

Deferred Payment Agreement (DPA) Fact Sheet

From April 2015, all councils in England are required to provide a Deferred Payment scheme for local residents. This will apply to anyone who owns a property and goes to live in residential or nursing care or, sometimes, supported living accommodation. This fact sheet gives an overview of Deferred Payment Agreements and how they operate.

What is a Deferred Payment Agreement?

A deferred payment agreement is an agreement with us which could help you to use the value of your home to fund residential care costs. If you are eligible, subject to the council being able to obtain a first legal charge over the property, the county council will pay a sum agreed during your financial assessment towards your residential care home fees on your behalf. You can delay repaying the council until you choose to sell your home, or after your death. The amount you are assessed as having to pay for your care and support is delayed and not 'written off'. The costs of your care and support will still have to be repaid by you or someone on your behalf at a later date either when you choose to sell your house or 90 days after your death.

The benefits of a deferred payment agreement are that you:

- will not be forced to sell your home;
- could rent out your home and create some income for yourself which would reduce the amount you have to pay us back when the house was sold;
- might be entitled to claim some benefits which you could use towards your charges.
- if there is an existing agreement for a third party "top up", where a family member or other person puts additional money towards your placement, and you decide to take advantage of the Deferred Payments Scheme; you can add the cost of the "top up" payments to your Deferred Payments Scheme loan, if the Council agrees there is enough equity in your home. The deferred payment is currently, according to government rules, the only way of paying any agreed top-up yourself without depending on a third party.

Am I eligible for a deferred payment agreement?

Usually you will need to meet all three of the following criteria:

- your needs are being met in a care home, or in some cases supported living accommodation, and you have been assessed as having eligible needs that should be met through a care home placement;
- you have less than £23,250 in assets (i.e. in savings and other non-housing assets) excluding the value of your home;
- you must own or have part legal ownership of the property, which is not benefitting from a property disregard, for example is not occupied by a spouse or dependent relative and ensure your property has a registered title (if the property is not, you must arrange for it to be registered at your own expense). There can be no other beneficial interests on the property, for

example outstanding mortgages or equity release schemes, unless this is approved by the Local Authority.

If you do not entirely meet the above criteria you may still be able to access the deferred payment scheme; eligibility will be decided on a case by case basis.

How do I apply for deferred payments agreement?

As part of your financial needs assessment you will be advised if you are likely to qualify for a deferred payment agreement and what you need to do to apply. You may also be advised that there are alternative options you can consider. This can be a difficult and confusing time and we **strongly recommend that you get independent financial advice before you enter into any agreement.** For details of independent Financial Advisors please visit www.careadvicebucks.org or contact the Buckinghamshire County Council CR&R Team on 01296 383204.

Repaying the deferred payment agreement.

The house can be sold at any time and the deferred payment agreement repaid at any point. Or a deferred payment agreement can last the full length of the stay in a care home and be paid back out of the estate following death.

How much can be deferred?

The amount able to be deferred will depend on the value of the house, which determines 'equity limit'. As a guide, we are allowing up to 75% of the 'loan to value' ratio of the equity available in their home. The limit on equity is to protect the client from not having enough money to pay sale costs of the property (like solicitor's fees,) and to protect the council against a drop in housing prices and the risk that we may not get all the money back.

What if the client's husband/wife/civil partner lives in the house?

If care is needed in a care home setting, but the client's partner lives in the family home then the value of the home may be disregarded which means that the house will not need to be sold to pay for care and deferred payment agreement will not be needed.

If circumstances are such that the council decides that the value of the house is not excluded, a deferred payment agreement should still be available, provided the client's partner is willing to sign the agreement too.

Deferred payment agreement for someone already living in a care home.

If the client has savings and investments of less than £23,250 and they do not have a partner or dependent living in the house, they should be eligible for a deferred payment agreement.

The cost of setting up a deferred payment agreement

Every council is entitled to charge an administrative fee for setting up a deferred payment agreement. This fee is to cover the costs we incur in setting up the deferred payment agreement, and not to make a profit. The cost to set up the deferred payment for 2015-16 in Buckinghamshire County Council is £600 with an annual maintenance charge of £85.

The interest rate on a deferred payment agreement

We can charge interest on the amount owed to us whilst the deferred payment agreement is in operation. The interest rate (2.25% as at 1 July 2015) is reviewed every six months. Interest is charged to cover our costs and not to make a profit.

Will the Council make a profit out of the deferred payment agreements?

No. We need to make sure that we can invest in the scheme so that people can benefit from it for many years to come. The interest rate and administrative fee will cover our costs, and we won't make a profit from them.

Renting your house whilst there is a deferred payment agreement

The Property must not be let or occupied by any person without the local authority's prior written consent, which will not be unreasonably withheld provided that the property is to be occupied upon an assured short-hold tenancy which enables an order for possession to be obtained, after the expiry of an initial term of no more than 6 months, upon one month's written notice.

Does the house have to be sold if there is a deferred payment agreement?

No, it means the house does not have to be sold in the client's lifetime unless they want to.

Deferred payment agreements if the house has been gifted to family

The client's house and money still belong to them, so gifts can be made but a deferred payment agreement will always need to be repaid – either by the sale of the home after death, by someone else, or by something like the pay-out from a life assurance policy. If we believe that the house or capital has been given away deliberately to avoid paying care charges (deprivation), then we have the power to recover money that we are owed.

Who values the house?

Buckinghamshire County Council will arrange for your property to be valued so that we can calculate how much money can be advanced to you throughout the term of the Deferred Payment Agreement.

Changing the terms of the deferred payment agreement

The maximum amount of costs that the Council will pay on your behalf, along with the interest rate and any administrative fees will be set out at the start of the deferred payment agreement. These will be reviewed regularly.

Any other conditions – for example how the property should be maintained – will also be written down in your agreement. Make sure that you understand the full terms and conditions and get independent advice from a solicitor, financial advisor or an independent organisation before signing a deferred payment agreement.

What happens to the house following the client's death?

The executor of your estate should arrange repayment of the money owed to the Council, either by putting your home up for sale, or by arranging for another person to pay.

Length of time to repay back the deferred payment agreement without incurring extra charges?

Usually we give 90 days to repay the deferred payment scheme agreement. Interest charges will continue to be added during this period. However, we recognise that in some circumstances it may take more than 90 days to repay the loan e.g. if there is a sitting tenant and in such circumstances interest will continue to accrue at the rate which is in force until the loan is repaid.

What happens if the deferred payment agreement is not paid back within 90 days?

After 90 days, the Council has the power to recover the amount owed through the courts. NOTE: Interest will continue to accrue on the loan until it is repaid in full.

Can a family member apply for a deferred payment agreement if a person needing care has dementia or does not have the mental capacity to understand?

Carers and families can help people to make decisions about their care and how to pay for it. If we are concerned that the person applying for the deferred payment agreement does not have the capacity to understand, or won't have the capacity to understand in the near future, then another person may need to represent them. Only a person who is properly authorised, such as someone with legal Lasting Power of Attorney/Deputyship, can represent someone in applying for a deferred payment agreement.

Sample loan calculation

The client has a home valued at £200,000 with an outstanding mortgage of £40,000. The house is not occupied by any family member and it is not rented out.

Market value of property = £ 200,000

Minus £40,000 outstanding mortgage = £160,000

75% of the £160,000 = £120,000

Minus £14,250 (minimum amount that client must be left with as stipulated in the Care Act) = £105,750

Therefore, in this example, the maximum amount that the Council will loan the client is £105,750.

How do I apply for a Deferred Payment Agreement?

You should complete the form **SS6** that your Care Manager will provide or you can download a form from www.careadvicebucks.org and send it along with the other documents listed in the check sheet to:

**Financial Assessments Team
Buckinghamshire County Council
Walton Street
Aylesbury
HP20 1YQ
01296 382222**