Independent Age

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Factsheet

Care home fees: Property disregards and deferred payments

If you're moving to a care home permanently, the value of your property may be included in the council's financial assessment for your care home fees. The value of your property may be disregarded in the council's financial assessment in some cases – for example, if your partner still lives there.

If you are unable to sell your home, or do not wish to, you may be able to enter into a deferred payment agreement with the council instead.

This factsheet explains what a deferred payment agreement is and when you might want to consider one.

Call free on **0800 319 6789**
Visit **independentage.org**

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About Independent Age

No one should face financial hardship in later life.

Independent Age is the national charity focused on improving the lives of older people facing financial hardship. We offer free impartial advice and information on what matters most: money, housing and care.

We financially support local community organisations across the UK through our grants programme. We campaign for change for older people struggling with their finances.

You can call us on freephone **0800 319 6789** (Monday to Friday, 8.30am to 5.30pm) or email **helpline@independentage.org** to arrange to speak to one of our advisers.

To donate or help support our work, please visit **independentage.org/support-us**.

In this factsheet, you'll find references to our other free publications. You can order them by calling **0800 319 6789** or by visiting **independentage.org/publications**.

Contents

1. Will my home be included in my financial assessment?

If you're moving into a care home, the value of your property may be included in the council's financial assessment for your care home fees. There are different rules depending on the circumstances.

When your home is included

The value of your home is usually included in the financial assessment if you've been living in the property alone and nobody else owns a share in the property. The whole of its current market value (minus 10% to cover the costs of selling) can be taken into account.

If your property is jointly owned, only your share can be considered in the financial assessment. This can sometimes get complicated – if you need advice, contact our Helpline (**0800 319 6789**) to arrange to speak to an adviser.

What is capital?

Your capital is the amount of savings or investments you have. When the council is assessing the cost of your care, they will look at how much capital you have. This is to work out whether you will need to contribute towards paying for your care.

Depending on where you live, there will be a different capital limit – see **chapter 2** for more information.

When your home is disregarded (not included)

The value of your home must not be taken into account if any of the following people lived there as their main or only home before your move to a care home, and they continue to live there:

- your spouse, civil partner or partner
- a dependent
- a close relative aged 60 or over.

It could also be a close relative who is:

- receiving Attendance Allowance, Disability Living Allowance, Adult Disability Payment, Personal Independence Payment, Incapacity Benefit, Severe Disablement Allowance, Armed Forces Independent Payments, Constant Attendance Allowance or a similar benefit, or
- not receiving one of these benefits but would meet the criteria for one of them.

This is sometimes known as a mandatory property disregard.

Other situations when your home may be disregarded

If your stay in a care home is temporary, your property must be disregarded. For more information, call our Helpline (**0800 319 6789**) to arrange to speak to an adviser.

The council can also agree to ignore the value of your property in other circumstances, as long as you're not deliberately avoiding paying care home fees. This is called a discretionary property disregard – for example, the council may agree to do this if the property is the only home of someone who gave up their own home to be a live-in carer for you.

When your home is temporarily disregarded

If your capital is less than your country's (England, Scotland or Wales) upper capital limit – once the value of your property has been disregarded – you may qualify for temporary financial support from the council. They can help you pay for the first 12 weeks of your care home fees.

This is called a 12-week property disregard (see **chapter 2**). This scheme is intended to give you breathing space to either prepare your property for sale or to decide whether you want to sell.

If you're unable to sell your home, or don't want to, you may be able to get a deferred payment agreement from your council (see **chapter 3**).

Example: Mary and Jane

Mary has early signs of dementia. She needs a bit of support, but wants to live in her own home. Her best friend, Jane, agrees to sell her home to move in with Mary. Four years later, Mary needs much more care and, after an assessment, social services agrees that she should move into a care home. The council decides to disregard the value of Mary's property, because it has become Jane's only home.

If you disagree with the council's decision about whether your property should be included in your financial assessment, you may want to make a complaint to the council or get legal advice (see **chapter 9**).

For more information about the financial assessment and ways to pay care home fees, see our guides **Paying care home fees in England and Wales** and **Paying care home fees in Scotland**.

2. What is the 12-week property disregard?

When you move into a care home, you may qualify for temporary financial support from the council for the first 12 weeks. This is called a 12-week property disregard, where the council must not include the value of your property in your financial assessment for the first 12 weeks.

This scheme is intended to give you breathing space either to prepare your property for sale or to decide whether you want to sell. It could also give you time to ask the council for a deferred payment agreement (see **chapter 3**).

To get the 12-week property disregard, your capital must be less than your country's upper capital limit, once the value of your property has been disregarded. This is:

- £23,250 if you live in England
- £32,750 if you live in Scotland
- £50,000 if you live in Wales.

Tony's story (England)

Tony owns his own home and has £9,000 in savings and no other capital. This means he qualifies for the 12-week property disregard because he has less than £23,250 in savings.

The council must also disregard the value of your property for 12 weeks if you've already moved into a care home and a mandatory property disregard (see **chapter 1**) ends unexpectedly because your relative has died or moved into a care home.

The council can also choose to apply the 12-week property disregard if there are unexpected changes in your financial circumstances, such as a big fall in share prices, which brings your capital down below the capital limit in your country.

How does it work?

The council will contribute to your care home fees for a maximum of 12 weeks or until you sell your property (or your share of the property, if it is jointly owned) – whichever is sooner.

This doesn't necessarily mean the council will be paying all your fees during this time. You will still pay the council any contribution from your income and capital that you have been assessed as having to pay. This includes most of your income – for example, your State Pension and any Pension Credit – apart from a small amount that you are allowed for personal expenses (sometimes known as the Personal Expenses Allowance). Our guides **Paying care home fees in England and Wales** and **Paying care home fees in Scotland** have more information.

If you're receiving benefits

If you have a 12-week property disregard, you will effectively be seen as part-funded by the council for those 12 weeks. This means that the following benefits should stop after 28 days:

- Attendance Allowance
- the care component of Disability Living Allowance (DLA)
- the daily living component of Personal Independence Payment (PIP) or Adult Disability Payment (ADP)
- the severe disability addition of Pension Credit.

To do

Contact the relevant helpline if you have a 12-week property disregard and you're receiving any of these benefits:

- ADP (**0800 182 2222**)
- Attendance Allowance (**0800 731 0122**)
- DLA (**0800 121 4600**)
- PIP (**0800 121 4433**).

If you're paying your own fees after the 12-week period, you can start claiming again. Contact the relevant helpline to ask them to reinstate your benefit.

What happens at the end of the 12-week disregard?

You'll need to plan for the end of the disregard period. After the 12-week period is over, the value of your home will be included in your financial assessment unless you qualify for another type of disregard (see **chapter 1**).

If you haven't sold your property or you don't want to sell, then you can ask the council for a deferred payment agreement. If you're having trouble selling, but still wish to sell, you could also consider using a deferred payment agreement as a bridging loan (see **chapter 3**).

3. What is a deferred payment agreement?

If the value of your property is included in the council's financial assessment for your care home fees, you may be unable to sell your home, or may not want to. In this case, you may be able to get a deferred payment agreement with your council.

This is where your council will pay your care home fees and claim the money back later when your home is sold, either when you move out of the care home or after your death.

Good to know

A deferred payment agreement is a loan, and you will have to pay it back. You will also have to pay interest and administration costs (see **chapter 6**).

Our guides **Paying care home fees in England and Wales** and **Paying care home fees in Scotland** have more information about the financial assessment.

When you might want a deferred payment agreement

If you're moving into a care home, deferred payment agreements are useful if you:

- are having difficulty selling your property
- choose not to sell your property – for example, because you have a friend or relative still living in the property who doesn't meet the criteria for a mandatory or discretionary disregard (see **chapter 1**)
- have reached the end of your 12-week property disregard, or do not qualify for one (see **chapter 2**).

Short-term loans

If you want to sell your property but aren't able to within the 12-week property disregard period – perhaps because of a poor housing market – you may want to consider a short-term, loan-style deferred payment agreement.

This works in a similar way to the traditional deferred payment. The agreement is still with the council but, instead of the council paying the care home directly, you pay the care home and the council loans you the money in instalments, minus any contribution you make from other sources.

The council can charge interest and administration fees, and there will be other conditions – see **chapter 5**.

You may also be able get a short-term bridging loan from a private company. However, these loans can be expensive because you usually have to pay fees and a high rate of interest. It's advisable to get financial advice about these loans – see **chapter 9**.

4. Who can have a deferred payment agreement?

Good to know

In England and Wales, if you qualify for a deferred payment agreement, the council must offer one to you. In Scotland, your local council decides how to prioritise different applications for deferred payments, and is expected to offer it to you if you qualify.

The council must be sure that they will get the money back when offering a deferred payment agreement, so they will consider each case individually (see **chapter 5**).

The council may offer you a deferred payment agreement if all the following points apply:

- they have assessed your needs and agree that you need to be in a care home
- not including your home, you have capital of less than your country's upper capital limit

Your country's upper capital limit is:

- £23,250 if you live in England
- £32,750 if you live in Scotland
- £50,000 if you live in Wales.

- your home is not disregarded in your financial assessment (see **chapter 1**)
- the council is satisfied there is some other kind of security that means they're likely to get their money back (see **chapter 5**).

The council must also offer you a deferred payment agreement if you're arranging your own care.

Good to know

The council can also choose to offer deferred payment agreements to people who don't meet the eligibility criteria but who they feel might benefit from the arrangement – for example, if their capital is close to their country's upper capital limit.

If you're unsure whether you qualify, contact your council.

If you lack mental capacity but have someone with the appropriate legal authority – such as power of attorney – to represent you, you can still qualify for deferred payments. For more information, see our factsheet **Future planning: Mental capacity**.

5. Securing a deferred payment agreement

The council must be certain that they will be able to get their money back before they can enter into a deferred payment agreement with you – for example, that they can get a 'first legal mortgage charge' against your property. This gives them the right to first call on the proceeds of the sale of your property, or to take your property if you don't pay back the money you borrowed.

If your property is jointly owned, the council must get the signed consent of all owners to put a legal charge on the property. The other owners must also agree to the property being sold in the future so that the council can reclaim their costs. If they don't, the council can refuse a deferred payment agreement. Call our Helpline (**0800 319 6789**) to arrange to speak to an adviser.

If these options aren't possible, the council may agree to a deferred payment agreement if they're satisfied that there is some other kind of security that means they're likely to get their money back:

- such as a solicitor's undertaking letter (a 'promise' from the solicitor that the funds would be available at a later date)
- if the agreement is backed up by a guarantor (this could be someone you trust, like a family member or a friend)
- if you agree that the council could reclaim their costs from a life assurance policy or a valuable object you own.

6. How a deferred payment agreement works

If you qualify for a deferred payment agreement, the council must get a valuation of your property. They can ask you to pay for the valuation costs. You may also want to get your own valuation.

If there is a big difference between the two, discuss this with the council and try to agree a value. If you disagree, you may wish to make a complaint – see **chapter 9** or our factsheet **Complaints about social care services** for more information.

When you and the council have agreed to defer (delay) payments, the council must draw up a contract so you're clear about your rights and responsibilities. This may include:

- how the maximum limit on the amount being deferred works (see **page 16**)
- how interest is calculated
- administration charges
- your responsibilities and the council's responsibilities during the agreement
- in what circumstances the council may refuse to defer additional fees or end the agreement.

The council should aim to have the agreement in place before the end of the 12-week property disregard period, or within 12 weeks of the request being made in other circumstances. You should be given a hard copy of the proposed agreement and time to consider it before signing. In England and Wales, you will be charged interest during your deferred payment agreement, but these interest charges can be deferred as well, or you can choose to pay these separately.

How much can I defer paying?

Housing equity is the market value of your home, minus any outstanding mortgage payments or other debts secured against the property. If there is enough equity in your property, you should be able to defer the full amount of your care costs, including any top-up fees you need to pay to cover a more expensive care home place. See our webpage **independentage.org/get-advice/health-and-care/paying-for-care/care-home-top-up-fees** for more information or call our Helpline (**0800 319 6789**) for advice.

During the agreement

The council must give you a written statement every six months to show all the charges that are being deferred, including the interest. This should also make clear how much equity there is left in your property. The value of your equity can vary over time.

Once you've deferred 70% of the value of your property, the council should review the deferred payment agreement and talk to you about whether it's still the best way to meet your care costs.

It's usually a condition of the agreement that you must maintain and insure your home and tell the council if there are any changes to your income or circumstances.

Repaying deferred payments

The money must be repaid if you sell your home, or be repaid by your executor within 90 days of your death unless the council extends this period. Interest charges will still be added during this period.

Interest and administration charges

Councils can charge interest on your loan. If they do, they must tell you before you sign an agreement and tell you what the rate is and when it may go up. They can't charge more interest than a national maximum rate set by the government.

The council can also charge reasonable administration fees, such as legal fees, valuation costs and ongoing running costs. They should keep a publicly available list of all administration charges. Ask your council for a copy of this list – you can find your council's contact details at gov.uk/find-local-council.

You can choose to pay interest and administration charges separately or include them in the total amount being deferred.

Good to know

The council must make sure that the amount you defer doesn't go over your equity limit. This limit is 90% of the value of your property minus any other claims on the property, such as a mortgage. The limit should take into account the remaining equity in the property.

7. Deferred payment agreements – things to consider

Benefits and Council Tax

If you enter into a deferred payment agreement, your benefits and income may be affected – for example, you may lose your entitlement to Pension Credit or it may be reduced. However, you may be able to claim Attendance Allowance because you will be regarded as a self-funded care home resident – see our factsheet **Disability benefits: How to claim Attendance Allowance** for more information.

Good to know

If you're worried that a deferred payment agreement may affect your entitlement to Pension Credit or benefits, contact our Helpline (**0800 319 6789**) to arrange to speak to an adviser.

You may not have to pay full Council Tax if your property remains empty, but keep in mind that it can be expensive to insure an empty home. Speak to your council to ask about a discount.

Reducing the loan (England)

In England, you may have to contribute to your care home fees from your income, but you're allowed to keep up to £144 a week to spend as you wish – this is called your disposable income allowance. This weekly allowance replaces the Personal Expenses Allowance – it is to give you enough money for day-to-day personal expenses, and to maintain and insure your property. You can put some of this money towards your fees if you wish, to reduce the loan from the council.

Other things to consider

When deciding whether to enter a deferred payment agreement, you'll need to consider a number of things – for example:

- your property will still need to be maintained and insured
- you may have to pay the council's legal and other costs up front
- the agreement is a loan, not a write-off – you still have to pay your care home fees.

You may wish to let out your property and contribute some of the rental income to reduce the overall amount of the loan. However, rental income is taxable and would also be included in the financial assessment. You might have to pay Capital Gains Tax. It may also affect your entitlement to means-tested benefits such as Pension Credit.

Good to know

MoneyHelper has more information on the advantages and disadvantages of a deferred payment agreement (**moneyhelper.org.uk/en/family-and-care/long-term-care/deferred-payment-agreements-for-long-term-care**).

To do

Contact our Helpline to arrange to speak to an adviser for more information (**0800 319 6789**).

To help you decide whether deferred payment agreements are right for you, it's a good idea to get independent financial advice – see **chapter 9**.

8. If deferred payment agreements are not for you

Deferred payment plans may not be the best option for you, but there are other options available for paying care home fees, such as:

- payment plans
- equity release.

Care home fee payment plans

There are a number of payment plans available for funding care, so it's important to get independent financial advice.

The main investment product designed to cover care home fees is an immediate need care fee payment plan (also known as an Immediate Needs Annuity). This is basically an insurance policy. In return for a lump sum investment, the policy pays a regular income towards care costs for the rest of your life. One option is to secure a loan against the value of your home, which is then used to buy an annuity.

How much you pay upfront depends on your age, health, annuity rates, your choice of care home and other factors. If you don't need an immediate policy, you can get a deferred care fee payment plan to pay out from an agreed point in the future.

If the income from the plan is paid directly to the care home, it is tax free. However, bear in mind that:

- you can't cancel the plan once you've taken it out
- it may not cover the full cost of your care in future if your needs change
- it can affect your entitlement to means-tested benefits.

Annuity rates can vary considerably so you should shop around.

Equity release

Equity release is a way to release money from your home without having to sell it. There are two kinds of equity release:

- a lifetime mortgage lets you borrow money against the value of your home, which is paid back when the property is sold or when you die
- a home reversion scheme, which buys a share of your home for a cash payment.

You can receive the money as a lump sum, as a regular payment or both. There are usually eligibility criteria and conditions.

There might be better options than equity release for you. For more information, visit our webpage **independentage.org/get-advice/your-home-and-housing/equity-release** or see our guides:

- **Paying care home fees in England and Wales**
- **Paying care home fees in Scotland**.

9. Getting more advice

We are not specialist legal or financial advisers. You may want to seek more expert and in-depth advice if necessary.

Legal advice can be expensive. To find out whether you would qualify for legal aid, you may want to contact:

- Civil Legal Advice in England and Wales (**0345 345 4 345**, **gov.uk/civil-legal-advice**)
- Scottish Legal Aid Board in Scotland (**0131 226 7061**, **slab.org.uk**).

They can give you details of other organisations or solicitors specialising in community care law or property law if you need this. You can also find legal specialists through:

- the Law Society (**020 7242 1222**, **solicitors.lawsociety.org.uk**) in England and Wales
- the Law Society of Scotland (**0131 226 7411**, **lawscot.org.uk**) in Scotland.

Remember

Make sure you use a solicitor who specialises in the relevant area of law, even if there are none very local to you. Most specialist solicitors are experienced at working from a distance.

You might also be able to get free initial legal advice through a Law Works legal advice clinic (**lawworks.org.uk**) or from the Disability Law Service (**020 7791 9800**, **dls.org.uk**).

If you need financial advice, contact the Society of Later Life Advisers (**0333 2020 454**, **societyoflaterlifeadvisers.co.uk**) or Unbiased (**0800 023 6868**, **unbiased.co.uk**) to find an accredited adviser in your area. The financial adviser may charge a fee.

Good to know

All independent financial advisers have to be registered with the Financial Conduct Authority. Paying for long-term care is a specialist area, so make sure your adviser has a CF8 or CeLTCI qualification, which shows they understand the care and support system in the UK.

If you want to get your own valuation of your property, contact a chartered surveyor registered with the Royal Institution of Chartered Surveyors (RICS) (**024 7686 8555**, **ricsfirms.com**).

10. Summary

- If you're moving to a care home, you'll have a financial assessment with your local council. This will work out how much your care home fees will cost. The value of your property is usually included in the financial assessment if you've been living in the property alone and nobody else owns a share in the property (**chapter 1**).
- The value of your home may be disregarded if you qualify for a mandatory or discretionary disregard, or the 12-week property disregard (**chapter 2**).
- A 12-week property disregard is where the council must not include the value of your property in your financial assessment for the first 12 weeks. You could use this period to put plans in place for your property – for example, putting your house on the market or asking for a deferred payment agreement from the council.
- A deferred payment agreement is when your council pays money towards your care home fees and claims the money back later when your home is eventually sold (**chapter 3**). This could suit you if you are having difficulty selling your property, choose not to sell it or have reached the end of the 12-week property disregard.
- In England and Wales, if you qualify for a deferred payment agreement, the council must offer one to you. In Scotland, your local council decides how to prioritise different applications for deferred payments, and is expected to offer it to you if you qualify (**chapter 4**).
- The council must be certain that they will be able to get their money back before they can enter into a deferred payment agreement with you. They may ask for some kind of security (**chapter 5**).
- If you qualify for a deferred payment agreement, the council must get a valuation of your property (**chapter 6**).

- When you and the council have agreed to defer payments, the council must draw up a contract so you're clear about your rights and responsibilities (**chapter 6**).
- The money must be repaid if you sell your home, or be repaid by your executor within 90 days of your death unless the council extends this period (**chapter 6**).
- If deferred payments aren't right for you, there are other options to consider, such as care fee payment plans or equity release (**chapter 8**).
- Get independent financial advice to help you plan for the longer term (**chapter 9**). If you need legal advice, make sure you use a solicitor who specialises in the relevant area of law.

Independent Age

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The sources used to create this publication are available on request. Contact us using the details below.

Thank you

Independent Age would like to thank those who shared their experiences as this information was being developed, and those who reviewed the information for us.

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