



## 11: Deferred Payment Agreements Policy

A Deferred Payment Agreement (DPA) is a legal agreement between you and the Council which allows you to put off (defer) selling your home during your lifetime - if you would otherwise need to sell your home to pay your care home fees.



*A DPA is just one way of using your income and capital assets to pay your care home fees.*

*We **strongly** advise that you seek independent financial advice from a specialist adviser so you fully understand all funding options for your long-term care before making a decision about entering into a DPA*

### About this Policy

This policy details the Council's Deferred Payment Agreement scheme and forms part of the Council's local 'Care and Support Charging and Financial Assessment Framework'

It should be read in conjunction with our:

- [Deferred Payment Agreement Application Form](#)
- [Care and Support Financial Assessment Policy](#)
- [Charging and financial Assessment for Care Home Accommodation](#)
- [Choice of Accommodation and Additional Payments Policy](#)

### Regulations governing this policy

The 'Care and Support (Deferred Payment) Regulations 2014' set out the situations in which:

- councils **must** offer a Deferred Payment Agreement ('mandatory DPA') and where
- councils **may** offer a Deferred Payment Agreement ('discretionary DPA').

These Regulations are set in accordance with the Care Act 2014 Sections 34 and 35.

### This Policy is for you if:

- Your social care assessment shows you have substantial and complex care and support needs which would be best met in a care home – on a permanent basis AND
- You are assessed to pay the full cost of your care home fees because the value of property you own as your home or former home takes your capital assets above the [Upper Capital Limit](#). AND
- You are considering entering into a Deferred Payment Agreement (DPA) OR
- You entered into a DPA on or after 1st April 2015

We may, in exceptional circumstance, make a DPA available for someone moving to supported accommodation (Supported Living, Extra Care Housing or a Shared Lives setting).



*If your savings and other capital assets are only just above the Upper Capital Limit contact the [Financial Assessments and Benefits Team](#)*

### **This policy does not apply if:**

You entered into a Deferred Payment Agreement with the Council on or before 31<sup>st</sup> March 2015 as the conditions of your existing agreement are not changed by this policy



*If you have savings and other capital assets above the Upper Capital Limit (not counting the value of your home or former home) you can still ask for a free social care assessment, information and advice*

## **What is a Deferred Payment Agreement?**

A DPA allows you to use the value of your main and only home to help pay your care home fees:

- if the majority of your financial assets are tied up in this property and
- you would otherwise need to sell your home to pay for your care.

### **It is a legal agreement between you and the Council**

Which allows you to defer (delay) paying the full cost of your care home fees as long as you provide adequate financial security (such as a legal charge against your property) to guarantee your deferred care fees and other costs will be repaid (with interest) when the agreement ends.

### **You may need to pay a weekly contribution from income towards your care home fees**

How much you pay is based on the outcome of a Financial Assessment of your income and other capital assets (excluding the value of your home).

You must pay any assessed weekly contribution towards your care home fees throughout your DPA. We will lend you the rest.

This loan builds up daily as deferred debt until your DPA ends.

### **DPA loan arrangements**

We offer a 'traditional' style DPA - this is where we pay your care fees to your care home provider in full and recharge you for your assessed weekly contribution from income (if any) and your deferred care fees (to accrue under your DPA).

If you are eligible for a mandatory DPA you can ask for a 'loan' style DPA. This is where:

- we lend you the money for your care home fees (the deferred fees) in instalments and
- you pay your care home fees to your provider (including your assessed weekly contribution). We won't agree to a loan-style DPA if we believe there is a risk that this would have a negative impact on your wellbeing,

### **We also charge administration costs and interest:**

Administration costs include:

- Variable legal costs (in line with the amount of legal work involved in the individual agreement)

- Fixed Set-up administration fees (to cover our general administration costs of setting up your DPA)
- Fixed Annual administration fee (to cover our general administration costs of monitoring and managing your DPA)

Administration fees may also include :

- Property valuation fees
- Specialist legal or financial advice costs

We add administration costs to your deferred debt unless you ask us to invoice you for these costs separately when you apply for your Deferred Payment Agreement.

If you fail to pay invoices for administration costs when they are due we will add them to your deferred debt and charge interest on them from the date they were charged.

See [Appendix J – Charges for Deferred Payment Agreements](#). We review these charges annually to take account of inflation.

Interest charged on DPAs is:

- calculated on and added to your deferred care fees from the start date of your DPA
- calculated on and added to your administration costs that you defer from the date the costs are charged to you
- charged at the maximum rate of interest set in the *Care and Support (Deferred Payment) Regulations 2014*<sup>1</sup>. The current rates are shown in our [Appendix J – Charges for Deferred Payment Agreements](#).
- compounded daily - this means that interest is calculated on the debt each day and added to the debt each day (including previous interest charges).
- calculated on and added to the deferred debt until the total outstanding debt is settled.

The government reviews the interest rate every six months effective from 1 January and 1 July in each year.

We also charge daily interest on any administration fees you defer..

**Your deferred debt must be repaid in full when:**

- your home is sold or
- from your estate on your death or
- by a third party at the end of the Agreement.



*We **strongly** recommend you seek [independent financial advice](#) to fully understand your options for long term care funding before making a decision about entering into a Deferred Payment Agreement.*

---

<sup>1</sup> This maximum rate is set in the Regulations as the weighted average interest rate on conventional gilts plus 0.15%. The rate is reviewed every six months (after the Office of Budget Responsibility publishes its report on gilts).

## Eligibility Criteria

### You are eligible to apply for a DPA if:

- your social care assessment shows that your identified eligible needs are best met in a care home (on a permanent basis) AND
- Your capital assets excluding the value of property you own as your home or former home are below the Upper Capital Limit AND
- We have not disregarded your home in your financial assessment (for example because your partner or a dependent relative<sup>2</sup> is still living there).

### You will be eligible for a mandatory DPA if we have evidence that:

- Your social care assessment shows that your identified needs are best met in a care home (on a permanent basis) AND
- You own your home and have a legal and beneficial interest in that home which is not disregarded in your financial assessment (other than during a 12-week property disregard period) AND
- Your capital assets excluding the value of property you own as your home or former home are below the Upper Capital Limit<sup>3</sup> AND
- Your capital assets including the value of property you own as your home or former home are above the Upper Capital Limit and you are therefore required to pay the full cost of your care AND
- We (the Council) can secure the Deferred Payments through a first [Legal Charge](#) against your property; AND
- You have appropriate property insurance arrangements in place (relevant to the property use during the DPA); AND
- You have the mental capacity to enter into a DPA or a legally-appointed representative who can enter into a DPA on your behalf

### If your application doesn't meet all the mandatory criteria above, we may offer a discretionary DPA if we have evidence that:

- Your social care assessment shows that your identified needs are best met in a care home on a permanent basis (or in exceptional cases, rented supported accommodation<sup>4</sup> AND
- You own your home and have a legal or beneficial interest in that home which is not disregarded in your financial assessment (other than during a 12-week property disregard period) AND
- Your capital assets excluding the value of property you own as your home or former home are below (or slightly over) the Upper Capital Limit<sup>5</sup> AND
- Your capital assets including the value of property you own as your home or former home (less any mortgage outstanding) are above the Upper Capital Limit and you are therefore required to pay the full cost of your care AND

---

<sup>2</sup> As defined by the Care and Support (Assessment of Resources) 2014

<sup>3</sup> See [Appendix A – Capital Limits Schedule](#) for the Upper Capital limit.

<sup>4</sup> See [Deferred Payment Agreements in other circumstances.](#)

<sup>5</sup> See [Appendix A – Capital Limits Schedule](#) for the Upper Capital limit.

- You can offer the Council [adequate financial security](#) for the deferred payments which can be legally secured AND
- That you have enough equity in your property to enter into a DPA AND
- That you have appropriate property insurance arrangements in place (relevant to the property use during the DPA) AND
- You have the mental capacity to enter into a DPA or a legally-appointed representative who can enter into a DPA on your behalf

### **First party tops up payments for preferred accommodation**

We have discretion over whether your DPA can apply to any additional care fees (top-ups) arising through your choice of accommodation. See our [Choice of Accommodation and Additional Payments Policy](#) for more information.

## **Common Property Issues**

### **Jointly-owned property**

If you intend to secure your DPA by way of a legal charge you must get written agreement from all registered owners to confirm they:

- agree to a legal charge being registered against the property and
- won't object to selling the property when the time comes to settle the debt.

We won't consider your DPA application without this.

All joint owners must enter into/sign the legal charge document.

### **Shared Ownership and Tenants in Common:**

You must provide proof of the percentage owned by you and its potential value.

We can only approve a DPA if all co-owners and/or landlord agree to the Council placing a legal charge on the property.

Your equity limit will be based on your share in the total value.

### **Equity Release Schemes**

If you had realised some of the value of your property through equity release you must provide:

- proof of your residual equity in the property; AND
- written consent of any third party/parties to the Council placing a legal charge on the property (where applicable)

### **Leasehold property**

If restrictions have been placed on the title (registered at HM Land Registry) you must:

- get the head landlord/ultimate freehold owner to consent to a legal charge being placed on the property (without this we can't accept the property as security); AND
- Meet any costs involved

### **Land Registry entries and Unregistered Properties**

We cannot secure a DPA by way of a legal charge if the property is:

- not registered with HM Land Registry; or

- registered but one or more registered party is unable to enter into a legal agreement (for example because they no longer have mental capacity or have died without a valid will)

If either of these applies and you wish to use your property as security for a DPA you must arrange for your property to be registered with HM Land Registry and pay the costs of registration. For information about HM Land Registry see [www.gov.uk/registering-land-or-property-with-land-registry](http://www.gov.uk/registering-land-or-property-with-land-registry)

We cannot secure a DPA by way of a legal charge if the property is:

- leasehold and restrictions in the lease prevent the Council from registering a legal charge with HM Land Registry.
- a mobile home (a park home) – because mobile homes are not registered with HM Land Registry

If either of these applies and you wish to use your property as security for a DPA you should seek independent legal advice on how you can offer the Council adequate financial security

## Information and Advice relating to a DPA

If your social care assessment shows your care and support needs would best be met by a permanent move to a care home and your property and financial circumstances indicate you may be eligible for a DPA we will:

- tell you about the DPA scheme
- provide an overview of the advantages of a DPA and things to consider
- explain the associated administration costs and interest charges.
- tell you about types of financial security for a DPA (such as a legal charge)
- explain how we work out the maximum amount you can defer (your [Equity Limit](#)) and what happens once your deferred debt reaches this limit
- tell you about interest and administration costs and how they are charged
- tell you what happens when your DPA ends, your options for repayment and what happens if you don't repay the amount due
- Carry out a financial assessment under our Financial Assessment Policy for Care Home accommodation.

See our factsheets "[Meeting Your Care Home Costs](#)" and "[Deferred Payment Agreements](#)"

## Independent financial information and advice



*We **strongly** advise you to seek [independent financial and legal advice](#) as soon as possible so you can make an informed decision about funding your long-term care and can make the necessary arrangements before you become liable for the full cost of your care home accommodation.*

We will help you to access independent financial information and advice by:

- putting you in touch with an independent organisation or charity who can offer relevant information and advice; and/or
- helping you find a specialist organisation or Independent Financial Adviser who can offer independent regulated financial advice on your care funding options.

Some information and advice is free to access. The Council or independent organisation(s) will make you aware of any charges for certain types of independent financial advice.

We can provide a [model Deferred Payment Agreement](#) for you to look at with your legal adviser.

## Equity Limit (Lending Limit)

This is the most you can borrow under a Deferred Payment Agreement (DPA).

This is calculated:

- 90% of the market value of the property
  - Less any outstanding loan/mortgage secured on the property
  - Less percentage owned by others (if jointly owned)
  - Less the [Lower Capital Limit](#)

---

= Your Equity Limit (Lending Limit)

We may arrange a formal valuation of the property (or the share of it owned by you)

Your Equity Limit could change during your DPA in line with re-evaluations of the value of your property.

### When your deferred debt reaches 50% of your Equity Limit

We will arrange a re-evaluation of your property to make sure your deferred debt is still within your equity limit.

We will give you an estimate of our re-evaluation costs in advance and add these costs to your administration fees.

We will record the new valuation and tell you how this is likely to impact your equity limit and DPA.

### When your deferred debt reaches 70% of your Equity Limit

We will review of the cost of your care and discuss with you:

- when you might become eligible for means-tested support
- the implications for any top-up payments included in your care costs (if you chose a more expensive home than the Council would normally fund)
- changes to your welfare benefit entitlements.

Note that interest and administration costs will continue to be calculated and charged to your DPA even if your Equity Limit has been reached. Interest and administration costs are added to the deferred debt until the total outstanding is settled.

## Adequate Financial Security

You cannot enter into a DPA with the Council unless you can provide adequate financial security to cover the period of your DPA:

### Legal Charge

We normally expect a DPA to be secured by a first legal charge against your property.

This is a legal document which is held by HM Land Registry to acknowledge that someone other than the registered owner has a financial interest in the property.

A legal charge in favour of the Council must be repaid when your property is sold or on your death. Once your debt is settled we will arrange for the legal charge to be removed.

A first legal charge means that the Council has first priority on the proceeds when your property is sold.

If your property has a mortgage secured against it as a first charge, any legal charge registered by the Council would be a second charge. This means that your mortgage lender's legal charge has priority over the Council's legal charge.

We can only register a legal charge with HM Land Registry if:

- all property owners consent to the legal charge and
- the property is registered with HM Land Registry and
- there are no leasehold restrictions, or, if there are, the head landlord/ultimate freehold owner agrees to the legal charge and
- all third parties (such as mortgagees) have given consent to the charge

See [Common Property Issues](#) for more details.

See [www.gov.uk](http://www.gov.uk) HM Land Registry pages for details

### **Solicitor's Undertaking**

We may accept a solicitor's 'undertaking' letter as adequate security against your deferred payments.

This is a legally binding agreement where your solicitor undertakes (commits) to pay the Council the full amount to be deferred under your DPA - usually from the proceeds of the sale of your property.

This may be relevant if you have already instructed your solicitor in the sale of your property at the time you apply for a DPA.

### **Alternative types of financial security**

In exceptional circumstances we may consider:

- A third party guarantor (like a family member or friend) if they can provide an appropriate form of financial security and sign a legally binding agreement to repay all the charges due
- A valuable possession or possessions (sometimes referred to as 'chattels') - if you provide proof of the value of your possession(s) and sign a legally binding agreement that in the event of failure to settle the deferred debts, the possession(s) will become the property of Reading Borough Council. We also need to see evidence that you have the item(s) adequately insured.



*It is likely that we will require specialist legal and financial advice to consider alternative financial security to protect the Council's financial position. You must pay any costs we incur - even if we subsequently refuse your application*

We have full discretion to refuse an application for a DPA if we are not satisfied that adequate security is in place.



## Working out your Assessed Contribution from income during a DPA

We will carry out a [financial assessment](#) to work out how much, if anything, we expect you to pay each week towards your care home fees from your income (including tariff income from savings and other capital assets, excluding the value of your property)

You must pay your assessed weekly contribution throughout the DPA period. If you don't we may stop deferring your care costs and you would then have to pay immediately.

### How we treat rental income on a DPA.

If you rent out your property we will include your net rental income (after tax, agent's fees, and reasonable maintenance expenses) as income in your financial assessment.

### Flexible Disposable Income Allowance

When calculating your assessed contribution from income during a DPA, the regulations<sup>6</sup> allow you to keep a weekly Disposable Income Allowance

Your disposable income allowance is more than, and in place of, the 'Personal Expenses Allowance' to ensure you have enough money to cover both your day-to-day personal expenses and to maintain and insure your property.

You can choose to take the [maximum Disposable Income Allowance](#) or a lower amount.

If you take the Maximum Disposable Income Allowance:

- your deferred debt will be larger so you will pay more in interest
- you have more flexibility if you need the money - and can use it to pay a lump sum towards your deferred debt if you don't.

## The DPA Application Process

If you are considering a DPA to help fund your care home costs you must apply in good time so we can consider your application and put legal arrangements in place before you need the funding (for example, before your 12-week property disregard period ends).

### 1: Giving you information

If your identified needs show that a care home placement is appropriate your social care worker will:

- check if you own your home and establish if we should [disregard the value of your property](#) in your financial assessment;
- carry out appropriate checks, including previous financial assessments and a Land Registry search
- tell you if we think you are eligible for a 12-week property disregard and eligible to apply for a Deferred Payment Agreement and give you information about our Deferred Payment Agreement scheme and application process
- help you to access independent financial and legal advice

The FAB Team will:

- Carry out an assessment of your financial situation (your income, savings, details of the ownership and value of your property capital, outgoings relating to your property)

---

<sup>6</sup> Care and Support (Deferred Payment) Regulations 2014

- Carry out a Land Registry search on your property
- Give you detailed information about applying for a DPA, the date by which you should return a completed DPA application, and the current DPA set-up fees and interest rate.
- Tell you if we need to arrange a formal valuation of your property and give you an estimate of the cost which you would need to pay. If you arrange your own valuation and our valuations are substantially different we will agree a mutually acceptable valuation
- Tell you if you will need to provide any other information to support your application.
- Tell you if we think we will need to seek specialist legal and/or financial advice when considering a DPA application from you and give you an estimate of the cost which you would need to pay

## 2: Submitting your Deferred Payment Application

You (or your legally appointed representative) must complete and return your signed [Deferred payment Agreement Application Form](#). This should be within **five weeks** of you or us identifying the need to apply for a DPA (for example, within 5 weeks of moving permanently to a care home)

Please note:

- You must answer all the questions on the application form and submit all the evidence asked for on the form
- If you jointly own your property and/or it is a leasehold property your co-owner(s)/landlord must also sign the application form before you submit it
- Residential respite stays do not count towards the five-week deadline.
- If you have been paying your own care home fees but now wish to apply for Council funding and a DPA you must submit your DPA application no later than five weeks after the need to apply for DPA has been identified either by us or you.
- If you already live in a care home and become eligible to apply for a DPA in other circumstances you must submit your DPA application no later than five weeks after the need to apply for DPA has been identified either by us or you. For example - if your property was subject to a statutory disregard which has now ended.
- If you are eligible for a Mandatory DPA and wish to have a loan-style DPA instead of a traditional DPA (for example – you already have a private contract with your care home that you wish to continue) you must state this on your DPA application.
- If you are not offering a legal charge as security against your deferred loan you must state this on your application and provide details of your proposed security. See Adequate Financial Security.

## 3. Making our decision

As long as you have given us all the information required, we will consider your application and make a decision within **10 days** of receiving your completed application

**We review your application and compare it to the criteria for a mandatory DPA**

**If your application doesn't meet the criteria for a mandatory DPA**

We will carry out an assessment to check if a discretionary DPA would be financially sustainable. This would consider things like:

- the equity available
- the sustainability of any assessed contribution from income
- the flexibility to meet future care needs
- the amount of any [top-up payment](#) if your preferred accommodation charges more than we would normally expect to pay to meet your assessed needs
- how long you are likely to want the DPA for.

We may need legal advice if the financial security you are offering is not a first legal charge.

### **If we need specialist legal and financial advice:**

This may delay our decision on your application. We will tell you if this applies and give you an estimate of any additional costs of specialist advice – as you will be charged for those costs.

### **Our senior manager(s) will review all the information and decide if your application meets the criteria in this Policy**

### **If we offer you a Deferred Payment Agreement**

We will confirm our formal offer of a Deferred Payment Agreement to you in writing – usually<sup>7</sup> within **10 days** of receiving your application

If you have requested a loan-style DPA in preference to a traditional-type DPA, we will consider your preference in accordance with the Care Act Statutory Guidance on loan-style DPAs. These considerations include regard for well-being principles and market duties.

Our letter will set out:

- any conditions the DPA offer is subject to
- Our estimated administration charges and the current interest rate that will be applied to the deferred debt
- details of any benefits you may be entitled to claim and how to do this
- your assessed contribution from income which you must pay on an on-going basis
- the agreed level of your weekly Disposable Income Allowance
- the arrangements for paying your ongoing weekly assessed contribution (and if we have offered a loan-style DPA , the arrangements for loan instalments)
- the weekly basic care cost amount that will be deferred (to meet need)
- the weekly additional top-up amount that will be deferred (relating to accommodation preferences – if this applies to you)
- details of other costs we have agreed to defer
- That if you fail to meet any of our conditions we will withdraw our offer of the DPA and we will immediately notify your care provider that we are ceasing to be involved in the placement.

Our letter will ask you to confirm:

- whether you wish pay administration charges immediately, or defer those (with interest) under your Deferred Payment Agreement

<sup>7</sup> Unless we require specialist financial or legal advice.

- contact details for your solicitor to send the Deferred Payment Agreement and associated legal documents to (or to request them directly to you)

Our letter constitutes an offer of a DPA to you and will state the date from which the DPA is proposed to start. It will be produced in duplicate, one copy to be completed and signed by you and to be returned as your acceptance of the DPA offer. The other copy is to be retained by you.

### **If we refuse your DPA application**

We will tell you the reason/s and confirm our decision in writing.

Our letter will explain:

- why we have refused your application
- the date you will need to start funding your own care in full (usually the end of your 12-week property disregard period).
- any benefits you may be entitled when you make your own care funding arrangements and how claim
- how you can [appeal](#) if you think our decision is wrong
- that we will tell your care accommodation provider the date the Council will stop funding your care
- details of any administration costs and how much these are (for example, costs of specialist advice or valuation charges)

If we refuse a DPA application we usually waive our standard administration charges unless we have evidence that:

- you pursued an application unreasonably (for example if you ignored advice about your eligibility) or
- you failed to respond to our request for the information we needed to establish your eligibility in good time or otherwise put us to excessive trouble .

### **4: Considering your DPA Offer**

If you choose to accept our offer you must complete, sign and return one copy of our offer letter within **10 days**

### **If you decide to decline our offer**

You must sign and return the 'offer decline statement' by the date stated in your letter.

We will write to your care home provider to stop our payment and you will need to arrange to pay your full care home fees directly to your provider.

### **5: Preparing the DPA legal agreement and documents**

Once we receive your acceptance we will prepare and send your Deferred Payment Agreement and Legal Charge documents (or other documents relating to your identified financial security) directly to your legal adviser.

## 6: Reviewing, Signing and Returning the DPA and documents

You must read and sign the Agreement and documents, get signatures from other parties whose consent is required<sup>8</sup> and return all signed documents to us within **14 days**

As these are legally binding agreements we strongly recommend you take advice from your legal adviser

### If you don't return your signed paperwork in time:

- We won't be able to proceed with your DPA
- You must make your own care funding arrangements
- If we were paying your care home provider we will advise your provider of the date the Council will stop funding your care.
- We will re-charge any administration costs we have incurred to you.

## 7: Starting your DPA

We will open a DPA 'account' to record:

- The start date of your DPA
- The valuation of your property and the date of that valuation.
- Your Equity Limit (Lending Limit - the maximum amount which you can borrow under your DPA).
- Your agreed weekly deferred basic care cost amount (to meet need)
- Your agreed weekly deferred top-up cost amount (to meet your accommodation preferences – if this applies to you)
- Administration set-up costs (if these are to be deferred under your agreement).

The current interest rate to be applied to your deferred care costs.

We will send you an opening statement of your DPA account to show you the details above and:

- The estimated date that your equity could last under your DPA
- An estimate of how your debt will increase over the next year based on the information recorded

We will advise you of the date of your next statement (within six months from the start of your DPA and every six months thereafter)

If your financial assessment shows you need to pay a weekly contribution from income, we will send you invoices every four weeks for immediate payment. (Or if you have a loan-style DPA we will deduct that amount from the loan instalments we make to you).

We will also send you invoices for the care fees that are deferred under your DPA (for your information).

---

<sup>8</sup> If your property is jointly-owned, or leasehold, you will need to obtain ALL those necessary signatures on the documents. If you are the applicant's legally-appointed representative AND ALSO a joint owner of the property being used as security, you must sign legal charge documents relating to the property in your own right as a joint owner AND as the applicant's authorised representative.

## Monitoring your DPA

### Six-monthly Statements of Deferred Payments

We produce statements for your deferred payments account for the 6 months to 1 July and 6 months to 1 January each year.

We will send you your statement within six weeks of the statement date.

The statements will show:

- the DPA start date
- the Statement Date(s)
- Total deferred care charges to the statement date
- Total interest on care charges to statement date
- Total administration fees deferred to statement date
- Total interest on deferred administration fees to statement date
- Total accrued debt to statement date
- Equity Limit (Lending Limit – the maximum amount which can be borrowed under DPA).
- The remaining Equity available (after deducting the amount of total deferred debt).
- The level of debt as a percentage of the Equity Limit
- Estimated date that the deferred payments can run until
- Current weekly deferred care cost amounts
- Weekly deferred care costs since the last statement
- Any administration costs added to the debt since the last statement
- Interest charges accrued since the last statement
- Any payments received from you towards the deferred cost of care since the last statement.
- Details of historical statement periods

You should check this statement is correct to the best of your knowledge, and if not, contact us within four weeks.

You may request a statement at other times and we will provide such a statement within four working weeks of receipt of such request.

### If your circumstances change during your DPA:

You must tell us immediately about any changes which affect, or may affect, your DPA or your level of capital – for example:

- If you inherit a sum of money.
- If structural problems are discovered at your property (like subsidence).
- If a close family member moves into or out of your property
- Any other change – [contact the FAB Team](#) if you are unsure

Should your property for which the DPA was arranged become occupied by a relative for whom a statutory disregard may apply, we will establish the reasons behind this change and decide whether it is appropriate to allow the property to be disregarded. If a disregard is agreed we will

write to confirm the end date of the deferred payment, confirming the Deferred Debt outstanding, and that interest will continue to accrue until the debt is settled.

### **Reaching your equity limit:**

We will give you 30 days' notice of the date that you are likely to reach your equity limit.

In this case we will contact your care home and attempt to negotiate a rate that we would usually expect to pay to meet your needs and will reassess your financial contribution due.

See [Choice of Accommodation and Additional payments Policy](#).

## **Conditions Placed on Deferred Payment Agreements**

### **Insuring and maintaining your property**

You must insure and maintain your property throughout your DPA to a level that we think is appropriate to ensure adequate financial security for your DPA.

We may require evidence of your property insurance at any time, including evidence that your insurer has been informed if your property is unoccupied for any period.

If you need to use some of your savings to carry out essential reasonable maintenance to bring your property up to a suitable standard we won't withhold agreement – unless there is evidence the level of cost is unreasonable.

If we consider that your property is not being properly maintained and/or insured, we can refuse to defer future payments for your care. In this case we will give you 30 days' notice and explain that you will need to pay your own care home fees in full when the notice period ends.

During this 30-day period you may appeal if you believe we have acted unfairly. Your appeal should either demonstrate why the insurance or state of maintenance is in fact satisfactory or what steps are being taken to remedy the failing(s).

Your Deferred Payment Agreement will contain further information about the provisions in these situations.

### **Renting out your Property**

- You must let us know if you are considering letting your property while you are on a DPA so we can agree and submit your proposed letting arrangements to the Head of Service with your DPA Application.
- If your property is already let, you must get legal advice to confirm the length of tenancy and termination clauses before applying for a DPA.
- You must make sure your property insurance is appropriate to a letting arrangement.

### **We will require prompt settlement of your assessed contribution during the lifetime of your DPA.**

If you fail to pay your assessed contribution for three months the Council may refuse to continue deferring your ongoing care home payments.

We will look at each case on its own facts and will not apply this clause if there are genuine reasons for non-payment (like difficulty in accessing bank accounts), and will agree an alternative timescale.

We will give 30 days' notice of intention to apply this clause explaining how your care needs should be paid for from that date.

## **Settling your Deferred Debt**

### **If you sell your property:**

Your deferred debt must be settled when your property is sold.

We will calculate the accrued debt.

Once we have received full payment we will apply to the Land Registry to remove the legal charge against your property and terminate your DPA.

You may become responsible for paying your own care home fees - this depends on the balance of funds available after clearing your deferred debts.

### **If your property has not been sold at the date of your death**

We will contact your executor, if known, no less than two weeks after your death and no more than four weeks after.

If the executor is not known and you had previously identified a third party to help us reclaim the amount deferred, we will contact that third party within the same timescale.

If neither is known we will contact the person acting as your representative and advise them that settlement should be made within 90 days of the date of death or a report provided on progress made and a likely date for settlement.

In all cases we will:

- Continue to charge interest on your deferred debt
- Notify the amount outstanding at the current date and how this is made up
- explain if any further charges may accrue, for example further interest.

If the executor or administrator of your estate settles the debt in full without, or before, selling your property, we will accept such settlement and apply to HM Land Registry to remove the legal charge or release any alternative security provided.

## **DPAs in settings other than a Care Home**

If you are moving into rented supported accommodation (such as extra care housing, Supported Living or Shared Lives Schemes) we normally expect you to have financial options to pay your rent and care costs (for example from rental income if you let your home out or putting your property up for sale and claiming Housing Benefit towards your rent while it is on the market), or we may consider it appropriate to apply a 'discretionary property disregard' in your financial assessment.

However we are prepared to consider extending DPA to rented supported accommodation settings in exceptional circumstances - for example:

- there is a good reason why you are unable to sell or let your property at the current time and
- you have no entitlement to Housing Benefit and
- your income, savings and investments do not cover the costs of your supported accommodation.

We will usually need specialist legal advice for this and we will recharge any costs we incur to you (we will give you an estimate in advance).



You must contact the FAB Team to explain your exceptional circumstances before you apply  
In these cases your assessed financial contribution is dealt with in [Part 10E of this Charging and Financial Assessment Framework, which deals with non-residential care and support.](#)

## **DPAs for People Lacking Mental Capacity**

If you lack the mental capacity to give informed consent to a legally binding agreement you are not capable of entering into a DPA.

Someone with the legal authority to act for you can apply for a DPA on your behalf. This could be:

- a deputy appointed by the Court of Protection
- the holder of your registered Enduring Power of Attorney
- the holder of your registered Lasting Power of Attorney (which must include authority to manage your property and financial affairs).

The named 'applicant' on the DPA will be you, but the person acting for you will complete and sign the DPA on your behalf.

### **If no-one has legal authority:**

And you lack mental capacity to confer a Lasting Power of Attorney, we will attempt to identify a relative, friend, solicitor or organisation who is willing and able to apply to the Court of Protection to become your deputy to manage your property and financial affairs

### **While the application is in process**

The person applying to the Court of Protection must tell us if they intend to apply for a Deferred Payment Agreement in future (when they have the legal authority to do this).

Our [Interim Funding Policy](#) covers the period until the Deputy has been appointed.

The DPA application process can begin once the Court of Protection makes a 'First General Order' appointing the deputy

See also general information about [Mental Capacity to Manage Finances](#).