charges that a person may be liable to pay. It is good practice to separate charges into a fixed set-up fee for the DPA, reflective of the costs incurred by the council in setting up and securing a typical DPA, and other reasonable one-time fees during the course of the agreement (reflecting actual charges incurred in the course of the agreement).

An exercise has been undertaken to establish the likely costs and these are set out at Appendix E. The table below shows the proposed fee and the illustrative fee used in the leaflet accompanying the consultation (see Appendix B). Without knowing likely volumes, these costs are difficult to gauge and will therefore be reviewed when the 2016/17 fees and charges are set at February 2016 Executive.

Service	Set Up Fee	Annual Charge
Proposed Fee for DPA <u>including</u> arrangement Fees for Care Services (excluding disbursements)	£755	£261
Proposed Fee for DPA <u>excluding</u> arrangement Fees for Care Services (excluding disbursements)	£600	£172
Illustrative Fee used in leaflet for DPA (excluding disbursements)	£900	£300

Disbursements may include (but are not limited) to:

- Search fees;
- Registering a legal charge with the Land Registry against the title of the property;
- Cost of professional valuation of a property;
- Building or structural survey;
- Insurance (if arranging on customers behalf).

The Annual charge represents the expected cost of maintaining the DPA account; providing 6 monthly statements of account; and arranging property valuations. With regard to property valuations the council reserves the right to use professional valuers should it deem it to be necessary and will recharge any fee to the customer as a disbursement.

A deduction equal to the set up and ongoing charge for care management support as shown in “Arrangement Fees for Care Services” (see appendix E) would not be chargeable if a DPA customer chose to arrange their own care services.

It is **recommended** that the Council set an interest rate up to the maximum advised; and set administration charges as set out in the table above.

Self-funder arrangement fee for non-residential services

The regulations permit local authorities to charge an administration fee in the case of a person who has eligible needs but whose assets exceed the upper capital limit. People in these circumstances are not entitled to receive any financial assistance from the local authority and may pay the full cost of their care and support until their capital falls below the upper capital limit. They may now ask the local authority to arrange their care and support for them.

At the present time there are approx. 40 customers who are self-funded but where Adult Social Care are providing support to arrange, pay for, and then invoice the customer for the care services arranged. To introduce an immediate charge without the opportunity of a family member/carer (or equivalent) to determine whether they wish to continue to be supported in this way and pay a charge, or make alternative arrangements, is considered to be unreasonable. It is therefore **recommended** that for existing customers the Annual charge is applied from 1st October 2015.

An exercise has been undertaken to establish the likely costs and these are set out at Appendix E. The table below shows the proposed fee and the illustrative fee used in the leaflet accompanying the consultation (see Appendix B). Without knowing likely volumes, these costs are difficult to gauge and will therefore be reviewed when the 2016/17 fees and charges are set at February 2016 Executive.

Service	Set Up fee	Annual Charge
Proposed fee for Self-funding support (non-residential care)	£260	£194
Illustrative Fee used in leaflet for Self-funding support (non-residential care)	£550	£300

It is **recommended** that the Council sets administration fees for arranging care and support for self funders as set out in the above table. However for existing self-funding customers these charges will not take effect until 1st October 2015.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost / (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (2015/16)	The charges are intended to recover costs and should therefore be cost neutral.		Revenue
Next Financial Year (2016/17)			Revenue
Following Financial Year (2017/18)			Revenue

Other financial information relevant to the Recommendation/Decision

Should the Executive make the decision to implement these new charges, excluding any charges for carers, then the Council would receive income from residents who are, or who can, fully fund the cost of these and their care services.

The objective of the charges when set will be to ensure as far as possible that all related costs are fully recovered. The impact on customers and finances will be reviewed both during and post-implementation of the new charging policy.

Cross-Council Implications

The introduction of these charges will have an impact on the Welfare Benefit team who will be undertaking financial assessments, this work and the Finance Support Team who process and pay the service provider invoices and the Accounts Receivable Team who collect client contributions to service costs.

List of Background Papers

Report to Executive, 29th January 2015¹
 Care Act 2014, Care & Support statutory guidance²
 Care Act 2014, Negative regulations³
 Care Act 2014, Affirmative regulations⁴

¹ <http://wokingham.moderngov.co.uk/Data/Executive/201501291930/Agenda/348103.pdf>

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

³

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf

⁴

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366048/43738_2902999_Regs_Affirmative_Accessible.pdf

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Date 15 June 2015 2015	Version No. 06

Care Act Consultation

From April 2015, care and support in England is changing. The new Care Act will help make care and support more consistent across the country.

Please refer to the explanatory leaflet when answering the questions below. This can be found at www.wokingham.gov.uk/careactconsultation

Section 1.a - People who fund the full cost of their own care and support (self funder) that are best met in their OWN home.

If you pay the full cost for care and support in your own home, you will be able to ask us to arrange these services for you.

Under Care Act changes, we can charge an administration fee to set that care up and charge annually afterwards.

We haven't decided how to do this yet. To help us we want to know how you might use our service for:

- Q1 Personalised information and advice about the types of services that could meet someone's needs
Yes
No
Don't know
- Q2 Support to prepare a plan of how best to meet care and support needs
Yes
No
Don't know
- Q3 Someone who could discuss your requirements directly with the provider(s) and agree the amount of care to be offered and the price
Yes
No
Don't know
- Q4 Arranging care and support with the provider directly e.g. contracting on your behalf
Yes
No
Don't know

We're intending to charge for this but it would not cost you more than it costs the Council to provide. Therefore:

Q5 As a self-funder, would you still access this type of service if Wokingham Borough Council charged?

- Yes
- No
- Don't know
- Does not apply
- Depends on charge

Q6 Do you think the Council should charge self-funders a set up charge, if they arrange care and support services on their behalf?

- Yes
- No
- Don't know

Q7 Do you think the Council should charge self-funders an annual charge, if they arrange care and support services on their behalf?

- Yes
- No
- Don't know

Q8 Please select as many as appropriate

- | | | | |
|-----------------------------------|---|--|---|
| Identifying appropriate providers | Negotiating with individual providers the cost of care and times for care to be delivered | Putting contracts into place for the service | Setting up methods for the individual to pay the care costs for example by Direct Debit |
|-----------------------------------|---|--|---|

Which of these should we include in the proposed set up charge`

Which of these should we include in the proposed annual charge

Q9 We haven't decided how we will support those of you who fund your own care. We could use council staff and/or other specialist organisations. Which would you prefer?

- | | | | | |
|-----|----|------------|---------------|----------------|
| Yes | No | Don't Know | No Preference | Does not apply |
|-----|----|------------|---------------|----------------|

I would prefer to be supported by Council staff

I would prefer to be supported by specialist organisations within the community

From April 2015, care and support in England is changing. The new Care Act will help make care and support more consistent across the country.

Section 1.b - People who fund their own care and have needs that are best met in a RESIDENTIAL or NURSING care home

Under Care Act changes, we will offer information and advice to people on where their needs can be met in a residential care home.

To help us, what information would be useful to you when making decisions about residential care?

- Q10 What kind of information would be helpful for you in making a decision about the right residential home?
- The location of the residential home
 - The cost of staying at the residential home
 - The number of people who live at the residential home
 - The activities available at the residential home
 - The type of people and different needs that the residential home can support
 - Ratings of the quality of the residential home, such as inspection reports by the Care Quality Commission
 - Other
- Q11 Which format would you prefer this information in?
- Leaflet(s)/brochure
 - Online
 - Audio
 - Braille
 - Other
- Q12 Is there anything else we should consider in relation to the support services for those who pay for their own care?
- Q13 Is there anything else we should consider when applying this proposal to existing self-funders whose services are currently arranged by the Council?

SECTION TWO - Universal Deferred Payments

A deferred payment scheme means those who are eligible, and would need to sell their house to pay for their care home, can sign up to an agreement with the Council to put off payment until a later date.

Under Care Act changes, deferred payments will be more widely available however it will cost us more money to run. New rules will mean we can charge an administration fee to set up this process and charge annually afterwards to cover costs for running it.

Q14

Yes

No

Don't know

Do you think that the Council should charge a fee to recover the administration costs of setting up each Deferred Payment Agreement under the new Universal Deferred Payments Scheme?

Do you think that the Council should charge an annual fee to recover the ongoing administration costs of monitoring each Universal Deferred Payment Agreement?

We can charge interest on the deferred amount which would allow us to support more people. Government will set a national maximum rate to charge but we can set our rate lower. Government rates are based on the cost of government borrowing and could change every six months

Q15 Do you think the Council should use the maximum interest rate set by the government for deferred payments, or a lower rate?

National maximum rate

A lower local rate

Don't know

In exceptional circumstances we could set up a deferred payment agreement for those people who are unable to immediately pay the full costs for Extra Care Housing or Supported Living Accommodation.

Q16 Do you think that the Council should also offer a Deferred Payments Scheme in exceptional circumstances to people moving from their property into rented Extra Care Housing and Supported Living accommodation?

Yes

No

Don't know

In order to agree a deferred payment option, we always need to ensure that the final debt will be fully repaid. This is usually secured against a property and we would regularly review its value. Under proposals, 70% of the value of the property is the maximum you would pay back but in exceptional circumstances it could be increased to 80%

Q17

Yes

No

Don't know

Do you agree that the maximum amount deferred should be limited to 70% of the asset value?

Do you agree that in exceptional circumstances the maximum amount deferred can be 80% of the asset value?

SECTION THREE - Carers

If you are a carer, you will be able to have a carer's needs assessment. This is an opportunity to think about how caring affects you and what support could help you.

- Q18 Do you think you would be likely to need independent advocacy to take part in a carer's assessment or review in future?
- Yes
 - No
 - Don't know
 - Not applicable

Often the best way to support a carer is through the services of the person they care for such as a lunch club which allows the carer a break or by support groups, education and employment opportunities and recreational activities - to name just a few.

Most services are not free and social care customers are asked to pay as much as you can afford. We can apply the same rules to carers too.

- Q19 Do you think Wokingham Borough Council should continue to offer services provided directly to carers free of charge?
- Yes
 - No
 - Don't know

We want to continue to offer these services free of charge, however more carers may need support than our funding can cover. If this is the case, we may have to charge for carers' services.

- Q20 In these circumstances would you support the introduction of a charge applied only to those carers who have savings in excess of the Department of Health 'upper limit' which is currently £23,250?
- Yes
 - No
 - Don't know

SECTION FOUR - Setting the maximum amount you will pay for care that is best met in your own home

The Care Act gives the Council discretion to set a maximum charge for those receiving services in their own home, for example this could be 90% of the usual residential care rate. This would mean that everyone whose care package cost is above this rate would be subsidised even if they have means to fund it. The additional cost to the Council of setting a maximum charge is not considered to be a sustainable option for the Council.

Furthermore, the Care Act gives the Council the flexibility to reduce the maximum assessed charge by applying a further reduction of, for example, 10%. This would mean that anyone whose care package cost is above this lower maximum charge would be subsidised. The additional cost to the authority of applying such a % reduction is also not considered to be a sustainable option for the Council and would limit the amount of care and support services the Council can provide to people in times of reduced central government funding.

In both of the above cases providing such subsidies would lead to limiting the amount of care and support services that can be provided to people, particularly in times of reduced central government funding.

It would also be unfair as some people who have the means to pay a higher contribution would not be required to do so and it would be contrary to the Council's existing policy of full cost recovery.

To ensure fairness we need to ask those people with the means to pay a higher contribution do so.

Q21 Do you agree that Wokingham Borough Council should NOT set a maximum charge?

- Yes
- No
- Don't know

Q22 Do you agree that Wokingham Borough Council should continue to charge the maximum assessed charge?

- Yes
- No
- Don't know

Q23 Do you have any other comments?

Thank you for taking the time to complete this consultation



WOKINGHAM
BOROUGH COUNCIL

Care Act consultation on charges for Adult Social Care services

What are we consulting on?

Please give us your views on:

- how we can best support people to make informed choices about residential and non-residential care
- support for carers and whether carers should be charged for their services (if they can afford to pay)
- charging administration fees for arranging services for people who can afford to pay for their own care delivered at their home (self-funders)
- charging fees and setting an interest rate for Deferred Payment Agreements.
- Setting a maximum amount to charge for care that is best met in own home

Why are these charges proposed?

The Care Act 2014 introduces new rights to services. For example, from April 2015, carers will be entitled to the same level of support as people they care for. People who can afford to pay for their own care will be able to ask the Wokingham Borough Council to arrange services on their behalf. As these new rights bring additional costs to Councils across the country, we have to decide whether we should recover these costs, and if so, how. Wokingham Borough Council will not profit out of any proposed charges.

The Council will refer to Care and Support Regulations (Statutory Instruments) and Care and Support Statutory Guidance and Annexes issued under the Care Act 2014. For specific guidance relating to charging and financial assessment, as such, these statutory regulations form the basis of policy, except where the Council exercises its power of discretion as set out in the regulations.

 You can find further information about the Care Act 2014 on the Department of Health website:

<https://www.gov.uk/government/publications/care-act-2014-part-1-factsheets>

Does this affect you?

The proposed charges mainly affect carers and people who can afford to pay for their own care (self-funders).

Will the Council continue to provide some free services for carers and self-funders?

Wokingham Borough Council supports a wide range of community based activities provided by voluntary and private sector organisations for people with social care needs and carers, aimed at keeping people well and healthy. There is no financial assessment required to access these services and therefore they are available to people who fund their own care services, as well as carers who do not meet eligibility criteria for support from the Council. Examples of these services include support groups, social activities, information and advice, keeping fit and active.

The Wokingham Information Network (WIN) is a one-stop online window to all the services and information you need about local support services:

<http://info.wokingham.gov.uk/kb5/wokingham/info/home.page>

What charges will apply to people who can afford to pay for their own care?

Non-residential care

From April 2015, people who are assessed as needing care and support in their own home (e.g. homecare visits) will be given a financial assessment. If they are required to pay the full cost of their care, they can still ask Wokingham Borough Council to arrange services for them. In setting up these services there is an administration cost to the Council and the Care Act allows councils to charge for some of those administration costs.

Please be assured there is no charge for assessing someone's needs or for developing a care and support plan to help meet their needs.

We're proposing that, where you ask us to arrange the services, there will be charges to set up the arrangements to begin with, and once a year after that. The charges would cover things like staff time in liaising with providers, and making and receiving payments.

We're proposing that the charges are split into *setup charges* and *annual charges*.

A *setup charge* could include the costs for services such as:

- A. Identifying appropriate providers
- B. Negotiating with providers the cost of care and times for care to be delivered
- C. Putting contracts into place for services
- D. Setting up methods for the individual to pay the care costs, for example by Direct Debit
- E. Dealing with payments to providers
- F. Queries relating to services received and ensuring support plans are met by providers
- G. Raising and collecting care cost charges to the individual receiving the services

We are currently calculating how much this service costs the Council to deliver but expect it to be no more than approximately £550 in the first year.

If there were further setup arrangements needed (for example, changing the service as a result of a change in personal circumstances such as an increased need for support), the setup charge could be higher.

An *annual charge* payable from year 2 onwards could include the costs for services E, F, and G above. We are currently calculating how much the annual charge will cost the Council to deliver but expect it to be no more than approximately £300.

Residential care

From April 2015, the Council can choose how to support people who can afford to pay for their care and support in full and who are assessed as having care needs that are best met in a care home. We will offer information and advice to people on how their needs can be met.

What are Universal Deferred Payments and what are the proposed charges?

Deferred payment is a scheme which allows someone who is eligible for social care services and who moves into residential care to keep their property. The Council helps with paying care home fees and recovers the money when the property is sold (either

when the person chooses to sell their home or after their death). This means that people should not have to sell their homes in their lifetime to pay for their care.

Administration costs

The Council already has a Deferred Payments Scheme. This allows those eligible for adult social care support who would otherwise need to sell their home to pay their care home fees to make an arrangement with the Council to put off (defer) the payment of some of those fees to a later date. The Care Act introduces a Universal Deferred Payments Scheme that aims to make deferred payments more widely available. Within our current Deferred Payments Scheme we do not charge a fee to those using the scheme.

In recognition of the additional costs that we would incur to run a Universal Scheme, the Care Act allows Councils to charge an amount to cover its administration costs. To reflect the national approach, we are proposing to set reasonable fees to cover the administration costs (including legal costs) of setting up and monitoring Deferred Payment Agreements. If we don't charge these fees to those using the scheme, the Council will have to cover the costs of running the scheme and this would mean possibly increasing other charges, raising Council Tax, or cutting other services. The fees charged would not exceed what it actually costs the Council to administer.

We incur two types of cost in operating Deferred Payments – firstly, the initial costs of setting them up and secondly the continuing or ongoing costs.

Examples of administration costs for setting up Deferred Payment Agreements include (but are not limited to):

- Costs of legal time and administration time spent drawing up the Deferred Payment Agreement
- Costs of accurately valuing property that is being used as security
- Land Registry costs such as searches, placing charges, entries in the register
- Costs of obtaining adequate security (for example where other parties are involved, such as a leaseholder of the property)
- Costs of printing, postage, and office overheads associated with the setup work

We are working on calculating the standard costs of these different elements of administration and legal tasks. For illustration purposes in this consultation, we estimate that an average Universal Deferred Payment Agreement would have set up costs of approximately £900 including the first year's annual charge.

Examples of ongoing administration costs for monitoring each Universal Deferred Payment Agreement include (but are not limited to):

- Costs of legal time and administration time to ensure all parties are meeting the requirements of the Deferred Payment Agreement
- Costs of reviewing the valuations of the property capital used for security
- Costs of printing, postage, and office overheads associated with monitoring the agreement, including regular statements

We are working on calculating the standard costs of these different elements of administration and legal tasks. For illustration purposes in this consultation, we estimate that an average Universal Deferred Payment Agreement would have running costs of approximately £300 per year payable from the second year onwards.

Interest rates

The Care Act allows Councils to charge interest on the deferred fees, so that they can cover the cost of running the Deferred Payments Scheme and support more people to use it. The government will set a national maximum interest rate, but Councils can choose to set a lower interest rate. Using a lower rate would mean people in the Deferred Payments Scheme paying less, but the Council would have to charge more for other services or spend less on other services to cover this.

The national maximum interest rate set by government for deferred payments will be based on the cost of government borrowing and could change every six months. The Department of Health have published information that the maximum interest rate from 1st April to 30th June 2015 will be 2.65%.

Extra Care Housing

Many people use money from their property to pay the rental, care and support costs for their Extra Care Housing or Supported Living accommodation (for example, by selling their property and receiving Housing Benefit throughout the period until the property sale completes). We don't anticipate a significant need for Deferred Payments for this reason. However, there could be exceptional circumstances in which it may be appropriate to enter into a Deferred Payment Agreement with an individual, secured by a legal charge against their property, where there are reasons why they are unable to immediately meet the full care and accommodation rental costs in Extra Care Housing or Supported Living Accommodation.

The Council may also offer Deferred Payments to Extra Care Housing and Supported Living Accommodation where there are exceptional circumstances that would prevent a person paying their full care / accommodation rental costs at that time. As with other users of the scheme, this would only be undertaken if the person could provide adequate security from the value of their property for the deferred payment period.

Deferred Payment Security Debt

The Council will need to ensure that when it agrees a Deffered Payment, there is sufficient security in place for the debt to be fully repayed. The value of the asset, which in the majority of cases would be a property, offered as security will be periodically valued. It is proposed that the maximum amount that can be deferred is capped at 70% of the asset value but that in exceptional circumstances determined by the Council this could be increased to 80%.

What support will you offer to carers and will they have to pay for this?

From April 2015, all carers will be entitled to a carer's needs assessment. This is an opportunity to think about how caring commitments affects the carer and what support would help them. A carer's assessment can be done as a joint assessment with the person that is being cared for or as a separate carers' assessment. A joint assessment means the carer's views and needs are taken into account when the person cared for is assessed.

If a carer needs help with the assessment and does not have or would rather not ask a friend or a relative to assist, we will provide an independent advocate. The independent advocate will act in the carer's best interest and will support and represent them to ensure that they understand and are involved in the process.

Sometimes, the best way to support a carer is through services for the person they care for - such as time at a lunch club which then gives the carer a break. There are also services which can be provided directly to the carer such as support groups, training in how to care without risking the carer's own health, funding to access recreational activities, help with their own domestic tasks or support with education and employment opportunities.

Most social care services are not free, but people are only asked to pay as much as they can afford. This means that many people pay a contribution towards services such as respite care and homecare. The Council can choose whether to apply the same

rules to services provided directly to the carer. Wokingham Borough Council would like to continue to offer services provided directly to carers free of charge.

Although the principle of supporting carers free of charge is our preference, there is the possibility that the demand for carer support will exceed the money available to fund these services. For example the number of carers identified in the 2011 census is 13,902, although only approx. 600 are known to our Adult Social Care. If we were to consider making a charge, the assessed charge must exclude any income from employment in the calculation; however it could take into account any savings a carer has. We may have to introduce some form of charging if demand exceeds the funding available.

How will you set the maximum charges to meet care needs?

The Care Act gives the Council discretion to set a maximum charge for those receiving services in their own home, for example this could be 90% of the usual cost for purchasing a residential care place. This would mean that everyone whose care package cost is above this rate would be subsidised even if they have means to fund it. The additional cost to the authority of setting a maximum charge is not considered to be a sustainable option for the Council; please see example A on page 8.

Furthermore, the Care Act gives the Council the flexibility to reduce the maximum assessed charge by applying a further reduction of, for example, 10%. This would mean that anyone whose care package cost is above this lower maximum charge would be subsidised. The additional cost to the authority of applying such a % reduction is also not considered to be a sustainable option for the Council in the medium term and would limit the amount of care and support services the Council can provide to people in times of reduced central government funding; please see example B on page 8.

In both of the above cases providing such subsidies would lead to limiting the amount of care and support services that can be provided to people, particularly in times of reduced central government funding.

It would also be unfair as some people who have the means to pay a higher contribution would not be required to do so and it would be contrary to the Council's existing policy of full cost recovery.

To ensure fairness we need to ask people with the means to pay a higher contribution do so.

Example

A 76-year-old woman living on her own has a State Pension, private pension and Pension Credit, and receives Attendance Allowance. She has been assessed to have £33.90 disability related expenses each week and £11.15 housing expenses ignored each week.

Details	As proposed £.p	Example A a maximum charge is set £.p	Example B a further % reduction is applied £.p
Income each week	£.p	£.p	£.p
State Pension	113.10	113.10	113.10
Private pension	450.00	450.00	450.00
Pension Credit (Guarantee Credit)	24.13	24.13	24.13
Pension Credit (Saving Credit)	2.32	2.32	2.32
Severe Disability Premium	61.10	61.10	61.10
Attendance Allowance	81.30	81.30	81.30
a) Total income	731.95	731.95	731.95
Less Savings Credit	2.32	2.32	2.32
Less the night element of Attendance Allowance	26.85	26.85	26.85
Less disability-related spending	33.90	33.90	33.90
Less housing costs	11.15	11.15	11.15
Less Basic Living Allowance (£148.35+25%)	185.44	185.44	185.44
Less additional Basic Living Allowance (10% of £148.35)			14.84
b) Total amount ignored	259.66	259.66	274.50
c) Total income less total amount ignored [a-b]	472.29	472.29	457.46
d) Actual Cost of care package	475.00	475.00	475.00
e) Maximum charge		425.00	
Council subsidy [d-c]	2.71		17.54
Council subsidy [d-e]		50.00	

When will the proposed charges apply?

If the proposed charges go ahead, they will come into effect from July 2015.

Your chance to have your say

We would like you to give us your views by completing the online questionnaire www.wokingham.gov.uk/careactconsultation by 5th May 2015.

The results of the consultation will be presented to the Council's decision-making Executive meeting in June 2015.

If you require assistance with giving your views, please contact Customer Services on (0118) 974 6000.

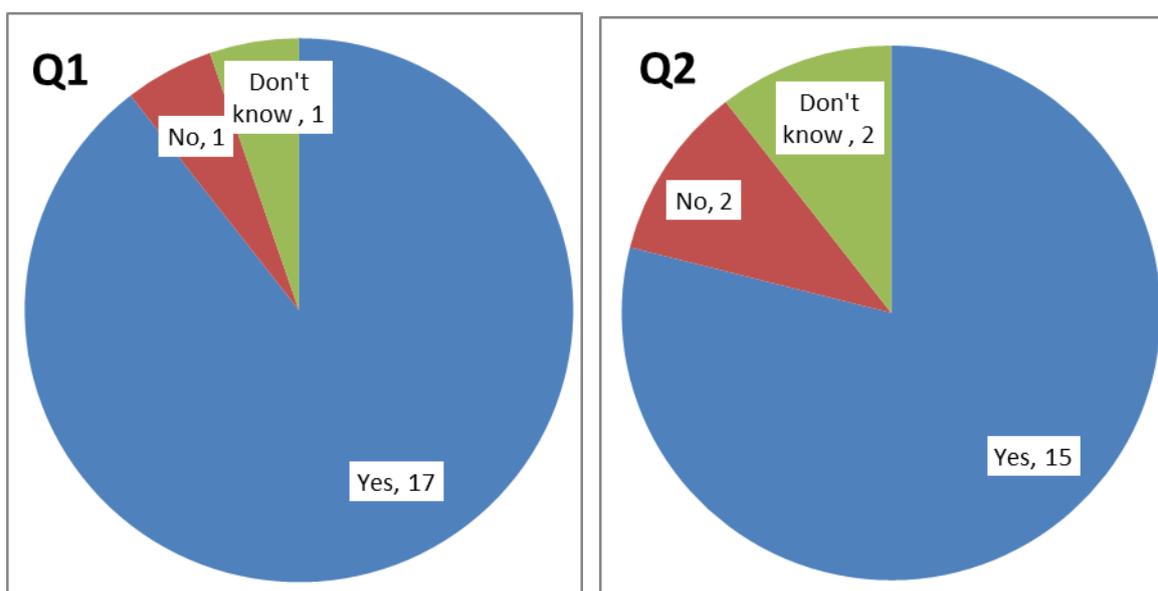
Analysis of Consultation Responses⁵

Section 1.a - People who fund the full cost of their own care and support (self funder) that are best met in their OWN home.

If you pay the full cost for care and support in your own home, you will be able to ask us to arrange these services for you. Under Care Act changes, we can charge an administration fee to set that care up and charge annually afterwards. We haven't decided how to do this yet. To help us we want to know how you might use our service for:

Q1 Personalised information and advice about the types of services that could meet someone's needs?

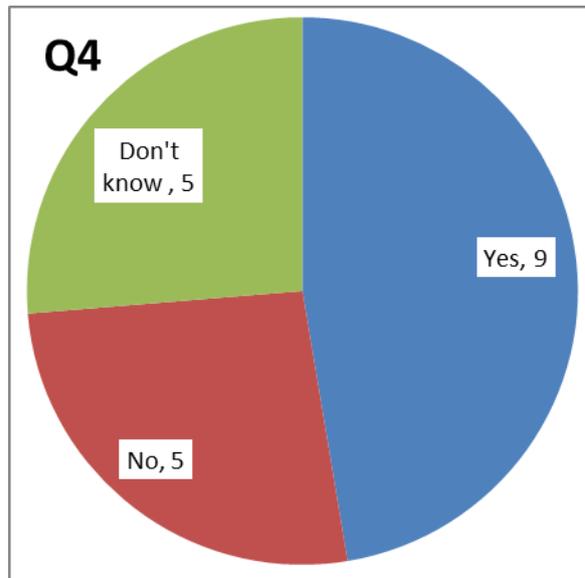
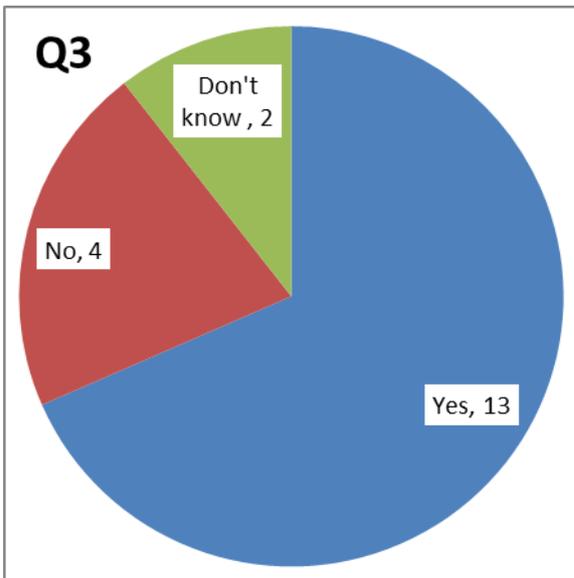
Q2 Support to prepare a plan of how best to meet care and support needs?



Q3 Someone who could discuss your requirements directly with the provider(s) and agree the amount of care to be offered and the price?

Q4 Arranging care and support with the provider directly e.g. contracting on your behalf?

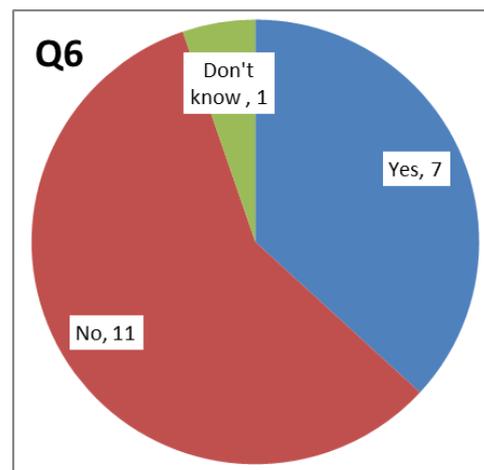
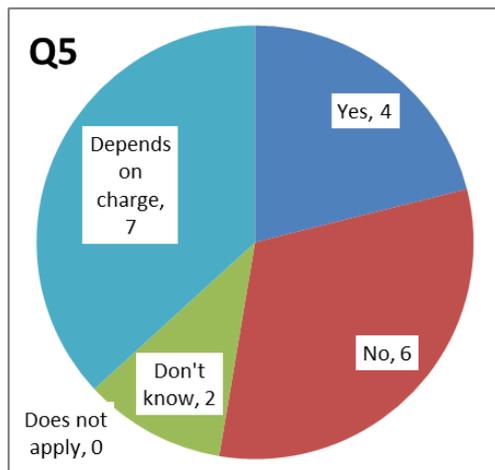
⁵ Each illustration shows the number of responses to each question



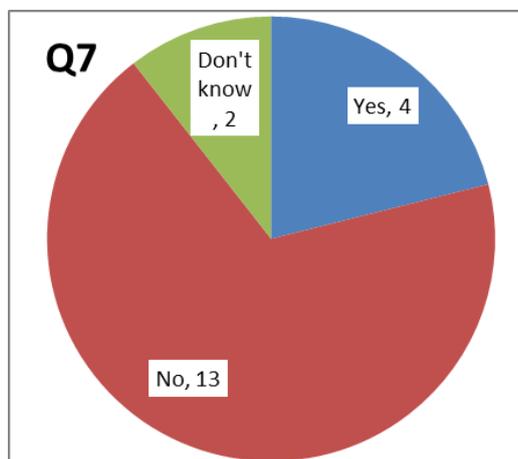
We're intending to charge for this but it would not cost you more than it costs the Council to provide. Therefore:

Q5 As a self-funder, would you still access this type of service if Wokingham Borough Council charged?

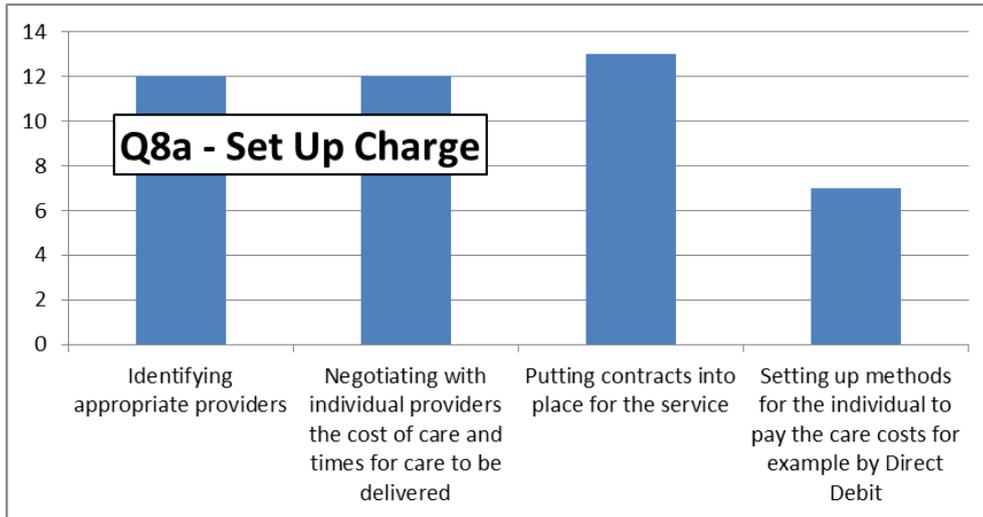
Q6 Do you think the Council should charge self-funders a set up charge, if they arrange care and support services on their behalf?



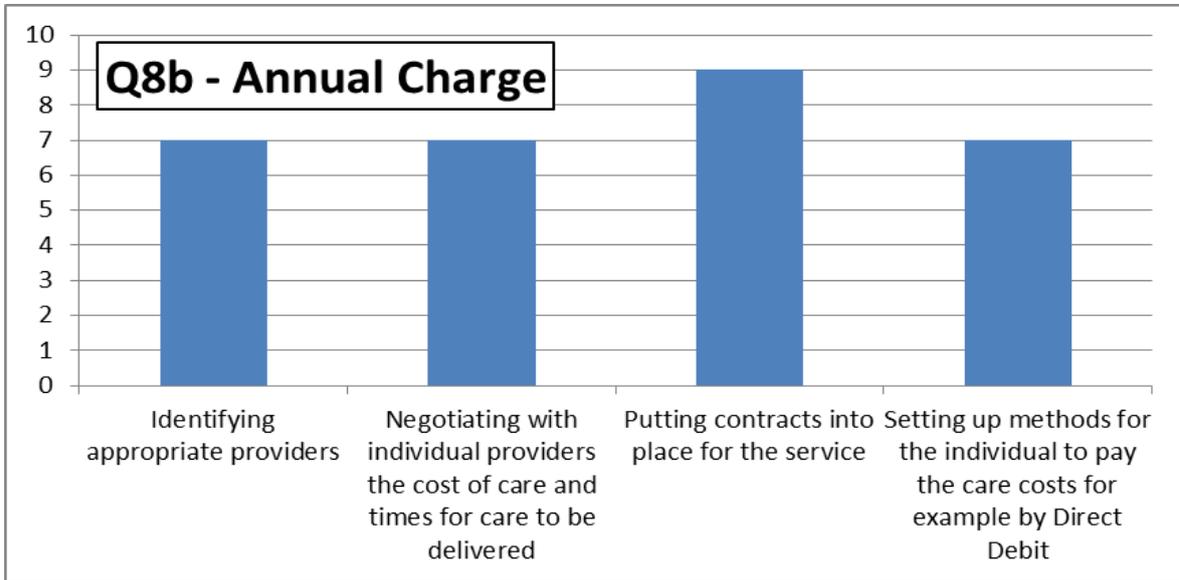
Q7 Do you think the Council should charge self-funders an annual charge, if they arrange care and support services on their behalf?



Q8a Which of these should we include in the proposed set up charge?



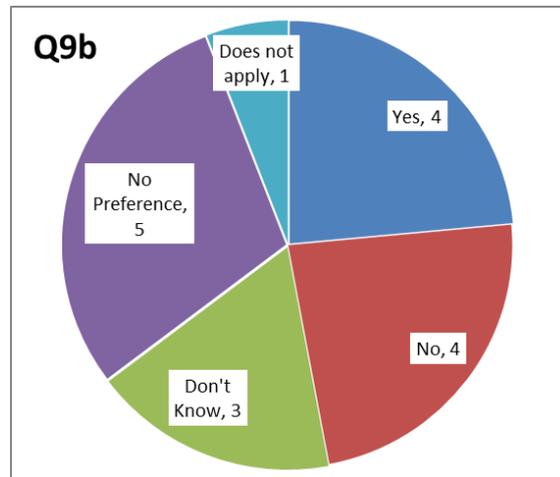
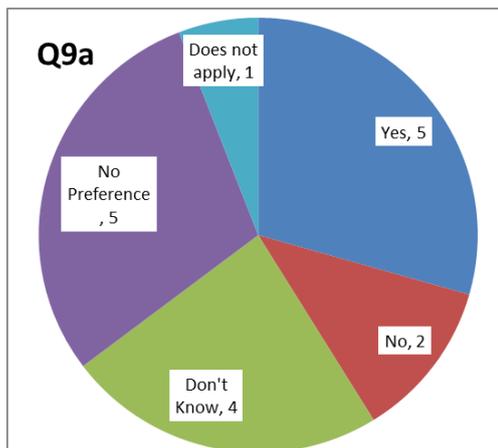
Q8b Which of these should we include in the proposed annual charge?



Q9 We haven't decided how we will support those of you who fund your own care. We could use council staff and/or other specialist organisations. Which would you prefer?

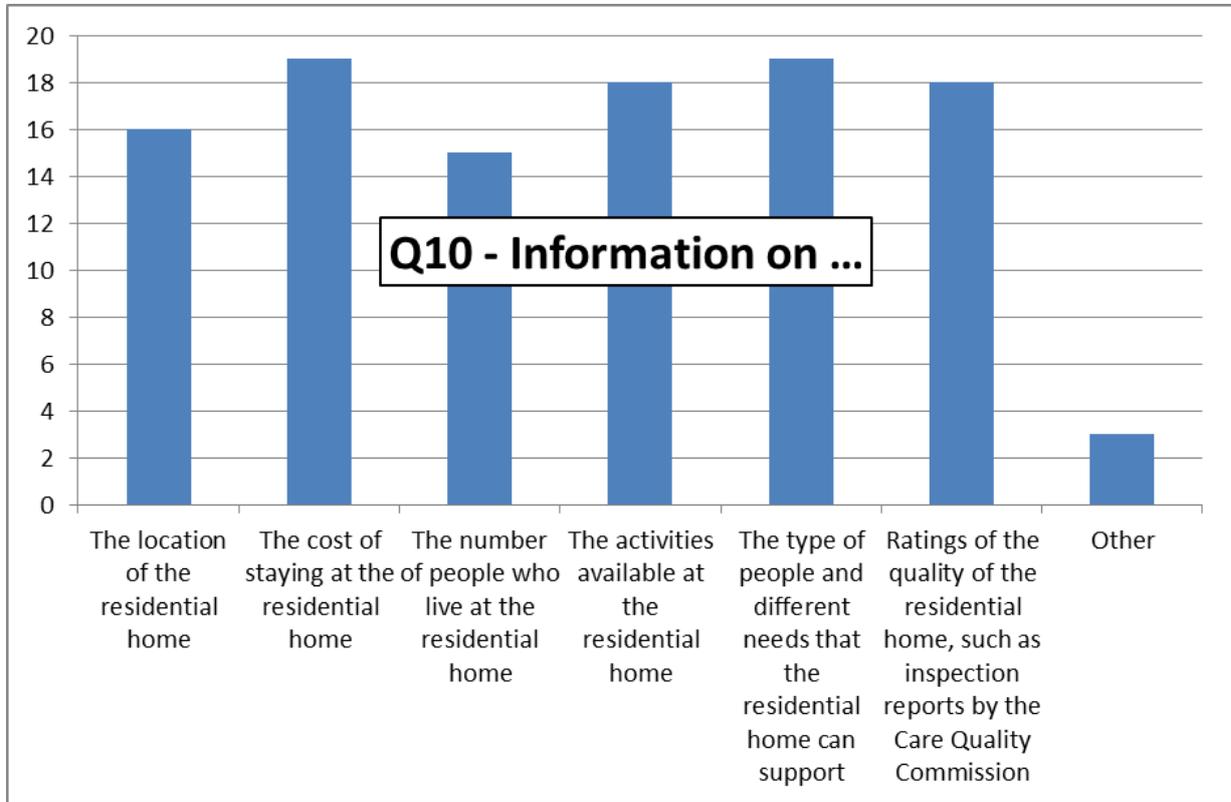
9a) I would prefer to be supported by Council staff

9b) I would prefer to be supported by specialist organisations within the community

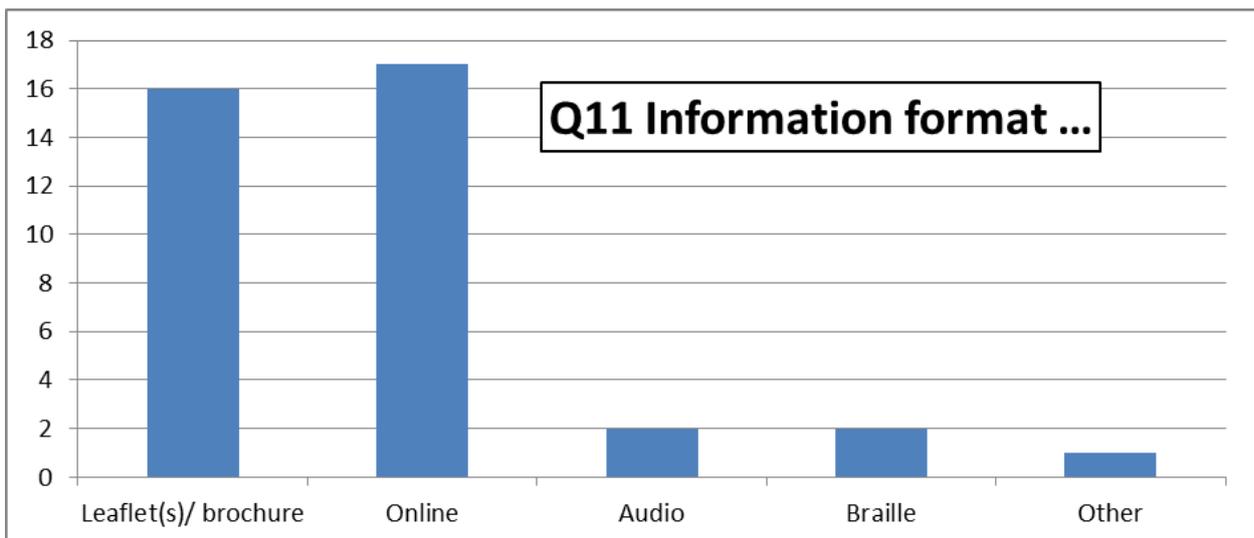


Section 1.b - People who fund their own care and have needs that are best met in a RESIDENTIAL or NURSING care home. We will offer information and advice to people on where their needs can be met in a residential care home. What information would be useful to you when making decisions about residential care?

Q10 What kind of information would be helpful for you in making a decision about the right residential home?



Q11 Which format would you prefer this information in?

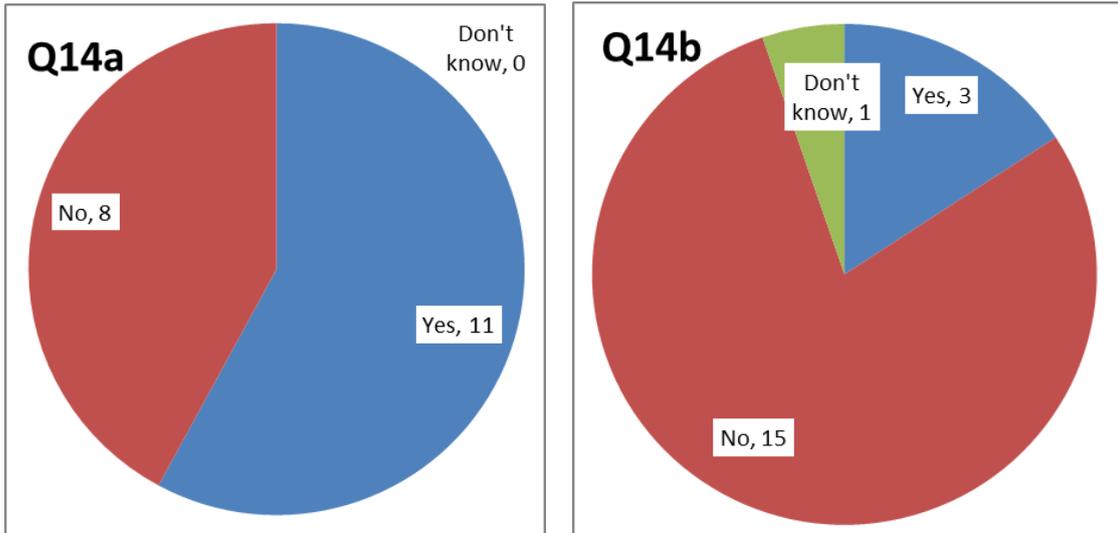


SECTION TWO - Universal Deferred Payments

Q14 Under Care Act changes, deferred payments will be more widely available however it will cost us more money to run. New rules will mean we can charge an administration fee to set up this process and charge annually afterwards to cover costs for running it.

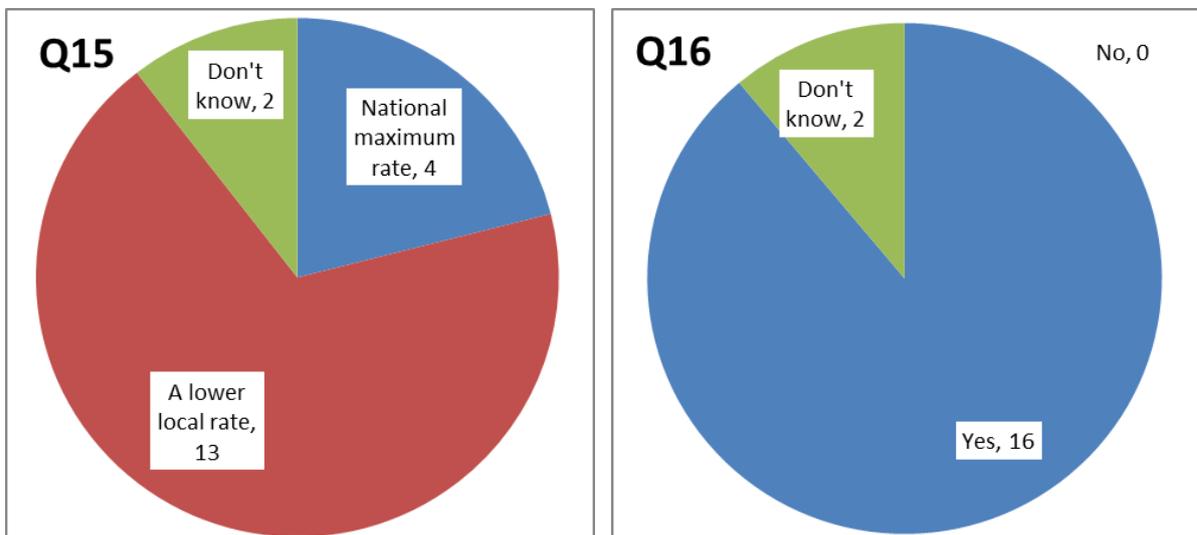
14a) Do you think that the Council should charge a fee to recover the administration costs of setting up each Deferred Payment Agreement under the new Universal Deferred Payments Scheme?

14b) Do you think that the Council should charge an annual fee to recover the ongoing administration costs of monitoring each Universal Deferred Payment Agreement?



Q15 We can charge interest on the deferred amount which would allow us to support more people. Government will set a national maximum rate to charge but we can set our rate lower. Government rates are based on the cost of government borrowing and could change every six months. Do you think the Council should use the maximum interest rate set by the government for deferred payments, or a lower rate?

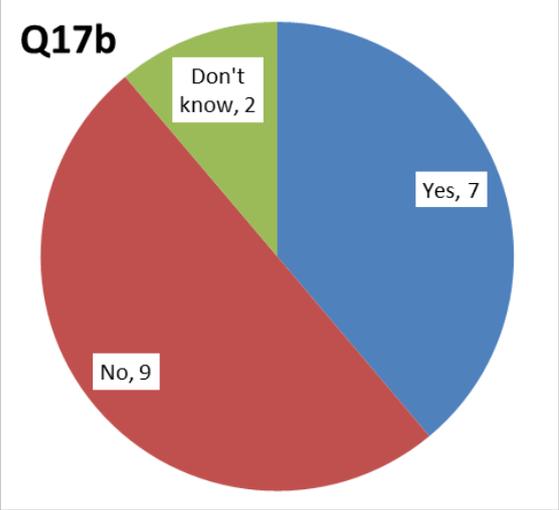
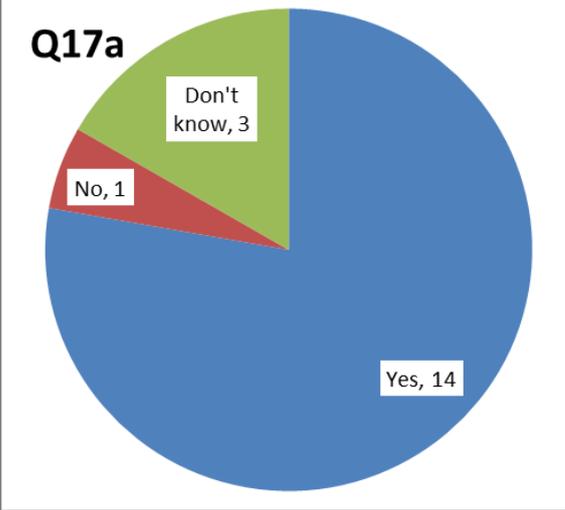
Q16 In exceptional circumstances we could set up a deferred payment agreement for those people who are unable to immediately pay the full costs for Extra Care Housing or Supported Living Accommodation.



Q17 In order to agree a deferred payment option, we always need to ensure that the final debt will be fully repaid. This is usually secured against a property and we would regularly review its value. Under proposals, 70% of the value of the property is the maximum you would pay back but in exceptional circumstances it could be increased to 80%

17a) Do you agree that the maximum amount deferred should be limited to 70% of the asset value?

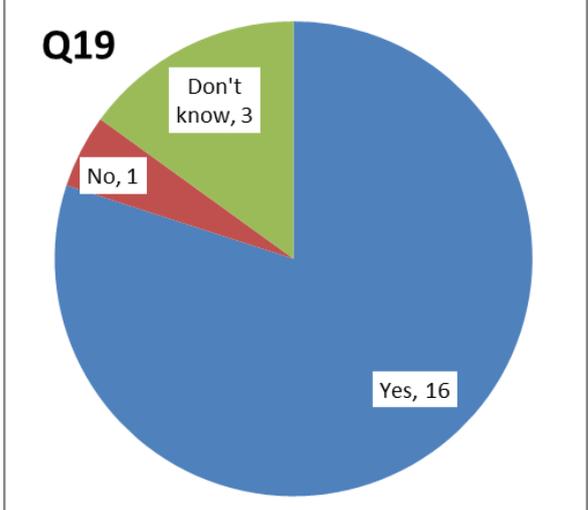
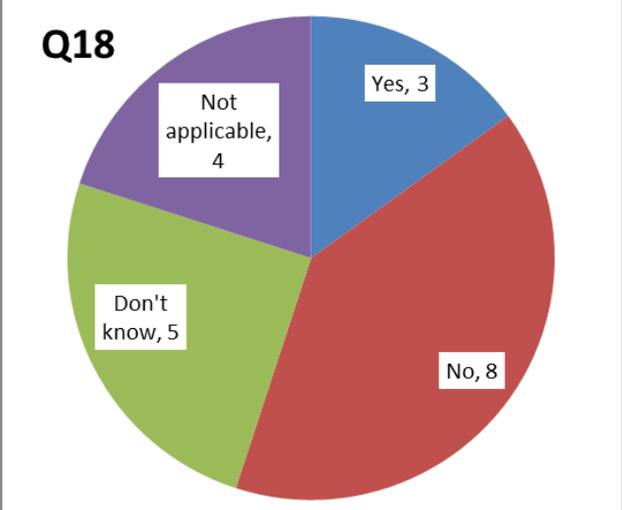
17b) Do you agree that in exceptional circumstances the maximum amount deferred can be 80% of the asset value?



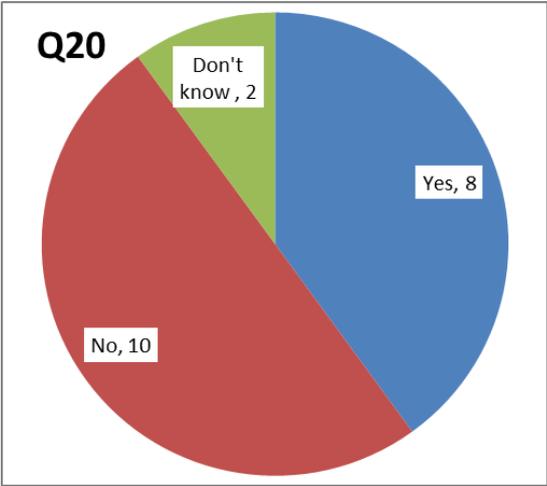
SECTION THREE - Carers

Q18 Do you think you would be likely to need independent advocacy to take part in a carer’s assessment or review in future?

Q19 Often the best way to support a carer is through the services of the person they care for such as a lunch club which allows the carer a break or by support groups, education and employment opportunities and recreational activities - to name just a few. Most services are not free and social care customers are asked to pay as much as you can afford. We can apply the same rules to carers too. Do you think Wokingham Borough Council should continue to offer services provided directly to carers free of charge?



Q20 We want to continue to offer these services free of charge, however more carers may need support than our funding can cover. If this is the case, we may have to charge for carers' services. In these circumstances would you support the introduction of a charge applied only to those carers who have savings in excess of the Department of Health 'upper limit' which is currently £23,250?



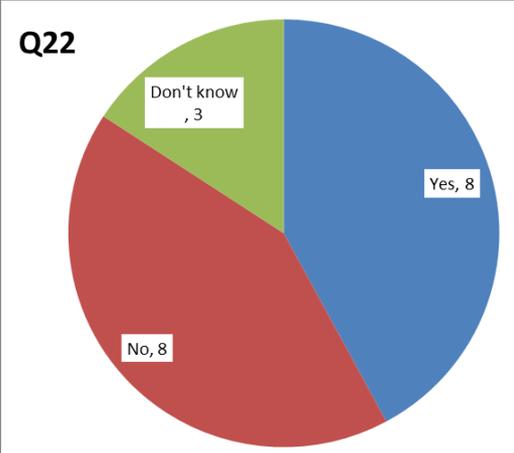
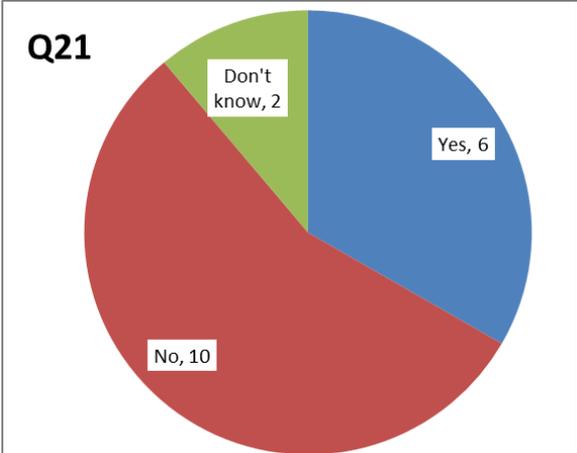
SECTION FOUR - Setting the maximum amount you will pay for care that is best met in your own home

The Care Act gives the Council discretion to set a maximum charge for those receiving services in their own home, for example this could be 90% of the usual residential care rate. This would mean that everyone whose care package cost is above this rate would be subsidised even if they have means to fund it. The additional cost to the Council of setting a maximum charge is not considered to be a sustainable option for the Council

Furthermore, the Care Act gives the Council the flexibility to reduce the maximum assessed charge by applying a further reduction of, for example, 10%. This would mean that anyone whose care package cost is above this lower maximum charge would be subsidised. The additional cost to the authority of applying such a % reduction is also not considered to be a sustainable option for the Council and would limit the amount of care and support services the Council can provide to people in times of reduced central government funding.

Q21 Do you agree that Wokingham Borough Council should NOT set a maximum charge?

Q22 Do you agree that Wokingham Borough Council should continue to charge the maximum assessed charge?



Comments received:

Section 1b - People who fund their own care and have needs that are best met in a RESIDENTIAL or NURSING care home

Q10a What kind of information would be helpful for you in making a decision about the right residential home?

1. copy of residential home's "Policies and Procedures".
2. The split between permanent and agency staff and the turnover of employees.
3. Person centred approaches and care values of the organisation

Q11a Which format would you prefer this information in?

1. Ensure "easy read" version available.

Q12 Is there anything else we should consider in relation to the support services for those who pay for their own care?

1. Safeguarding
2. Ability to amend and change care packages as needs change
3. Council tax is paid for all services, no extra charges should be made.

Q13 Is there anything else we should consider when applying this proposal to existing self-funders whose services are currently arranged by the Council?

1. Safeguarding
2. Council tax is paid for all services, no extra charges should be made.

Section 4 - Setting the maximum amount you will pay for care that is best met in your own home

Q23 Do you have any other comments?

1. these questions are very complicated and difficult to understand.
2. My mother's care is self-funded but my step-father is so anxious about retaining enough savings to cover residential care when the time comes that he refuses to arrange the care at home they so desperately need. He does, however, use free services (such as the two hour per week sitting allowance), without which they would be in a far worse situation. It is helpful for advice and support to be free to everyone, even when the care recommended is self-funded. Without that support and encouragement to arrange paid care, he would not even know what is available because he would refuse to pay for the consultation. This is an on-going battle with an old-fashioned, 'careful' with money older gentleman and I'm sure our situation is not unique.
3. I feel that I would only purchase care through the councils commissioning team if they improved their focus on personal outcomes for people while balancing costs. At the moment care commissioned by the councils seems to be inadequate and below what I would want to purchase for myself. So I would probably sort out my own care
4. These comments relate to the suggestion that Carers may be charged for support given to them to assist them in their Caring Role. 1) A trivial point really, but let us be sure what we are talking about. In your Consultation Paper the second item in the block headed "Please give us your views on:" requests views on the statement "support for carers and whether carers should be charged for their services (if they can afford to pay)". In fact you are not proposing to charge carers for "their" services (if anything you should be paying them for their services); what you are suggesting is to charge them for services that you may provide to them. 2) Before considering charging Carers for the

support they need to assist them in their Caring Role you should consider the costs that they are saving you. Without their help you would need to give far greater support to the Cared for Person, possibly even to the extent of supporting them in a Care Home. Carers are always being told how valuable they are and how much they save the NHS and Social Services; this is your chance to show that you really mean it. 3) You should note that the Carers are often already sacrificing themselves from the point of view of time dedicated to the Caring Role, money lost through lost work opportunities, and even losses to their own pension arrangements. They carry out this role (often on a 24/7 basis with no end in sight and with no breaks) for a variety of reasons, but basically out of the sheer goodness of their hearts. You are now suggesting that you should charge them for this "privilege". This is a disgrace. 4) By now you will have realised that I am totally opposed to the idea of charging Carers for any support they need to help them in their caring role. In fact I think it shows a distinct lack of understanding of the problems that Carers face and consider it rather ignominious that the idea should even have been suggested. I suggest that you drop the idea immediately.

5. Carers save the Council and central Government millions of pounds every year. It's all very well for the Council to talk about 'free' benefits for carers such as lunch clubs but often carers are too stressed and time pressed to take advantage of them and are concerned about leaving the person they care for alone. To support Carers more effectively there needs to be better provision whereby those that are cared for can be looked after for a few hours each week at little or no cost. There should also be a lot more funding for respite care e.g. Sue Ryder so that Carers can be given proper breaks on a more regular basis.
6. All cost should be covered by council tax,if you going to charge for care cost,why should we pay council tax?Why not cancel the bus pass to save money? Why not charge children for attending school?Stop using our council tax for your pensions.

Wokingham Borough Council Deferred Payments Scheme

1. Background

- 1.1 The Care Act 2014 establishes a universal deferred payment scheme, which means that from 1st April 2015 people may not need to sell their home in their lifetime to pay for the costs of care. A deferred payment agreement is a way of deferring the costs of care against a property which is the person's main home. It is effectively a loan against the value of the property.
- 1.2 From 1st April 2015, all Councils in England are required to provide a deferred payment scheme for local residents who go to live in residential or nursing care, own a property and have other assets (capital and savings) below a certain amount. The new scheme has national eligibility criteria which replace the Council's existing eligibility criteria for deferred payments. However, these changes will not apply to any existing deferred payment agreements that were agreed on or before 31st March 2015.
- 1.3 Local authorities are required to follow new national guidance on the eligibility criteria for a deferred payment. There is some local discretion allowed on how the scheme will be implemented. Where such discretion has been considered, it is highlighted in the relevant sections below.
- 1.4 This paper sets out set out the framework for Wokingham Borough Council's Deferred Payments Scheme from 1st April 2015. This framework takes into account the main changes introduced by the Care Act 2014 and the statutory guidance published by the Department of Health.
- 1.5 For further information about the Care Act and deferred payments please see:

www.careandsupportregs.dh.gov.uk

www.gov.uk/government/publications/care-act-2014-part-1-factsheets

2. Universal Deferred Payments (from 1st April 2015)

- 2.1. Under the Care Act 2014, all Councils will have a deferred payment scheme which includes:
 - A set of national eligibility criteria on entitlement
 - Allows Councils to charge interest and administrative fees to offset the costs of the scheme
 - Retains some local discretion, for example the amount of charges that can be deferred

3. Scheme Principles

- 3.1 The principles underpinning the scheme are:
 - To ensure that those who have been assessed as needing care may not need to sell their property to pay for that care
 - That those who can afford to pay a contribution towards their care should do so

- To ensure that residents are fully informed about deferred payments and eligibility
- That the scheme is self-financing and sustainable

3.2 The Council's deferred payments scheme has been written in accordance with statutory guidance and regulations, including:

- Sections 34-36, the Care Act 2014
- The Care & Support (Deferred Payment) Regulations 2014
- Chapter 9, the Care & Support Statutory Guidance

This scheme will be updated in line with any subsequent changes to the legislation or guidance.

4. Services covered by this scheme

- 4.1 The scheme covers residential and nursing care services only. Access to the deferred payment scheme is available to people who have local authority arranged care and people who arrange for and pay for their own care.
- 4.2 In order for a deferred payment agreement to be considered, a persons needs for care and support must be met, or are going to be met, under section 18 or section 19(1) or (2) of the Care Act 2014 and the care and support plan under section 25 of the Care Act 2014 must show that the Council is going to meet those needs by the provision of accommodation in a Care Home. The term "Care Home" is defined in the Care and Support (Deferred Payment) Regulations 2014.
- 4.3 If the person has arranged for their own placement in a Care Home, the Council must be satisfied that had it been asked to meet those needs it would have done so in accordance with 4.2 above.

5. Eligibility for a deferred payment

- 5.1 The Council must offer a deferred payment where the person receiving eligible care meets the following eligibility criteria and is able to provide adequate security for the deferred payment:
- Has capital of less than £23,250. Capital includes savings and other non-housing assets, excluding the value of the person's main home;
 - Where the main home is taken into account as part of the financial assessment and not disregarded in accordance with Section 17 of the Care Act 2014 (see section 6 below).
- 5.2 The person must have capacity to enter into a deferred payment agreement, or must have a Deputy or Attorney (a person with a relevant Enduring Power of Attorney or Lasting Power of Attorney) to act on their behalf, or have someone who is their deputy appointed by the Court of Protection.
- 5.3 The person must agree to all the terms and conditions in the deferred payment agreement.
- 5.4 The Council must be able to secure a first charge against the persons property.
- 5.5 Where the qualifying person is eligible for a deferred payment the local authority may exercise discretion to refuse a deferred payment where for example:

- The Council is unable to secure a charge on the property
- The property is uninsurable
- Where someone wants to defer more than they can provide adequate security for (see also section 7 - How much can be deferred)

5.6 There may also be circumstances when the Council decides not to continue with a Deferred Payment Agreement, for example:

- The person has reached the upper limit (see section 7 – How much can be deferred)
- Where in some limited circumstances a spouse or dependent relative moves into the property after the Deferred Payment Agreement is in place.
- Where the qualifying person receiving eligible care becomes entitled to an automatic disregard of the property; for example, through a change of circumstances of the person living in the property.

6. The 12 week property disregard

- 6.1 Where a person has been assessed as having eligible care needs and owns a property, during the first 12 weeks stay in residential accommodation, the capital value of the property is disregarded.
- 6.2 After 12 weeks, unless there is statutory disregard of the property, the property is taken into account as a capital resource. A statutory disregard will apply where, for example, the property is occupied by a spouse, partner, or close relative who is incapacitated or aged 60 or over.
- 6.3 During this 12 week period the Council will provide advice and information about deferred payments. Advice and information will include, as appropriate, referring the person or their carer for independent financial advice. Advice and information about deferred payments will be available in a variety of mediums, for example through leaflets and via the Councils website.

7. How much can be deferred

- 7.1 The Council will defer actual residential or nursing care costs, determined in accordance with statutory guidance. This would normally mean the actual cost of residential or nursing care less any financially assessed contribution.
- 7.2 Under the Department of Health statutory guidance there is a maximum amount that a person can defer as a loan against the value of the property that they own. This is called the Equity Limit. This is defined as the property value, minus 10%, minus a further £14,250. It is then for the Council to determine when a detailed review of the case will take place should the value of debt reach a certain percentage of the equity limit. The Council has set the equity review limit at 70% of the asset value.
- 7.3 Where the deferred amount reaches a level where it is likely to exceed the 'review limit,' the Council has discretion on a case by case basis to exceed this amount. This discretion can be exercised in cases where, for example, refusal of a deferred payment will cause severe hardship or because the person does not have sufficient other assets or income to pay for care costs without

selling their property. The Director of Health & Wellbeing could increase the review limit to 80% as an exception to be determined on a case by case basis.

8. Assessment of Applications

- 8.1 All applicants for a deferred payment agreement must fully complete the Council's designated application form.
- 8.2 When assessing applications for a Deferred Payment the Council will have regard to the sustainability of the deferred payment. In addition to the LTV ratio, the Council will have regard to the following when deciding this:
- The likely duration of the deferred payment agreement
 - The level of equity available in the property
 - Contributions which may be made from a person's savings or other assets
 - The period of time a person would be able to defer weekly care costs

9. Obtaining Security

- 9.1 The Council is required to have adequate security in place when deciding whether a person is entitled to a deferred payment. The onus is on the person applying for a deferred payment agreement, or their representative, to provide evidence that they are able to give the Council adequate security. Where the person owns a property this security will usually be in the form of a legal charge on the property. In cases of jointly owned properties the Council will require all of the owners' agreement to the charge being registered against the property.
- 9.2 There is a discretion within the statutory scheme that allows the Council to accept other forms of security. This discretion will not be offered.

10. Administration fees and interest charges

- 10.1 The Care Act allows the Council to charge an administration fee for arranging the deferred payment agreement. There will also be an on-going administration fee which becomes payable during the course of the Deferred Payment Agreement as it is reviewed on an annual basis. This fee can also be deferred. Administration fees are the actual costs of providing a deferred payment agreement, including:
- The costs of registering a charge with the Land Registry, including any Land Registry searches
 - The costs of valuing, and any re-valuation of the property
 - Staffing, management and legal costs
- 10.2 The Care Act also allows the Council to charge interest on the deferred payment amount. Interest rate charges cannot exceed the maximum amount as set by legislation. The Council will charge interest on all deferred amounts under the agreement using the rates set by Government from time to time to help ensure that the overall scheme is cost neutral to the Council.

- 10.3 All administration charges and fees will be clearly set out within the Deferred Payment Agreement. Fees and charges will be set at a level to ensure that they only cover the actual cost of providing a deferred payment.
- 10.4 A schedule of deferred payment agreement fees and charges will be publicly available on the Council's website. This will enable the person applying for a deferred payment full transparency on the costs of the scheme and to enable the person or their carer to plan for the costs of care.
- 10.5 All charges and interest due can be included in the deferred payment agreement and do not need to be paid separately.

11. Property valuation

- 11.1 Under the deferred payment scheme the Council will arrange for a valuation of the property against which payments will be deferred. The person applying for the deferred payment agreement will also be entitled to request an independent valuation of the property. This would be separate to the Council's own valuation.
- 11.2 Any costs for the Council valuations must be paid for by the deferred payment agreement applicant or their representative. If the deferred payment is approved, the cost can be included in the Deferred Payment Agreement.
- 11.3 The Council will not contribute to the cost of any independent valuations that may be arranged.
- 11.4 The valuation of the property will be periodically reviewed during the lifetime of the Deferred Payment Agreement to ensure that the upper limit is not exceeded.
- 11.5 Any disputes about the property valuation will be dealt with under the review and appeals procedure (see section 19 Review and Appeals Procedure)

12. Deferred Payment Agreement

- 12.1 When applying for a deferred payment, all successful applicants will be required to sign a formal Deferred Payment Agreement (DPA) with the Council. The Council can enter into an Agreement with residents who are the owner(s) of a property, or their representative who holds a Power of Attorney or a Deputy appointed by the Court of Protection, providing all of the application conditions as described in this scheme are fulfilled.
- 12.2 The Deferred Payment Agreement will set out, amongst other things, the following terms:
- The care charges covered by the agreement;
 - Interest charges and administration fees applying to the agreement;
 - Details of the property charge;
 - The maximum amount of charges that can be deferred;
 - Circumstances on which the Council can refuse to pay any more care fees;
 - How the agreement can be ended;

- How problems should be resolved if either party feels the terms of the agreement have been broken.

13. Conditions of entering into a Deferred Payment Agreement

- 13.1 The Deferred Payment Agreement shall only take effect upon the formal signing of the Agreement. A certified copy of the appointment of a Power of Attorney or order from the Court of Protection appointing a Deputy will be accepted as evidence of authorisation to sign on behalf of the applicant.
- 13.2 The person entering into the Deferred Payment Agreement will also be required to abide by a number of conditions:
- That the property is maintained in reasonable standard of repair and condition and is adequately insured;
 - That all outgoings associated with the property (e.g. Council tax, service charges, ground rent, insurance) are paid;
 - That any net rental income derived from letting the property during the period of the agreement is fully declared to the Council and will be assessed in accordance with Department of Health statutory guidance;
 - That the person receiving care and/or their representative acknowledges that they have received the Council's advice that they should seek independent financial advice before committing themselves to this agreement;
 - Where the property is jointly owned, that all co-owners as well as the applicant must agree to the Council's form of charge;
 - That the person, or their representative, agrees to notify the Council without delay of any change in circumstances which would affect the value of property or the sustainability of the deferred payment agreement.

14. Financial Assessment of contributions

- 14.1 Applicants entitled to a deferred payment agreement will be assessed to make a financial contribution towards the costs of care from their assessable income and capital (for example, savings and investments). The assessed contribution will follow Department of Health guidance.

15. Annual reviews and Deferred Payment statements

- 15.1 The Deferred Payment Agreement will be reviewed annually to assess the value of the property and ensure that there is adequate security to protect the Council's legal charge on the property. More frequent reviews can be carried out, if appropriate, where a persons circumstances change.
- 15.2 In addition to reviewing the deferred payment bi-annual statements will be sent to the person entitled to the deferred payment agreement and/or their representative. The statements will set out the amount of care fees deferred, any interest and administrative charges to date, the total amount

due and equity available in the property. The statements will also give an indication of progress towards the deferred payment upper limit.

16. Terminating the Deferred Payment Agreement

16.1 The Deferred Payment Agreement can be terminated in a number of ways:

- Voluntarily by the person receiving care or someone acting on their behalf paying the full amount that is due
- When the property (or other form of security) is sold
- When the person receiving care dies.

16.2 Where the agreement is voluntarily terminated the Council will require written notice of termination (the full terms under which the agreement can be terminated will be set out in the Deferred Payment Agreement)

16.3 On termination the full amount due (care charges, interest accrued, administrative and legal fees) will be paid to the Council.

16.4 If the person decides to sell the property they must notify the Council. They will be required to pay the Council from the proceeds of the sale.

16.5 The deferred payment agreement will automatically come to an end on a person's death. The debt can either be paid from a person's estate or by a third party, for example a family member may choose to settle the debt rather than sell the deceased's property. If the agreement is terminated through a person's death the total amount due becomes payable within 90 days of the date that the person dies.

17. Reassessments following repayment to the Council

17.1 If a Deferred Payment Agreement is terminated for any reason other than a person's death, the Council shall undertake a reassessment of the person's social care needs and finances. The purpose of the reassessment would be to determine whether that the person receiving care continues to have eligible care needs where the Council has a continuing responsibility to fund or arrange such care.

18. Refusing an application

18.1 The Council can refuse a request for deferred payment. In such circumstances the decision will be notified in writing to the person and/or their personal representative. The decision notice will set out the grounds for refusal and provide for appeal rights. Reasons for refusing a deferred payment can include:

- There is insufficient equity in the property to fund the deferred payment
- The applicant or their representative has failed to provide all of the relevant information to process the application

- The Council is unable to place a legal charge on the property which would secure the deferred payment

19. Review and Appeals procedure

19.1 Any decision on the outcome of an application for a deferred payment can be reviewed. The grounds for review could include:

- The decision to refuse the application failed to take into account any new information which may have led to a different the decision.
- There are eligible care costs which the Council have failed to take into account

19.2 Requests for a review should be made within 20 working days of being notified of the outcome of the application for a Deferred Payment Agreement. Such requests should be in writing, should set out the grounds for the review request and should be addressed to the officer who issued the decision notice.

19.3 If the person is dissatisfied with the outcome of the review, they can then appeal within 20 working days of being notified of the outcome of the review. Such appeals should be in writing, should set out the grounds for the appeal and should be addressed to the Head of Finance.

20. Information and advice

20.1 The Council will provide advice and information about deferred payments through a variety of channels; for example the Councils website or leaflets. Information and advice will be provided during the 12 week property disregard period and at other stages during the care and financial assessment process.

20.2 Advice and information also includes financial advice. Under the Care Act all local authorities are required to ensure that people have access to independent financial advice. The Council will ensure that all applicants receive information so that they should be able to access such independent financial advice.

Structure of Charges

Arrangement Fees for Care Services

Regulations and Statutory Guidance:

The Care and Support Statutory Guidance, Section 8 covers Charging and Financial Assessment with Paragraphs 8.57 to 8.63 containing more details about how the administration charge should be constructed and applied.

The guidance states that the arrangement fees may be averaged to give a simple flat rate. However, the fee must be level with, or less than, the costs incurred by the authority in providing the service. The fee can include the costs of negotiating with providers, contract management and administration costs incurred.

The table below sets out the proposed charge and the basis of the calculation. This fee will become part of the annual fees and charges report considered by Members as part of setting the following years budget. This fee will next be reviewed for April 2016.

VAT charges have been excluded from the calculation (it is expected these professional services would be liable for VAT at the standard rate).

	Value (£)	Ref	Part Year Charge?
First Year Charges:			
Paying invoices to the provider (annual)	48.00	1	1/12 th payable per month or any part there of
Invoicing the client (annual)	57.00	1	
Care management support (one off)	155.00	2	Payable in full for any length of scheme
Total	260.00		
Charges in subsequent years:			
Paying invoices to the provider (annual)	48.00	1	1/12 th payable per month or any part there of
Invoicing the client (annual)	57.00	1	
Care management support	89.00	2	Payable in full for any length of scheme
Total	194.00		
Other Charges:			
It is not anticipated there would be additional fees, however, if fees were not paid then court costs may be incurred, these would be charged in full (potentially with the addition of County Court Judgement interest charges).			

References:

1. This is the estimated cost of raising, printing, posting and collecting invoices raised (client contributions) or processing and paying invoices received (supplier invoices).
2. The care management fees looks at the cost of supporting the individual/representative to find appropriate accommodation, brokering the

placement, contract management, staff time to set the individual up on the various systems, raise the orders, printing and posting the contract and other relevant paperwork, including on-costs and management recharges apportionment (total staff time estimated at 3.5 hours, and 2 hours for a review).

Fees for Deferred Payments

Regulations and Statutory Guidance:

The Care and Support (Deferred Payment) Regulations 2014, Section 10 deals with Administration Charges. The Care and Support Statutory Guidance, Section 9 covers Deferred Payments with Paragraphs 9.65 to 9.73 containing more details about how the interest rate and administration charge should be applied.

The regulations and guidance imply that only the 'administration' elements of the charges may be averaged, with property specific actual costs being applied as appropriate (authorities must publish guide prices). The Statutory Guidance goes further in stating that fees should be accrued (and deferred) as they are incurred, implying that an upfront fee to cover the average cost of the scheme is not an option.

This implies that an averaged or actual fee applied annually in arrears would be appropriate and interest could then be incurred on that fee if the individual wished to defer it. The IT system is being enhanced to support these new requirements.

The table below sets out the proposed charge and the basis of the calculation. This fee will become part of the annual fees and charges report considered by Members as part of setting the following years budget. This fee will next be reviewed for April 2016.

VAT charges have been excluded from the calculation (it is expected these professional services would be liable for VAT at the standard rate). The fees set out below also exclude any disbursements (Ref 4) which will be recharged at cost.

	Value (£)	Ref	Part Year Charge?
First Year Charges:			
Legal costs of placing a charge on the property (one off)	360.00	1	Payable in full for any length of scheme
Managing the Account	105.00	2	1/12th payable per month or any part there of
Care management support (one off)	290.00	3	Payable in full for any length of scheme
Total (including Brokerage)	755.00		
Total (excluding Brokerage)	600.00	4	
Charges in subsequent years:			
Managing the Account	105.00	2	1/12th payable per month or any part there of
Care management support	156.00	3	
Total (including Brokerage)	261.00		
Total (excluding Brokerage)	172.00	4	

Other Charges:		5	
Disbursements at cost; Removal of Charge at land Registry - £65.			

References:

1. This is the estimated average cost provided by Legal Services. It includes the costs of staff time in placing the charge; collecting official copy documents from Land Registry, Legal Services time in drafting the paperwork, postage, printing, bank charges and the
2. This is the estimated cost of managing the DPA account which includes production and despatching of statements; raising, printing, posting and collecting invoices raised (client contributions) or processing and paying invoices received (supplier invoices).
3. The care management fees looks at the cost of supporting the individual/representative to find appropriate accommodation, brokering the placement, contract management, staff time to set the individual up on the various systems, raise the orders, printing and posting the contract and other relevant paperwork, including on-costs and management recharges apportionment (total staff time estimated at 3.5 hours, or 2 hours for a review) It also includes the costs of determining eligibility for a DPA and ascertaining all the relevant details about a property (total staff time estimated at 3 hours, or 1.5 hours for a review) [*compliant with Section 10, 4, a, of the Legislation, shown at the end of the document*].
4. A deduction equal to the set up and ongoing charge for care management support as shown in “Arrangement Fees for Care Services” would not be chargeable if a DPA customer chose to arrange their own care services.
5. Disbursements may include (but are not limited) to:
 - a. Land Registry Search fees (typically £6-£12);
 - b. Registering a legal charge with the Land Registry against the title of the property (typically £40);
 - c. Removing a legal charge with the Land Registry against the title of the property (£65 Legal Services charge only);
 - d. Cost of professional valuation of a property if required (typically around £450);
 - e. Building or structural survey;
 - f. Insurance (if arranging on customers behalf)

Detail from the Legislation:

10 Administration costs⁶

- (1) The local authority may charge the adult its administration costs in accordance with paragraph (3) or (4) provided that it informs the adult that it proposes to do so,

⁶

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/376204/2903119_Care_Act_Negative_Regulations_Master.pdf (page 40)

- before entering into the agreement, and complies with sub-paragraphs (a) to (c) of paragraph (5).
- (2) The administration costs may be treated in the same way as the adult's deferred amount, unless the adult requests to pay them separately.
 - (3) In this paragraph the administration costs are the total of any costs incurred by the authority in relation to the adult's deferred payment agreement including but not limited to:
 - (a) the costs of postage, printing and photocopying;
 - (b) the costs of time spent by persons in relation to the agreement;
 - (c) the costs of overheads, such as computer equipment and utility charges (to the extent that they are not already included in the costs of time spent by persons in relation to the agreement);
 - (d) the costs incurred for the purpose of ascertaining the value of the adequate security;
 - (e) the costs incurred in registering the charge on the land or land charges register;
 - (f) the costs incurred in perfecting the security obtained in respect of the deferred amount;
 - (g) the costs incurred in discharging or redeeming the security obtained in respect of the deferred amount; and
 - (h) the costs which are incurred by the authority for the purpose of ensuring compliance by the parties of the terms and conditions in the agreement.
 - (4) In this paragraph the administration costs are:
 - (a) the average cost to the local authority incurred in relation to deferred payment agreements generally, having regard to the costs and fees referred to in sub-paragraphs (a) to (c) of paragraph (3), and for these purposes the local authority may provide for different average costs for different situations;
 - (b) the costs incurred for the purpose of ascertaining the value of the adequate security;
 - (c) the costs incurred in registering the charge on the land or land charges register;
 - (d) the costs incurred in perfecting the security obtained in respect of the deferred amount;
 - (e) the costs incurred in discharging or redeeming the security obtained in respect of the deferred amount; and
 - (f) the costs which are incurred by the authority for the purpose of ensuring compliance by the parties of its terms and conditions.
 - (5) But the local authority must:
 - (a) before entering into the agreement, give the adult an estimate of the amount of any charge it envisages levying in respect of making the agreement and registering any charge;
 - (b) before entering into the agreement give the adult an indication of its current charges for, and the matters in respect of which, it considers it may impose a charge under the agreement and information to enable the adult to ascertain the charges if they change during the period during which the agreement is in force;
 - (c) before requesting payment of any charge, or treating it in the same way as the deferred amount, provide the adult with a statement which sets out the amount of the charge:
 - (i) which, in a case where the administration costs are calculated in accordance with paragraph (3), is attributable to each of the items referred to in paragraph (3); or
 - (ii) which, in a case where the costs are calculated in accordance with paragraph 4, is attributable to the costs referred to in paragraph (4)(a) and each of the items referred to in sub-paragraphs (b) to (f) of that paragraph.