

The Deferred Payments Agreements Scheme 2015/16 – Accounting Arrangements: Informal Commentary

Section A - Introduction

1. The Care Act 2014 makes it a legal requirement for local authorities in England to offer Deferred Payment Agreements (DPAs) to fund residential care fees for individuals meeting certain eligibility criteria. This was previously a discretionary arrangement. The new legal duties came into force on 1st April 2015.
2. The Care Act does not change the arrangements for any Deferred Payment Agreements already in place (pre – April 2015), but the eventual introduction of the cap on care costs has the potential to increase the number of agreements (i.e. they become more material in local authority accounts). That, however, is not now due to be introduced until 2020 at the earliest. In addition, from a survey undertaken by the Department of Health in 2014, it is clear that local authorities have used differing arrangements to record and provide for their DPAs with individuals.
3. The Department of Health have therefore worked with CIPFA and CIPFA's Local Authority Accounting Panel to provide local authorities with guidance to help them properly reflect DPAs in their accounts. The guidance includes example journal entries (see Section C) and also provides a number of practical operational matters for local authorities to consider (see Appendix A - this Appendix is not intended to provide a full analysis of the operational processes required).

Section B - Background

4. The deferred payment scheme is designed to help those who have the means to pay the full cost of their long term residential care because of the value of their home, but do not have access to that financial resource in the short term. The process is as follows:
 - The local authority will pay the care home provider on behalf of the DPA recipient during the period over which the recipient is in residence in the care home.
 - The local authority will accrue the costs of care provided to the DPA recipient and notify them (or their representative) of the charges raised on a regular basis (eg via a statement). The charges raised for care fees are recognised as income in the authority's comprehensive income and expenditure statement¹ and will accumulate in the authority's balance sheet as a debtor to be settled when the person's home is sold.
 - Interest and administration costs, where applicable, will be charged on the amounts due throughout the period of the arrangement.
5. Up until 31 March 2015, social care authorities were empowered to offer such arrangements within a national framework introduced in 2001, and a Department of Health (DH) survey in 2014 suggested that the vast majority of such authorities had chosen to do so. With effect from 1 April 2015, as part of the Care Act 2014 all 152

¹ In accordance with the Code requirements in section 2.7

social care authorities are obliged to offer such a scheme under revised national arrangements.

6. Under both the previous (pre – April 2015) and new arrangements if the person's property is still occupied, the value of the property is **not** taken into account in terms of the amount that the authority expects the client to pay in cash. For example, by the partner of the person in residential care (note there are specific regulations in respect of property disregards within the Care Act which now subsumes what was previously referred to as CRAG (Charging for Residential Accommodation Guidelines)).
7. The aim of the deferred payment scheme is to help people who don't want to sell their home or find that the sale does not provide funds fast enough to pay for the care charges when they fall due. The process in such cases is:
 - (i) The local authority financially assesses² the amount that the person should pay towards their care as if the agreed value (determined between the individual and the local authority) of their property were immediately available in cash, on the assumption that the property has not been disregarded. Where that value, plus all other income exceeds £23,250, the cost of long term residential care is required to be paid for in full. Should the individual wish, they can choose to live in more expensive accommodation than the local authority would normally fund – this requires what is known as a top-up payment. In these circumstances the local authority will wish to ensure that the value of the individual's assets is sufficient to cover the higher cost of care being provided over a period consistent with the individual's personal circumstances/average length of stays in residential care.
 - (ii) The authority must also establish how much a DPA recipient can pay towards their care on a regular basis through the standard financial assessment process which will take into account both income (e.g. pensions) and "tariff income", a notional income derived from capital that is immediately available – but excluding the wealth represented by their home.
 - (iii) The authority then pays the difference, i.e. (amount in (i) above) less (amount in (ii) above). This difference represents the person's 'deferred contribution'. In legal terms, the deferred contributions become a first* charge on the person's property (the individual or their representative is required to sign a legal charge agreement). The legal charge will be discharged when the property is ultimately sold with the proceeds used to pay off the DPA liability. Note that placing a legal charge for care contributions on properties without a DPA is no longer permitted.

*Note that if there is a mortgage on the person's property, an authority is not required to offer a DPA. However, assuming any net equity is insufficient, the authority may seek alternative forms of adequate security³, e.g. a third-party guarantor; a valuable object such as a painting or an agreement to repay the amount deferred from the proceeds of a life assurance policy (see paragraphs 9.58-9.64 of the Care and Support Statutory Guidance issued under the Care Act 2014).
 - (iv) Where a home is sold whilst the individual is still in residential care, the deferred contributions are repaid from the proceeds and the individual would then, subject to a financial re-assessment become a full cost payer. If the sale takes place

² See paragraph 21 below regarding management judgements

³ Care and Support Statutory Guidance - issued under the Care Act 2014 - Department of Health

after the owner's death, the repayment comes from the estate. The local authority is obliged to ensure as far as possible that the deferred payment will cover the individual's costs, but should the eventual sale proceeds of the asset be insufficient, then the local authority will be required to pay.

- (v) Interest charges:
- (a) Under the old scheme (pre-April 2015) local authorities were not allowed to charge interest on the loan, except when residential care had ended (i.e. the DPA recipient had died or moved out of residential care, possibly into a NHS continuing care scenario where care is free at point of delivery), and then only after 56 days. This was a period designed to give time to sell the property, typically after the death of a property owner who did not wish to sell while alive, or where the individual required NHS care and still did not wish to sell their home.
 - (b) From 1 April 2015, however, authorities are able to charge interest from the start of the deferred payment arrangement. The rate is set locally – up to a maximum identified by the Department of Health, based on the 15-year average gilt yield, as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report. The first interest update communication from the Department of Health, LAC (DH)(2015)3 can be found at the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/435360/LAC_DH_2015_3_acc.pdf
 - (c) Note agreements in place prior to April 2015 are not bound by the new rules on interest charging.
 - (d) Interest is charged (at least annually) on the outstanding balance due by the DPA care recipient in accordance with the rate stipulated in the agreement. The interest charged needs to be confirmed to the DPA recipient in an annual (or bi-annual statement) and the accounting entries processed accordingly. Details in Appendix B, item 5.
 - (e) The interest income is included in the financing and investment income and expenditure line of the Comprehensive Income and Expenditure Statement and charged to the individual's debtor account to be settled at the end of the arrangement.
 - (vi) Administration and legal charges are set by each local authority (on a full cost recovery basis) and should be specified in the DPA at the outset of the arrangement and collected when the deferred contribution is recovered.
 - (vii) Where amounts cannot be recovered from the DPA recipient at the end of the chargeable care period, then normal write off procedures should apply.
8. The above procedures should apply for the financial year 2015/16. The second phase of the Care Act 2014 (possible planned start 1 April 2020) includes the introduction of Care Accounts and the Cap system. Further updates will be issued to reflect the changes when they are confirmed. The following provides a brief summary of these further potential changes:
- Care Accounts could be offered to all individuals who have eligible care needs. The requirement would be to record the cost of the care that the local authority would provide, minus daily living costs (not how much the individual has actually paid). When and if that sum totals £72,000 (the amount currently under consideration), which is the Cap, then the local authority

would be responsible for funding care to the level it would ordinarily provide. Hence this could impact on individuals holding a DPA.

- Daily living costs such as food and lighting (currently estimated at £230 per week) would not be counted toward the care Cap, as these are general living costs that are payable regardless of whether an individual is in care. Therefore, these costs would be paid by the DPA recipient in addition to the £72,000 care Cap.

Section C - Accounting Requirements

9. As with any form of deferred payment, the deferral of payments outlined above creates a loan transaction, in this case between a local authority and a DPA recipient, with the loan being charged against the value of a DPA recipient's assets. Both parties will agree to the terms of the arrangement prior to its commencement.
10. The Care Act permits authorities to make an interest charge on the amount of the DPA loan. However, the interest rate charged cannot exceed the 15-year average gilt yield rate (as specified in legislation⁴).
11. The CIPFA Local Authority Accounting Panel (LAAP) is of the view that where the rate of interest charged on the DPA Loan balance is consistent with the maximum specified in legislation, the loan is not a 'soft loan'⁵, as the authority can only charge interest up to the statutorily specified amount. This view is consistent with guidance provided in the 2014/15 Code Guidance Notes based on the decision taken by LAAP in paragraph A21 of Module 7 (in relation to loans provided by authorities at below the prevailing rate of interest).
12. If an authority has decided to charge a rate of interest that is below the statutorily prescribed maximum (i.e. the 15-year average gilt yield), the authority will need to establish whether it is entering into a soft loan arrangement. The accounting requirements for the treatment of 'soft loans' provided at less than the rate allowed by legislation, is provided in section 7.1.4 of the 2015/16 Code of Practice on Local Authority Accounting in the United Kingdom (the Code). Further guidance is available in Module 7, paragraphs A17-A22 of the Code Guidance Notes⁶. Consideration will need to be given to the materiality of the transactions. This need for consideration of whether these loans should be treated as 'soft loans' is because the authority has elected not to charge the statutorily prescribed maximum and so has chosen not to maximise their interest income, as permitted under the legislation. The authority is effectively providing a benefit to the DPA recipient. However, the specifications of whether or not it is a soft loan would need to follow the normal requirements of the Code.
13. As the arrangements for these transactions are the deferring of payments from DPA recipients, where the time value of money is material, the amounts will need to be adjusted to reflect their net present value. However on the basis that the average length of stay in a residential home is less than 2 years; the deferral period is likely to be relatively short and the deferral of the payments may not have a material impact for local authorities. Local authorities will need to ensure they are meeting the requirements of the Code when making these assessments. However, where in aggregate or due to potential increased volumes of Deferred Payment Agreements

⁴ SOCIAL CARE, ENGLAND - The Care and Support (Deferred Payment) Regulations 2014 [2014 No. 2671]

⁵ i.e. a loan advanced at below the prevailing market rate

⁶ The references to the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom – guidance notes for practitioners – refer to the latest published 2014/15 version

the amounts are material, authorities will need to follow the accounting requirements of paragraph 2.7.2.6 of the Code which states that:

If payment is on deferred terms (i.e. beyond normal credit terms); the consideration receivable is recognised initially at the cash price equivalent (that is, the discounted amount). The difference between this amount and the total payments received is recognised as interest revenue in Surplus or Deficit on the Provision of Services.

14. For further assistance in this area, authorities may wish to refer to the guidance in the following sections of the 2014/15 Code Guidance Notes guidance:
 - Module 2, Section G-Revenue Recognition, in particular paragraph G12;
 - Module 5, paragraphs C6-C11, and
 - The example in paragraph B18 of Module 5 which provides an example of discounting revenue by illustrating the recognition and measurement of contract revenues which are billed over a 3 year period.

Example accounting entries for the Deferred Payments Agreements Scheme

15. Following successful application for a residential care placement under the DPA scheme, the authority will commence charging the DPA recipient in accordance with the agreed amount that the person should pay towards the cost of their care, as set out in paragraph 6 (i) – (iii) above.
16. To assist authorities with the accounting for the DPA scheme, the following example journal entries are provided (these are also set out in tabular format in Appendix B below).
17. It is important to note that the example does not consider the time value of money. The example also assumes that an impairment provision is not required for the deferred payment due. Where debtors are considered to be impaired, practitioners may wish to refer to the guidance in Module 8, paragraphs B47 to B51 of the Code Guidance Notes. However, if an unplanned shortfall arises at the end of the arrangement, the shortfall will be written off to the relevant service in the Comprehensive Income and Expenditure Statement.
18. The example assumes that authorities are charging an interest rate that is consistent with the maximum allowed in legislation. See the discussion in relation to 'Soft loans' in paragraphs 10-12 above.

Transactions during life of the Deferred Payments Arrangement:

		Dr	Cr
Dr	Adult Social Care - Residential care placements	1,000	
Cr	Cash/Creditors		1,000
<i>Being residential care fees paid to provider, charged to Adult Social Care cost of services</i>			

		Dr	Cr
Dr	Debtors	1,000	
Cr	Adult Social Care - Income (Customer and client receipts)		1,000
<i>Being the charges raised for Care fees (to be settled at the end of the DPA period)</i>			

		Dr	Cr
Dr	Adult Social Care - Other services to older people	100	
Cr	Cash/Creditors		100
<i>Being direct administration and legal costs relating to the deferred payment agreement and other services provided to the care recipient, charged to cost of services</i>			

		Dr	Cr
Dr	Debtors	100	
Cr	Adult Social Care - Income (Customer and client receipts)		100
<i>To invoice the care recipient for direct administration and legal costs relating to the deferred payment agreement and other services provided to the care recipient</i>			

		Dr	Cr
Dr	Debtors	10	
Cr	Interest income - financing and investment income & expenditure		10
<i>Being compound interest charges on deferred payment balance - calculated in line with the amount specified in legislation (Interest will compound over the life of the DPA)</i>			

		Dr	Cr
Dr	Cash	250	
Cr	Debtors		250
<i>Being amounts received from individual from current sources of income (e.g. pension)</i>			

Maturity payments:

		Dr	Cr
Dr	Cash	860	
Cr	Debtors		860

Being settlement of deferred amounts due at the end of the arrangement - representing balance of Care fees £750; Legal and admin charges £100 and Interest £10

DISCLAIMER

Please note that the guidance offered by this Informal Commentary should not be taken as an authoritative interpretation of the law and should not be considered as constituting a definition of proper accounting practice.

This Informal Commentary is intended to assist practitioners with the application of the requirements of the *Code of Practice on Local Authority Accounting in the United Kingdom* (the Code). The Informal Commentary is intended to be best practice, but is not prescriptive and does not have the formal status of the Code. All reasonable care is exercised in preparing the Informal Commentary. However, accounts preparers should always refer to the primary sources before relying on this guidance and check any interpretation of published guidance with their own professional advisors.

Financial Administration of the DPA Scheme

Operational Processes

19. The following general guidance is provided for local authorities to consider in terms of managing the process for the provision of and accounting for DPAs. There is a reasonable likelihood that DPA applications are processed in a different part of the authority to the team(s) responsible for Financial Assessment (including Charging Policy), Accounting, Debt management and Treasury management. Whatever operational structure is in place, there is a need to ensure that all relevant teams within the authority are involved in the administration scheme at the required stages and are fully conversant with their respective roles, as set out in the following paragraphs.

DPA Processing

20. The DPA Processing team will be at the front end of providing the service to individuals and will be involved in setting up the legal agreement for placing a legal charge on the property, confirming the charges (DPA interest, legal and administration costs) and probably updating either the DPA monitoring system or the client data system if this is integral. This system may or may not also interface directly with the local authority's general ledger accounting system, either way the data needs to be reflected in the accounting system and most importantly, these staff will need to understand the accounting and coding requirements for each element of the DPA, hence the link with the Accounting team.
21. The team should be monitoring the growing debt against the value of the individual's property asset (which will need to be reviewed bi-annually) and confirm the level of debt and interest accrued – possibly at the end of September and March each year. This information needs to be shared with both the Accounting and Debt Management teams to ensure debt risks are minimised.
22. Discussion with the Accounting team in respect of total cost of service provision is also required, as charges for administration and legal services are expected to be based on a full cost recovery model. Although local authorities are not permitted to profit from the provision of this service, they will need to ensure that they fully recover their costs and may wish to refer to the Definition of Total Cost in Section 2 of the CIPFA *Service Reporting Code of Practice* (SeRCOP) for further assistance in this area. The DPA Processing team will also need to inform the Accounting team about the interest charges raised and which need to be reflected in the local authority's accounts. Where the amounts are material, the Code⁷ requires that the judgements that management have made in applying the authority's accounting policies should be disclosed in the summary of significant accounting policies or otherwise in a note to the accounts.

⁷ Paragraph 3.4.2.81 of the CIPFA Code of Practice on Local Authority Accounting in the United Kingdom

Financial Assessment (including Charging Policy)

23. The Financial Assessment team may be closely linked with the DPA processing staff and will carry out the financial assessment for the individual wishing to take up a DPA. The Financial Assessment team will confirm the amount that the individual DPA recipient is required to pay from their cash based resources as well as the amount to be deferred. If the local authority is a "net" payer to the residential care provider (i.e. the individual pays their assessed financial contribution directly to the provider with the local authority paying the net balance) then this information must be communicated to the residential home provider. This data needs to be correctly recorded in the DPA monitoring system or the client data system if this is integral. The same issue of using the correct accounting codes apply, so it may be the Financial Assessment team that liaises with the Accounting team.
24. In respect of the Charging Policy, local authorities need to be aware of the requirement to review DPA interest rates bi-annually (1 January and 1 July – the Treasury have set these dates) and that the maximum rate should be no higher than that published by the Office for Budget Responsibility. Reference should be made to the following Local Government Association Care and Support help sheet to ensure compliance:

http://www.local.gov.uk/care-support-reform/-/journal_content/56/10180/6759942/ARTICLE

Further details are available in the Care Act Guidelines, section 9.

Financial Accounting

25. The Accounting team will need to be familiar with the accounting requirements for DPA's (see the example journals above) and that they have the appropriate accounting codes set up to deal with the DPA financial transactions. These need to be communicated to the operational teams.

Debt Management

26. The Debt Management team needs to be aware of the number of individuals taking up the option of a DPA, as the level of overall Council debt will undoubtedly increase. The nature of the debt, where there is a legal charge placed upon the property, is likely to mean that the level of risk to the local authority is relatively low. However, the level of debt needs to be regularly monitored against the value of the individual's asset.
27. Should cases arise where the asset is unable to cover the full cost of the debt, then the individual will need to be financially re-assessed on their reduced level of resources.
28. When the second phase of the Care Act is implemented and when subsequently some individuals reach the Care Account Cap (see paragraph 8 above) it is important to recognise that the individual will still be responsible for covering the cost of their daily living costs including any care home fee top-ups. This will be

covered in full in the updated DPA Accounting Arrangements statement when final regulations and guidelines have been confirmed.

Treasury Management

29. The DPA Processing team should keep both the Treasury Management and Accounting teams informed of the DPA scheme, in particular in relation to the total level of increased debt resulting from DPAs, including the amount of interest charged by the local authority. The DPA Processing team may be required to consult the Treasury Management team regarding, for example, the calculation of interest charges and, where the amounts are considered material, to discount the deferred payments to their net present value (i.e. to reflect the delay in receipt of cash from DPA recipients).

Legislation

Below are the links to relevant pieces of Care Act legislation:

DPA regulations <http://www.legislation.gov.uk/uksi/2014/2671/contents/made>

And the Charging regulations <http://www.legislation.gov.uk/uksi/2014/2672/contents/made>

Statutory guidance, DPA details are in chapter 9 and the charging guidance is chapter 8
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/366104/43380_23902777_Care_Act_Book.pdf

