

People moving into a care home who have a property

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Information sheet D4

March 2020

This information sheet explains your rights as a homeowner if you are moving into a care home with financial support from Somerset County Council (SCC). It covers:

- Eligibility for our financial support
- The 12-week property disregard
- Deferred Payments

You may also find the following information sheets useful:

- **D1: Choosing a care home**
- **D2: Paying for residential care**
- **D3: Information for people who pay for their own care home**

We advise you to get independent financial advice about how to pay for your accommodation in a care home as there may be other options available to you. You can find some examples of independent advisors at the end of this publication, you may know others. You should also check if you qualify for income support or Pension Credit, and Attendance Allowance or Disability Living Allowance / Personal Independence Payment.

Advocacy

If you would like support to understand this information and don't have anyone to help you, please contact us. We can put you in touch with someone independent to help you.

Am I eligible for financial support from SCC?

You will be eligible for our financial support towards your care home fees if:

- Your care needs meet the national criteria for a care home (A Social Worker will need to talk with you to understand your needs and complete a care assessment), and
- You have less than £23,250 in capital. (Someone from our Finance and Benefits Team will talk to you about your finances).

Please see our information sheet **D2: Paying for residential care**, for more information.

I am eligible, but have a property. Will the value of my property be taken into account?

If you own your own home(s), or have a share in a property, the value will not be included if your stay in a care home is temporary or one of the following people is still living there (as defined in paragraph 35 of the Care Act):

- Your husband or wife or partner
- A relative who is over 60 or who is disabled
- A relative who is under 18 and who the law says you must support

This will only apply while the person who is still occupying the property continues to live there. You must let us know if this situation changes

If these don't apply to you, the value of your property will be assessed at its market value less any mortgage or loan secured on it and will normally be included as capital.

12-week property disregard

We may disregard the value of your property for 12 weeks from the date we agree to help with funding your care (Please note, the property must be your current or main home). This is to give you time to decide the best way to pay your care home fees. You will still have to pay a contribution from your income and any savings you have, and this will continue if you decide to take up a deferred payment (see the section below).

If the property is sold within the 12-week period and your share of the property is worth more than £23,250, you will be expected to pay the

full cost of care from the date the property is sold. It is very important that you let us know if the property is sold during this time.

If you transfer or sell a property less than six months before you are admitted to residential care and this is done with the intention of avoiding residential care charges, we can charge the person who received the property, or assets arising from the sale of the property, for your residential care. You are therefore advised not to transfer your property to anyone else during the 12-week period.

Early in the 12-week period a Financial Assessment and Benefit (FAB) Officer will talk with you to work out how much you can afford to contribute and to explain about the options available to fund your care when the 12-week period finishes. We recommend that you also get independent advice. Some of the options are that you:

- Continue to receive help from SCC by asking for a Deferred Payment (see section below)
- Pay your care costs from your existing income or capital
- Seek charitable/voluntary assistance to help with the costs

If your property was disregarded, for example, a dependent relative was still living there, but these circumstances change, you can ask us for a 12-week property disregard at this point.

Our financial help will end after the 12-week disregard unless you apply for a Deferred Payment.

If you are already living in a care home and decide to ask for a deferred payment you will not be entitled to 12 week disregard.

What is a Deferred Payment?

The Deferred Payments Scheme is designed to help you if you have been assessed as having to pay the full cost of your residential care, but cannot afford to pay the full weekly charge because most of your capital is tied up in your home.

Effectively, the scheme offers you a loan from Somerset County Council using your home as security. It doesn't work in exactly the same way as a conventional loan; the Local Authority doesn't give you a fixed sum of money when you join the scheme, but pays an

agreed part of your weekly care and support bill for as long as is necessary.

You will pay a weekly contribution towards your care that you have been assessed as being able to pay from your income and other savings. The Council pays the part of your weekly charge that you can't afford.

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

The Deferred Payment builds up as a debt until you repay it. For many people this will be done by selling their home, either immediately or later on. You can also pay the debt back from another source if you want to.

However, you do not have to sell your home if you don't want to; you may, for example, decide to keep your home for the rest of your life and repay out of your estate, or you may want to rent it out to generate income. If you do this, you can use some or all of the rental income to increase the amount you pay each week. This will reduce the weekly payments made by the Council, and minimise the eventual deferred payment debt.

To apply for the Deferred Payment Scheme you must:

- have capital (excluding the property) of less than £23,250
- be professionally assessed as requiring and be entering permanent residential / nursing care in a registered care home
- own or have part legal ownership of a property, which is not benefitting from a property disregard, and make sure your property is registered with the Land Registry (if the property is not, you must arrange for it to be registered at your own expense)
- have the mental capacity to agree to a Deferred Payment agreement or have a legally appointed agent willing to agree this

If you own a property and also own land, we may consider putting the charge against your land if you would prefer.

While you are in the agreement, you must also:

- have a responsible person willing and able to make sure that necessary maintenance is carried out on the property to retain its value. You are liable for any such expenses.
- insure your property at your expense.
- pay your client contribution on the agreed date; if you fail to pay the client contribution regularly the Council reserves the right to add this debt to the loan amount.

There can be no other beneficial interests on the property, for example outstanding mortgages or equity release schemes, unless this is approved by the Council.

What does it cost?

There is a £500 application fee to cover our set up costs. This is a breakdown:

- £296 legal costs
- £40 Land Registry charge
- £4 Land Search
- £160 administration

There is also an annual administration charge of £100 which we can add to your loan amount or you can choose to pay us separately.

This charge covers on-going monitoring of your loan amount, equity checks and two statements each year.

Occasionally, for more complex cases, we may incur additional set-up costs. We will add these to your charge. We will contact you to let you know before proceeding.

If your property is unregistered you will also have to pay your solicitor's costs to register the title to the property at the Land Registry before we can agree to a Deferred Payment.

Following updated rules by the Land Registry, it is now a requirement that identity checks are carried out on all attorneys that are proposing to sign a Deferred Payment Agreement (DPA). If your attorney is acting without legal representation they must complete the Land Registry Form ID1 and take it to a solicitor for them to complete the second part of the form to confirm that the necessary identity checks have been made. The form would need to be forwarded to the legal department so that it can then be attached to the application when registering the DPA at the Land Registry.

Interest charges

The loan will have interest charged on it in the same way that a normal loan would be charged on money borrowed from a bank. The maximum interest rate that will be charged is fixed by the Government. Currently, the maximum rate to be charged is based on the cost of government borrowing, and will be reviewed on 1 January and 1 July every year.

The local authority currently charges 0.95% (from 11 March 2020). This interest will be compounded daily and will apply from the day you enter into the Deferred Payment Scheme.

We will send you two itemised statements a year.

How much can I defer?

We ask that you arrange for your own independent evaluation and submit it with your application. We will make an evaluation of your asset. Your equity limit will be set at the value of the asset, less 10%, less £14,250 (lower capital limit). So, for example, if your property is valued at £100,000 we will offer a deferred payment up to the value of £75,750.

How do I apply for a Deferred Payment?

If you wish to apply for a Deferred Payment, please complete the application form left with you by the FAB officer and return it to your local adult social care finance team (address on the form). You **must** return the form by the date at the top of the form so that we have time to process your application.

If we don't hear from you we will stop paying towards your care at the end of the 12-week disregard. You will become self-funding and will have to pay the full cost of your care direct to the home.

If you ask for a Deferred Payment at a later date it will start from the date we receive your application and will not be backdated.

If we agree to your request for a Deferred Payment, we will send you, or the person representing you, two copies of your Deferred Payment Agreement. You should sign one copy and return it to us and keep the second copy for your records. When we receive your signed agreement we will instruct the County Solicitor to place the charge against your property.

We advise you to get independent financial and legal advice to help you understand the agreement and before you sign the agreement.

In some exceptional circumstances your request for a Deferred Payment may be turned down, this could be because:

- We are unable to secure the debt against your property
- You ask to defer an amount larger than the amount you can provide security for (although we will allow a Deferred Payment against the amount that can be secured)
- You don't agree to the terms and conditions of the agreement.

The reasons will be given to you in writing and you will be told how to challenge the decision.

Your agreement with Somerset County Council

If you decide to use the Deferred Payments Scheme, you enter into a legal 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. You will be charged for this expense (included within the £500 application fee).

The agreement covers both the responsibilities of the Council and your responsibilities. If you incur expenses in maintaining your home while you are in residential or nursing care, we will consider these when working out the amount you are assessed as contributing each week from your capital and income.

You can end the agreement at any time (for example, if you sell your home). The loan then becomes payable immediately. You will need to arrange your own private contract with the home and you will be responsible for the full costs charged by the home.

Otherwise the agreement ends on your death and the loan becomes payable 90 days later.

Top-Ups

We set weekly fee levels for different types of care each year. Your Social Worker will tell you what they are and also the homes that usually accept these rates. If you choose to go to a home which charges more than these levels, a third party will usually have to pay the difference. This could be a family member, a friend or a charity. However, as you have property to sell, the law says you can pay the top-up from your own capital providing you can continue to sustain these payments, or you can ask us to consider adding the top-up amount to your Deferred Payment.

Insurance

You must continue to insure your property, make sure it is secure and keep it in good condition. If your property is uninsurable, not insured or not maintained, we will not be able to agree to your Deferred Payment. We will ask you to provide a copy of your valid insurance certificate as part of your application.

Other options

You may choose to rent out your property, which could give you enough income to cover the full cost of your care. There are advantages to this as you will not accrue a debt, be liable for interest and administrative charges, and your property will be occupied. Your tenant will be paying utilities and council tax, which will reduce your outgoings.

There are also various equity release products which may be suitable for your personal circumstances.

You may also choose to pay the full cost of your care from your available income and savings/assets; or a family member may choose to pay some or all of this for you.

Independent financial advice

We recommend that you always ask for independent financial advice.

Remember, if you get financial advice and they are recommending ways that you should invest or use your money against specific financial products, they must be regulated by the Financial Conduct Authority (FCA). You can check on this website to see what this means: <http://www.fca.org.uk/>

Some examples of organisations that provide advice are listed below:

- The Money Advice Service website: <https://www.moneyadviceservice.org.uk/en> offers information on paying for care or the option to speak to an online advisor. You can phone them on 0300 500 5000.
- The Society of Later Life Advisers: <http://societyoflaterlifeadvisers.co.uk/> can help you find advice on how to make financial plans for care in your old age. You can phone them on 0845 303 2909, or use the website to search for a regulated financial advisor in your area.
- Age UK: <http://www.ageuk.org.uk/> has a good website with advice for older people and those planning for their later years. You can also phone them on 0800 169 6565
- Carers UK: <http://www.carersuk.org/> has a website resource of advice for carers. You can also phone them on 0808 808 7777

Your opportunity to feedback

We welcome your comments about the services you receive. If you would like to tell us what you think, please either:

Contact us by going to our website, www.somerset.gov.uk, or

- Speak to your social care worker
- Phone Somerset Direct on 0300 123 2224, or
Contact the Adults and Health Customer Experience Officer
Floor B2 East
County Hall
Taunton
TA1 4DY
Email: customerexperience@somerset.gov.uk

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