Brent	**Cabinet** 24 September 2015 **Report from Strategic Director, Adults**
For Action	Wards Affected: ALL
Deferred Payment Agreement Policy	

1.0 Summary

1.1 This report sets out the amendments to Brent's Deferred Payment Agreement Policy following the introduction of the Care Act.

1.2 A Deferred Payment Agreement is where a person can 'defer' or delay paying the costs of their care and support until a later date, so they do not have to sell their home at a point of crisis.

1.3 The Care Act 2014 introduces the requirement for all Councils to offer a Deferred Payment Scheme to people who meet the eligibility criteria for the scheme from 1 April 2015. Prior to the introduction of this Act, local authorities were able to offer deferred payment agreements on a non mandatory basis.

2.0 Recommendation

2.1 Cabinet are asked to approve the amendments to the Deferred Payment Agreement Policy, specifically the administration charge; interest rate and discretionary elements of the proposal.

3.0 Background

3.1 The changes to the Care Act were due to be implemented in two stages. The first stage came into force in April 2015 and centres on changes to the assessment and eligibility criteria; carers support and deferred payment agreements. This report focuses on the changes needed to Brent’s Deferred Payment Policy Agreement. The second stage has recently been delayed to 2020.

3.2 The main aim of the deferred payment scheme is to ensure that service users have a viable alternative to selling their properties to fund their care needs. This promotes greater choice for individuals when assessing how to address their care needs and extends their level of independence for as long as possible.

3.3 Sections 34 and 35 of the Care Act introduce a Universal Deferred Payment Scheme, which came into force on 1st April 2015. From April 2015 service users entering a care home setting the Act states that individuals will not be required to sell their home in their lifetime to pay for their care and support costs as long as they qualify for a Deferred Payment Agreement.

3.4 The Care Act now allows the Council to recoup its administration costs for arranging any on-going expenses associated with managing the deferred payment agreement.

3.5 The Council can also charge for additional costs annually incurred during or at the end of agreement including costs associated with the revaluation of the property, costs of providing statements, removing legal charges and other costs associated with the deferred payment agreement.

3.6 The Care Act now also allows the Council to charge interest on the deferred payment amount. Interest rate charges can go up to, but can not exceed the amount as set by the Government. This maximum rate is fixed for periods of six months, and any changes announced will be effective on 1 January and 1 July as applicable. The Council will only charge the interest rate inline with the rates set by the Government.

4.0 Current Deferred Payment Agreement Policy

4.1 Brent’s current Policy already reflects the broader principles of the Care Acts Deferred Payment Agreement Policy.

4.2 There were 5 Deferred Payment Agreements in place as of 2014/15.

4.4 The oldest DPA has been in place since September 2007.

4.5 The largest debt is currently £166,876.26, with the total debt being £562,065.30. Please note the combined total of this debt will increase by approximately £9000 per month whilst each DPA is still ongoing.

4.6 There have been 5 Deferred Payment Agreements requested so far in 2015/16.

4.7 It has been projected that there will be 12 DPA’s for 2015/16, resulting in an approximate monthly debt of £1795. The potential future return is dependent on the length of time the agreement is for, as this would have an impact on the annual charge and the interest rate chargeable.

5.0 Proposed changes to the policy

5.1 The proposed changes to the policy are outlined below. It is important to note that the changes do not alter the underpinning principle of national guidance and Brent’s current policy.

5.2 The proposed amendments to the current policy are:

5.2.1 The initial administration charge will be set at £1120, which will be reviewed yearly.

5.2.2 The ongoing annual administration charge will be set at £144, which will be reviewed yearly.

5.2.3 The interest rate charged is based on the cost of government borrowing – more formally, the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year (January and July) in their Economic and Fiscal Outlook report. This is currently 2.25%, but will be reviewed in January 2016 and the policy amended accordingly.

5.2.4 The Council will have the discretion to extend the Deferred Payment Agreement to people other than in residential care where the Council deems their needs could be met in a Care Home but an individual chooses to remain in their own home.

5.3 The main impact of these changes will be as follows:

5.3.1 There will be a national criteria providing transparency to Service Users;

5.3.2 To ensure that those who have been assessed as needing care may not need to sell their home to pay for their care costs;

5.3.3 That those who can afford to pay a contribution continue to do so;

5.3.4 To ensure that residents are fully informed about deferred payments and care funding options.

6.0 Financial Implications

6.1 In the early years of the scheme a net cash outflow is expected as debts will not start to be repaid until later years. However, this is not expected to impact the revenue budget as these amounts will be held as long term debts. It is possible that there may be future potential revenue impacts where debts may need to be written off, however this represents a low risk given the security and limit that can be deferred and processes will be in place to ensure that the ratio to debt valuation is reviewed regularly and that costs are secured where there is sufficient value in the property to recover such costs.

6.2 The ongoing revenue costs of managing the scheme are expected to be cost neutral, by way of the charging process, although Councils can only charge to fully recover costs and cannot make a profit from these activities. In the light of the overall financial position over the term of the MTFS it will be necessary to keep these costs under review to ensure that costs are recovered as appropriate.

7.0 Legal

7.1 The Care and Support (Deferred Payment) Regulations 2014 require local authorities to offer a deferred payment in respect of the costs of care where (a) the adult's needs s are to be met by the provision of residential care following an assessment of needs under the Care Act 2014. (b) the adult has less than £23,250 in assets excluding the value of their home (i.e. in savings and other non-housing assets); and (c) whose home is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support (i.e. someone whose home is taken into account in the local authority financial assessment and so might need to be sold).

7.2 A local authority is however only required to enter into a deferred payment agreement with an adult for amounts due from the adult to the authority under the local authority's power to charge for services set out in s14 of the Act for costs of care and support; the provision of which the local authority considers to be necessary to meet the adult's needs.

7.3 A local authority is also permitted to enter into a deferred payment agreement under the Regulations in respect of placements for adults in supported living placements, but this is discretionary and not mandatory.

7.4 In terms of adequate security for the agreement, the Regulations require a legal charge for the agreements that are required by the Regulations and refer to acceptance of other adequate security for discretionary agreements.

8.0 Diversity Implications

8.1 A predictive EA has been completed and is attached. The key points to note are that this updates an existing policy, primarily by introducing fees to cover the cost of the service. The policy itself provides choice about how to pay for care home fees if you own a home by offering people an alternative to selling their home.

8.2 The key impact is on people with a disability, or in this case people with a significant disability where residential or nursing care is thought to be the best way to manage their social care needs.

8.3 It is difficult at this point in time to make further judgements about the impact on other protected characteristics because the council does not currently hold data on home ownership in relation to people in a care home.

8.4 However, as part of implementing this policy the council will ensure that this data is collected for analysis of the policy impact in future. There are significant limitations on any changes that can be made to the policy as a result of this analysis, but it, may, for example, indicate that there is a need to better promote the scheme with specific communities.

Background Papers
Deferred Payments Policy

Contact officer: Phil.Porter@brent.gov.uk

PHIL PORTER
Strategic Director, Adults