

12 WEEK PROPERTY DISREGARD PERIOD AND THE DEFERRED PAYMENT AGREEMENT

Information Pack for our service users and their families or representatives

What is the 12 week Property Disregard Period?

If you have been in residential or nursing care and paying for your care fees without any assistance from the Council, regardless of the amount of capital you may have had during this period, you may not be entitled to all or any of the 12 week property disregard period.

However, there are certain circumstances, when this may be considered, for example there may be a sudden and unexpected change in your financial circumstances. The Council will consider each case on its own merits.

The Council will disregard the value of your property which was your former main or normal residence, for the first 12 weeks of your permanent residential or nursing care placement. If your stay was initially temporary the 12 weeks starts from the date it is decided your care is permanent. If your property is sold within this 12-week period, the Council will take into account the money you receive from the sale as capital and you will be expected to pay the full cost of your care.

Although the value of your property is disregarded during this time, you will still be required to complete a 'Financial Assessment' this is to establish what you can afford to contribute towards your care costs from your income and other savings.

The financial assessment is means tested and is a statutory requirement as it is expected that everyone will pay towards their care. The assessment is carried out in line with the Department of Health Guidance 'Care and Support Statutory Guidance,' for further information please visit www.gov.uk

In addition to completing the financial assessment the Council will also check to ensure that you are receiving all the financial benefits that you may be entitled to, and will assist you to claim any benefits not in payment.

Before the end of this 12 week period, you will be asked to confirm if you would like to be considered for the Deferred Payment Agreement (please see below), as the initial contract with the home will cease at the end of the 12 weeks.

Choice of Accommodation & Top Ups

In some cases, a person may actively choose a setting that is more expensive than the amount identified for the provision of the accommodation as they have been assessed to meet their care and support needs. Where someone chooses a setting that costs more than this, an arrangement will need to be made as to how the difference will be met. This is known as an additional cost or 'top-up' payment and is the difference between the amount identified that would meet their care and support needs and the actual cost.

In such cases, the local authority must arrange for them to be placed there, provided a third party, or in certain circumstances the person in need of care and support, is willing and able to meet the additional cost.

First party 'top ups'

The person whose needs are to be met by the accommodation may themselves choose to make a 'top-up' payment only in the following circumstances:

- where they are subject to a 12-week property disregard (as explained above)
- where they have a deferred payment agreement in place with the local authority. Where this is the case, the terms of the agreement should reflect this arrangement.

Providing that:

The local authority must ensure that the person paying the 'top-up' is willing and can afford to meet the additional cost from their savings for the duration of the 12 week property disregard period and/or from their equity within the property the length of the Deferred Payment Agreement.

What is a Deferred Payment Agreement?

A Deferred Payment Agreement is designed for people who own their own home, but either do not wish to or cannot sell it immediately and cannot meet the full cost of their care home fees from their other income or capital. A Deferred Payment Agreement can only apply to the property which was your former main or normal residence.

Effectively, the scheme offers you a loan from Worcestershire County Council using your home as security.

It doesn't work in exactly the same way as a conventional loan - the Council doesn't give you a fixed sum of money when you join the scheme, but pays an agreed part of your weekly bill up to the agreed 'Equity Loan Limit' or until the agreement is terminated.

You pay the part of your weekly charge that you are assessed as being able to afford from your income and savings, and the Council pays the part of your weekly charge that you can't afford until the value of your home is realised.

The part that the Council pays is your **'Deferred Payment'**.

The deferred payments build up as a debt - which is cleared when you have the capital available to clear the debt, this for many people will be done, when they sell their home, either immediately or later on. Any Deferred Payment Agreement would be set up to begin at the beginning of the 13th week of your permanent residential or nursing care placement.

Appendix 5 gives a basic overview of how this process works

How does the agreement work?

If you decide to use the Deferred Payment Agreement Scheme, the Council will carry out preliminary checks to establish, ownership and property value, and then using this information will be able to calculate your share in the property and your **'Equity Loan Limit'** and will advise you how long the equity is likely to last. We will review this on a regular basis, advising you of the accrued debt to date and asking you to confirm if there has been any changes in circumstances.

To see how we do this, please see Appendix 2.

Once this has been established you will be offered a Deferred Payment Agreement, you enter into an agreement with the Council by signing an agreement document. The Council then places what is called a **'legal charge'** on your property to safeguard the loan. This operates as a mortgage on the property.

The agreement document covers both the responsibilities of the Council and your responsibilities, one of which is to make sure that your home is adequately insured and maintained.

You can end the agreement at any time by paying off the outstanding debt under the Deferred Payment arrangements (for example, if you sell your home). The loan also becomes repayable from your estate in the event of your death.

The Council cannot cancel the agreement without your consent.

PLEASE NOTE:

Acceptance of any application under the scheme is at the discretion of the Council and resources to fund the scheme are limited.

Do I have to pay to enter in to a Deferred Payment Agreement?

You will be asked to pay an initial set up administration fee (see Appendix 1 for the current amounts) which will be payable at the time the charge is placed against the property and the Deferred Payment Agreement is entered in to. This fee covers the Council's administration costs, legal costs and disbursements involved in drawing up the agreement, carrying out searches and placing the legal charge against your property. The amount of the administration fee will depend on whether the property is registered or not with Land Registry. An annual fee will then be payable for the duration of the agreement. Compound interest will also be applied to the Deferred Payment, this is set nationally by the Department of Health and is reviewed every six months, usually in July and January of each year. The currently

interest rate can be found at Appendix 1.

In certain circumstances additional costs may also be incurred which will be added to the deferred payment debt, for example, this could be if a specialist valuation is required at any point during the life time of the agreement.

What are the advantages of using the Deferred Payment Agreement?

An advantage of entering into the Deferred Payment Agreement is that you do not have to sell your home in your life time if you do not want to.

You can claim Attendance Allowance from the 13th week of the permanent residential or nursing placement, or, if you are under pensionable age, the care component of Disability Living Allowance or the daily living component of your Personal Independence Payment.

This means that you will have extra income to contribute towards the weekly cost of your care, and will reduce your eventual deferred payments debt.

You should take independent *legal and financial* advice to help you decide which course of action would be financially better for you.

If there is an agreement for a Top Up (sometimes referred to as an Above Banding Supplement) towards your placement and you choose to enter a Deferred Payment Agreement, you can add the cost of this to your overall loan, but only if the Council agrees that there is enough equity in your home.

How do I know if I am eligible for a Deferred Payment Agreement?

In order to be considered for a Deferred Payment Agreement you will need to satisfy the following conditions:

- You have been assessed as requiring 24 hour care and this is to be provided in a care home setting, and
- You own a property which was your former main or only home*, and
- Excluding the value of this home, you have capital less than or equal to the upper capital threshold (see Appendix 1)
- If the Council is unable to disregard the value of your former main or only home, under either mandatory or discretionary disregards, details of when a disregard can be considered can be found in the Council's 'Deferred Payment Agreement Policy' .
- Your loan is able to be secured by way of a legal charge being placed on your property in favour of Worcestershire County Council

**There are different ways that you may own or part own a property, we may need you to provide additional verification. All owners will need to consent to a charge*

If it has been determined that a Deferred Payment Agreement can be considered, any person, such as a tenant living in the property, will also need to consent to a charge being placed on the property.

For more information please read our Deferred Payment Policy:

<https://ylyc.worcestershire.gov.uk/working-out-your-needs/>

Is there a limit to how much I can borrow?

A maximum amount you can borrow will be agreed based on the available equity available in your share of the property.

For the purposes of a Deferred Payment Agreement and the charges incurred under it, the value of your property will be assessed at its current market value, less any mortgage or loan secured on it and less 10% of its value where there would be expenses involved in selling it. The 10% rule is only for calculating the value of a property before its sale (see Appendix 2 for an example of the calculation).

You will be asked to provide an estimate of its current value; the Council will compare this against current market trends within your area. Should there be any discrepancy the Council may ask you to provide a valuation form a recognised Estate Agent.

Once the property has been sold you will be treated as having the actual share of the sale proceeds you receive once any secured debts and the actual expenses of sale have been paid.

Should you decide to rent out your property whilst in a Deferred Payment Agreement, you would be expected to use the rental income to increase the amount that you contribute towards your weekly care home fees, and therefore, reducing the debt accruing with the Council. However, before entering in to any tenancy agreement, you must obtain consent from the Council and can do this by contacting the Care Contribution Assessment Team. The Council will disregard 25% of the gross rental income.

The Care Contribution Assessment Team will ask you to provide verification of the proposed tenancy agreement and rental income.

What if I am acting on behalf of someone else?

If the person receiving care lacks the capacity to make decisions regarding their finances, there must be a legally appointed representative who can make decisions on their behalf.

This must be someone who holds Enduring Power of Attorney, Lasting Power of Attorney (for property and finance) or a Deputy appointed by the Court of Protection,

If you are appointed to act for someone, you will be asked to provide verification of this. Please see Worcestershire County Councils Deferred Payment Agreement Policy for more information.

Where you can get independent advice

Worcestershire County Council strongly recommends that you take independent legal and/or financial advice before you sign the Deferred Payment Agreement documents.

If you need further guidance concerning local authority charging for residential and nursing care, independent advice can be obtained from Citizens Advice Bureaux, charities for older people, solicitors and financial advisors.

Please see Appendix 4 for useful contact details

What happens next?

We would like you to confirm that you have received this information pack.

**Please complete the form at Appendix 3 called:
'Property Information Acknowledgement'**

When we receive this form we will complete some preliminary checks to see if your property can be considered for a Deferred Payment Agreement. We will write to you to confirm either way and if it can be considered we will send you a Deferred Payment Application form.

What if I want to apply for a Deferred Payment Agreement?

If you would like the Council to consider you for a Deferred Payment Agreement, you will need to complete and return the 'Deferred Payment Application Form' and send this to:

Care Contribution Assessment Team

County Hall

Spetchley Road

Worcester

WR5 2NP

***This must be submitted by the end of the fourth week of your stay at the latest.**

What happens when you get my application form?

Should your property be eligible for a Deferred Payment Agreement following the Council's preliminary checks, you will receive a '**Deferred Payment Offer Letter**' outlining your '**Equity Loan Limit**' available to you. In addition we will also send you a formal Deferred Payment Agreement. This is the legal contract between yourself and Worcestershire County Council.

You will receive two copies of the agreement one is for you to retain for your records and the other is to be signed and returned to the Council along with any requested documentation.

It is important that you fully read the agreement including the terms and conditions before signing it.

The following documents must be returned to us within 7 days:

Check list

1. One signed copy of the Deferred Payment Agreement
 2. Evidence of Identify of the property owner
- By way of either ONE item from List A and TWO items from List B as follows:-

List A

- current valid passport
- current photocard driving licence (not provisional licence)
- old style driving licence

List B

- cheque guarantee or credit card supported by an original account statement less than 3 months old
 - Utility bill less than 3 months old (postal statement and not an internet statement)
Council tax bill for current year
Rent account statement or rent book showing rent paid for the last 3 months Mortgage Statement for the current mortgage year (postal statement and not and internet statement)
3. One Copy of the Lasting Power or Attorney/Deputyship
 4. One form of Identification relating to the Power of Attorney/Deputy (as above in point 2)
 5. Copy of death certificate (if appropriate) should the property be owned between the present owner and a deceased partner

These forms should posted back to the following address within 7 days of receipt:

Deferred Payment Agreement Care
Contribution Assessment Team Adult
Services and Health Worcestershire County
Council County Hall, Spetchley Road
Worcester, WR5 2NP

The Council will write to you to confirm once the legal charge has been placed on your property and the Deferred Payment Agreement has started.

Once your agreement is in place, the Council will monitor your accruing loan and will provide you with statements every six months to keep you up to date.

What is the financial assessment and why do I need to complete one?

A financial assessment is a means tested assessment based on your income and savings (excluding the value of your home) to establish what your contribution will be towards your care cost fees.

Whilst we are gathering information to be able to accurately assess how much you will be asked to pay,

you will be charged a provisional contribution for long term residential or nursing care and this will be payable to the home. (see Appendix 1 for current rates). We may already hold sufficient information from a previous financial assessment to complete an assessment based on the information held. If financial circumstances have changed please contact the department to arrange a telephone assessment.

If we haven't completed a financial assessment for you yet, you will be asked to complete a financial assessment form (FF1) and provide various forms of verification, such as utility bills, banks statements etc.

If your property falls to be disregarded for the first 12 weeks, your financial assessment will not take in to account the value of your home.

If you chose to enter in to a Deferred Payment Agreement, from the start of the 13th week of your care, you will have a second financial assessment; called the 'Deferred Payment Financial Assessment' this will establish what your weekly contribution towards your care costs will be from the start of your Deferred Payment Agreement and will be reviewed annually.

As part of this assessment we will leave you with the 'Disposal Income Allowance' (see Appendix 1) This allowance is to cover your weekly personal expenditure and the cost of insuring and maintaining your property whilst you are in the care home.

For more information regarding the 'Disposal Income Allowance' and what you can choose to retain please refer to the Councils '**Deferred Payment Agreement Policy**'

The Council works in partnership with The Department for Work and Pensions, Pensions Service and in order for us to ensure you are receiving all the benefits you are entitled to, we need your consent to share information.

You can give your permission when completing the Deferred Payment Application Form

Worcestershire County Council supports the objectives of the Data Protection Act 1998 and is registered as a data controller. Information that you provide will be governed by the requirements of the Data Protection Act 1998 and may be processed by the Council in the performance of its statutory duties or for purposes required by law. More information is available at www.worcestershire.gov.uk

This document can be made available in other formats (large print, audio tape, computer disk and Braille) on request from Care Contribution Assessment Team on telephone number 01905 765761 or by emailing CCAAdmin@worcestershire.gov.uk

To the best of our knowledge all information was correct at the time of printing: January 2018