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| MIDDLESBROUGH COUNCIL |  |
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| Report of: | Director of Finance and Transformation (S151 Officer) |
| Relevant Executive Member: | Executive Member for Finance and Executive Member of Adult Social Care |
| Submitted to: | Executive |
| Date: | 30 April 2025 |
| Title: | Interim Funding Arrangement Policy |
| Report for: | Decision |
| Status: | Public |
| Council priority: | Plan Delivering Best Value |
| Key decision: | Yes |
| Why: | Decision(s) will have a significant impact in two or more wards |
| Subject to call in?: | Yes |
| Why: | Non urgent report |

Executive summary

The Council has a duty of care to residents who move into residential accommodation through Statutory Guidance issued under the Care Act 2014.

As part of this Act, Section 18 confirms that Council's must make arrangements for residents who require residential care, but do not have the mental capacity to make such arrangements for themselves and there is no other person currently authorised to do so under the Mental Capacity Act 2005.

This policy sets out both the legal and regulatory context of how Middlesbrough Council will support residents who cannot enter into a Deferred Payment Agreement (DPA) themselves and do not have a financial representative who can legally enter into such an agreement on their behalf.

The policy will support the resident with payment of any care home fees due whilst they are unable to manage the payments themselves. The policy provides assurances to the resident whilst an application is made to the Court of Protection for another person to become their financial Deputy and also secures repayment of any Care homes fees charged by the residential accommodation until a DPA can be put in place.

As financial deputyship is administered by the Court of Protection, the Council has no authority as to when such orders will be granted which, in some cases can run into a number of years and in some instances may not be granted.

The policy is reviewed periodically and subject to a full review every 3 years. This is necessary to ensure that the policy reflects any changes in legislation and also includes any required amendments or alterations.

Executive are being asked to approve the Interim Funding Arrangement Policy with effect from 7 May 2025.

1. Purpose

- 1.1 To approve the Interim Funding Arrangement Policy which will enable the Council to secure repayment of the short-term loan provided in respect of residential care fees whilst providing assurances to the resident that their care home fees are being fully covered.

2. Recommendations

- 2.1 That the Executive approves the Interim Funding Arrangement Policy to take effect from 7 May 2025.
- 2.2 Provides delegated authority to the Director of Adult Social Care and Director of Finance and Transformation in consultation with the Executive Member of Adult Social Care and Executive Member for Finance to make any future minor revisions / modifications to reflect the financial / economic climate and / or statutory guidance changes.

3. Rationale for the recommended decision(s)

- 3.1 The policy is a key decision that will impact on two or more wards and as such requires Executive approval.
- 3.2 The policy upholds good practice within democratic processes and provides residents with a clear understanding of how short-term funding can be provided to support those in residential care who lack mental capacity to deal with their financial affairs.
- 3.3 The policy will result in no changes to the support provided, however will further strengthen current working arrangements should any queries arise in respect of any financial support available.
- 3.4 The policy provides clarification to residents, and those applying to become their financial Deputy, with simplified and clear details of their financial responsibilities and the support that may be available from Middlesbrough Council.
- 3.5 As the policy will be a working document, it is recommended that delegated authority to the Director of Adult Social Care and Director of Finance and Transformation in

consultation with the Executive Member of Adult Social Care and Executive Member for Finance be given to approve future minor modifications to the policy to maintain service operation levels. Failure to keep pace with new legislation or working practices leaves the Council at risk and can result in inconsistent practices.

- 3.6 Until this Policy has been formally implemented, special arrangements are being utilised to secure the repayment of debts for residential care. Once the Policy is in place, the special arrangements will end. Those with special arrangements in place will be contacted in respect of moving to Interim Funding Arrangements, as per the Policy. There is no consequential financial impact on residents following the change from special arrangements to Policy.

4. Background and relevant information

- 4.1 Central Government provide Local Authorities with statutory guidance issued under the Care Act 2014 in respect of a single legal framework for charging for care and support under sections 14 and 17. The Act is supported by the Care and Support Regulations (Statutory Instruments) and Care and Support Guidance and Annexes issued under the Care Act 2014 which Local Authorities must follow when charging individuals for their care and support needs.
- 4.2 In the majority of instances, residents who require residential care are able to manage their own affairs or alternatively, have someone who can legally act on their behalf. In these situations, if someone is unable to pay the required fees for their care, they routinely enter into a DPA which secures payment of their care home fees moving forward. However, there are some instances when residents lack the mental capacity to act for themselves and do not have someone legally appointed to act on their behalf.
- 4.3 In such circumstances, the Council is required to put alternative funding arrangements in place to support these individuals.
- 4.4 By implementing this Policy, this will provide short-term funding where a person's ability to pay for care is based upon their capital, such as a property, and where they are unable to enter into a DPA or access appropriate funds. This Policy will only apply if someone lacks mental capacity, and another person is applying to become their financial Deputy for them.
- 4.5 The Policy sets out the procedures for accessing interim funding from the Council i.e. what the Council will do and the obligations of the person applying to be a financial Deputy.
- 4.6 As well as providing support to vulnerable residents it also strengthens the Council's financial position by securing repayment of any care fees charged to a resident at the earliest opportunity until a DPA can be put in place.

5. Other potential alternative(s) and why these have not been recommended

- 5.1 The Council does have the option not to implement this Policy. However, by doing so this would have a negative impact on Council as the Council would not be in a position to recover care home fees, apply interest or charge the administrative costs associated with these arrangements.
- 5.2 Under the Care Act, the Council has a duty to provide support to residents who are required to go into a care home, including paying care home fees where a resident is unable to access funds. If this Policy was not implemented, the Council would not have the financial assurance of an Interim Funding Arrangement to secure payment of large debts.

6. Impact(s) of the recommended decision(s)

| Topic | Impact |
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| Financial (including procurement and Social Value) | <p>The introduction of the policy would formalise current arrangements and protect the Council's financial interests in securing repayment of care home fees paid at the earliest opportunity. There are no procurement or social value impacts from this report.</p> <p>For interim funding arrangements, payment rates and interest charges will be applied at the same levels as those set bi-annually by the government in January and July for deferred payments. Compound interest will be charged on a daily basis, and an initial one-off administration fee will be payable upon entering into the agreement, the current rate of which for 2025/26 is £434. This fee will increase annually in line with CPI. Details of charges will be published on the Council's website and will form part of the Interim Funding Agreement.</p> |
| Legal | <p>Under the Care Act 2014 the Council has a duty to support residents providing care including where there is a lack of access to funding. Middlesbrough Council has designed an Interim Funding Arrangement Policy to assist residents who need support but are unable to access funds to pay for this. There are no other legal implications around this policy.</p> |
| Risk | <p>A comprehensive policy ensures the Council is not left open to challenge. Through implementing this policy, it also ensures that there is adequate governance in place to comply with all relevant legislation and the Council does not breach governance requirements. In addition, as the policy will be reviewed every 3 years, this will ensure that the Council continues to effectively refresh and amend the scheme to comply with legislative changes.</p> |

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| Human Rights, Public Sector Equality Duty and Community Cohesion | There are no disproportionate adverse impacts on any group or individuals with characteristics protected in UK equity law. An impact assessment has been carried out and is attached to this report. |
| Climate Change / Environmental | There are no disproportionate adverse impacts on the aspirations of the Council to achieve net zero, net carbon neutral or be the lead authority on environmental issues. |
| Children and Young People Cared for by the Authority and Care Leavers | The Interim Funding Arrangement Policy will have no negative impact on children and young people cared for by the authority and care leavers. |
| Data Protection | The collection and use of personal data will be managed in accordance with the council's data protection policy. Data protection Middlesbrough Council |

Actions to be taken to implement the recommended decision(s)

| Action | Responsible Officer | Deadline |
|---|---------------------|-------------|
| The Interim Funding Arrangement Policy will be published on the Council's website | Janette Savage | 16 May 2025 |

Appendices

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| 1 | Interim Funding Arrangement Policy |
| 2 | Impact Assessment |
| 3 | |

Background papers

No background papers were used in the preparation of this report.

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