

DEFERRED PAYMENT AGREEMENTS

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A Deferred Payment Agreement (DPA) is an arrangement with the local authority that lets people use the value of their home to help pay for their care home fees.

Each local authority must have a DPA scheme in place.

It is designed to allow the homeowner to delay selling their home during their life time.

Since April 2015, following the introduction of part one of the Care Act 2014, local authorities in England have had to offer a loan (often referred to as a deferred payment agreement or DPA) to meet care costs, secured on the home of the individual in care, at a fixed interest rate. This is known as the “universal deferred payments system” and was introduced to ensure fewer people were forced to sell their home within their lifetime to pay for their care.

Depending on how much equity someone has in their home, a DPA can last until their death, or it can be used as a type of ‘bridging loan’ to give time to sell the home at a time that is more convenient.

It should be made clear to anyone considering this means of payment that the payment for care and support is deferred, not ‘written off’ – the costs of provision of care and support will still have to be repaid by the individual (or a third party on their behalf) at a later date.

WHO IS ELIGIBLE?

Under the Care and Support (Deferred Payment) Regulations 2014 there are clear eligibility criteria to determine whether a person is entitled to a deferred payment agreement. If they meet the criteria, they *must* be offered deferred payment by the Local Authority.

The regulations that apply in England specify that someone is eligible for, and so must be offered the option of a deferred payment scheme **if they meet all 3 of the following criteria** at the point of applying:

1. They have been assessed as having eligible needs which the local authority has decided should be met by the provision of care in a care home. This decision should comply with “choice of accommodation” regulations and care and support planning guidance, so should take reasonable account of the person’s own preferences.
2. They have less than (or equal to) £23,250 (2025/26) in assets excluding the value of their home (i.e. in savings and other non-housing assets).
3. The person has beneficial or legal entitlement to the property that is their only or main home, and the property is not subject to a property disregard - for example it is not occupied by a spouse or dependent relative as defined in regulations on charging for care and

support. So, they must be someone whose home is taken into account as an asset in the local authority financial assessment, meaning it might need to be sold to pay for their care.

Local authorities are also encouraged to offer the scheme more widely to those they feel would benefit, but who may not fully meet the criteria.

A financial assessment must have been completed; the Local Authority must be satisfied that the property value exceeds the upper capital financial limit (after any money already owing on the property has been deducted from its value); and the Local Authority is satisfied that the equity in the property is sufficient to pay the likely Deferred Payment amount; and the person is able to offer financial security to the Local Authority that the Deferred Payment will be paid back to the local authority when the agreement comes to an end.

WHAT HAPPENS IF A PERSON IS ELIGIBLE?

If someone is eligible, the local authority will pay some or all of their care home bills on their behalf. The person in care can delay repaying the council until they choose to repay, choose to sell their home, or until their death. They will need to sign a legal agreement with the council, saying that the money will be repaid when their home is sold.

The local authority usually ensures that the money owed in care fees will be repaid by contacting the Land Registry and putting a legal charge on the property. This charge is removed when the outstanding debt is repaid. Usually no more than 90% of the value of a home (minus the lower capital limit of £14,250 for the financial year 2025/26) can be used in this way to pay for fees. In practice, many local authorities will set a limit between 70% and 80%. This is to ensure that the homeowner or the executor of their will is left with enough money to cover the sale costs and to ensure that the local authority is still likely to get their money back if house prices fall.

THE DISPOSABLE INCOME ALLOWANCE

Under this kind of agreement an individual can defer either the full amount of their care costs or an element of their care costs (if they are paying a contribution from another source). Under rules in the 2014 Care Act that apply in England only, the local authority must allow individuals to keep a minimum amount of income each week if they enter into a deferred payment agreement. This is called the Disposable Income Allowance (DIA) and is set at £144 a week (2025/26). The allowance is designed to give enough money to pay for any additional costs that might have to continue to be paid for the home, such as insurance, utility bills, and maintenance costs. The individual can choose to contribute more towards the costs of their care and keep less than £144 a week if they wish.

WHAT DOES A DPA COST?

The charge for setting up the agreement will tend to reflect the actual costs that the local authority incurs (local authorities are not permitted to operate a deferred payment agreement at a profit). There may also be an annual administration charge on each anniversary of the agreement. The set-up charge and the annual charge can normally be paid separately, or they can be added to the

loan amount, but the latter will also incur interest. The charges cover legal costs, land searches, registry and valuation charges.

By way of example only, one local authority – Leeds - currently charges the following for a DPA (for financial year 2025/2026):

FEE TYPE	CHARGE
Admin set-up charge	£190
Admin annual charge	£ 95
Admin termination charge	£150
Legal charges	Set by solicitor (usually around £520)
Land registry charge	Between £40 and £910 depending upon property value
Land search	Between £20 and £125 depending upon property value
Independent property valuation	Varies, set by estate agent

(source: <https://www.leeds.gov.uk/adult-social-care/how-to-get-adult-social-care-and-support/help-to-pay-for-care/help-paying-for-care-homes/deferred-payment-agreements>)

WHAT INTEREST IS CHARGED?

Since 1st April 2015, local authorities have been able to charge interest from the start of an agreement, subject to a maximum percentage which is specified in the regulations. The interest rate charged by the local authority is reviewed twice a year and is applied from 1st January to 30th June and 1st July to 31st December each year.

The maximum rate the local authority can charge in England for 1 Jan 2025 to 30 June 2025 is 4.25% pa and 4.65% from 1st July 2025. Interest is accrued on a compound basis on the amount deferred, even if the equity limit is reached. Interest typically also applies during breaks in care and after death, until the deferred amount is repaid.

WHEN MIGHT A LOCAL AUTHORITY REFUSE A DEFERRED PAYMENT AGREEMENT FOR A QUALIFYING INDIVIDUAL/S?

Examples include:

- Where the local authority doesn't think enough security exists against the loan, they may be able to refuse an agreement on the basis that they risk not getting back the money they will spend on care fees.
- Where it is not possible for the local authority to secure a first charge on the property.
- Where the individual doesn't agree to some or all of the terms and conditions of the agreement.

- Where the individual doesn't have the mental capacity to agree to the arrangement, and they don't have a legally appointed attorney or deputy who is willing to agree.
- Where a person is seeking to use the DPA to pay a top-up fee. In principle, people should be able to defer their full care costs, including any top-ups. But the minimum an eligible person must be allowed to defer is their 'core' care costs.
- If a joint owner of the property does not agree. The local authority must get signed consent from all owners to put a legal land registry charge on the property and not to object to a future sale for repaying the debt to the local authority.
- To be eligible for a deferred payment scheme there should be no-one else living in the property who needs to stay there such as a spouse, partner, a child under 18 of the person in care, a relative aged over 60, or someone who is sick or disabled. However, the local authority does have the discretion to offer a deferred payment arrangement where a property is jointly owned. This raises the question as to whether reliance can be placed on the property disregard rules for joint owners. There is some hearsay evidence that some local authorities are offering deferred payment arrangements on property that is both jointly owned and occupied by one of the above. Whilst a local authority must seek the consent of all owners, this can often be at a time when there is immense pressure to resolve matters.

It could be that in these circumstances joint owners provide consent, even though they are potentially agreeing to make themselves homeless if the individual in need of care dies in care, as the local authority will then require repayment of the loan plus any accrued interest.

CIRCUMSTANCES WHERE A LOCAL AUTHORITY MAY REFUSE TO CONTINUE TO DEFER CHARGES WHEN AN EXISTING DEFERRED PAYMENT ARRANGEMENT IS IN PLACE*

Refusal to continue to defer payments might happen when:

- the individual's total assets fall below the level of the means-test and they become eligible for local authority support rather than being a self-funder.
- the individual no longer needs care in a care home.
- the individual breaches certain terms in their contract and the local authority cannot resolve the breach.
- the property becomes disregarded, the individual consequently qualifies for local authority support in paying for their care and is no longer a self-funder.
- the 'equity limit' is reached.

Local authorities must give at least 30 days' notice if they decide not to defer any further charges for someone who has an active deferred payment arrangement in place. Repayment is still subject to the usual terms of termination and local authorities should provide the person with an indication of how their care costs will be met in future e.g. by the local authority (which may require a change

of care home due to the fees the local authority is prepared to pay) or from the individual's income and assets.

OTHER WAYS A LOCAL AUTHORITY MAY CONSIDER BEING REPAYED IF A CHARGE ON THE PROPERTY IS NOT POSSIBLE OR THE PROPERTY IS NOT DEEMED TO BE SUITABLE SECURITY

- They may agree to accept an assignation of a life policy to repay the costs on death.
- They may agree to accept a guarantor who has security against which the local authority can secure a legal charge.
- They may agree to accept solicitor's undertaking in respect of the availability of future funds.

Please note, a local authority is not *required* to accept any of the above 'alternative' means of security.

SUITABILITY OF A DPA

Whether a DPA is suitable or not for an individual can be tricky to assess, and MCC strongly advises that anyone considering entering into a Deferred Payment Agreement with their local authority should seek financial/ legal advice before signing up.

Paying for care fees using a Deferred Payment Scheme may be suitable where –

- The individual doesn't want to sell their home to pay for care fees after the 12-week disregard period.
- The property, while on the market, has not sold within the 12-week disregard period and other funding options are not viable.
- A friend or relative is still living in the property, but they are not covered by a mandatory or discretionary property disregard.
- The individual is ultimately prepared to use up the equity within their property to pay for care fees.
- The individual wants a cost effective 'bridging loan' to give them time and flexibility to sell their home when they choose to do so (perhaps to avoid a temporary dip in market valuation or to provide time to secure a targeted price).

Paying for care fees using a Deferred Payment Scheme may not be suitable where –

- The local authority is unable to secure a legal charge on the property.
- The owner is uncomfortable with the idea of the growing debt created by deferring care fees.
- The owner and/or their family don't want to sell 'the family home' (although they should be made aware that the repayment of the Deferred Payment Scheme loan can be made by a third party if that is a feasible or preferable option when the time comes).

- The owner wishes to provide an inheritance (using a significant amount of property equity to do so).
- Alternative means of payment are available.
- Where another person (apart from the person in need of care) continues to reside in the property and requires security of occupation at the point the person in need of care dies.
- An existing equity release scheme is in place, as it may not be possible to join a deferred payment scheme.

GENERIC ADVANTAGES OF A DPA

- The council will pay for the costs of care, so the individual won't have to find the money straight away.
- There is a maximum rate of accrued interest that the local authority can charge.
- Debt is only built up against the value of the home for the time that the individual is in care. If they know they may only need to spend a short time in care, for example because a condition is terminal, this may be an option worth considering.
- In a rising market, the value of the house should continue to increase in value, effectively paying towards care costs.
- Because the house is not sold in this scenario, therefore not producing capital, individuals can continue to claim Attendance Allowance, Disability Living Allowance (care component), or Personal Independence Payment (daily living component), if they are entitled to any of these benefits.
- Renting out the home may be allowed (usually subject to written consent from the local authority and a formal shorthold tenancy agreement) and part of the rental income can then be used to pay care home fees. In such circumstances, the Deferred Payment Scheme debt may end up less than it would otherwise be, the property will be occupied, and tenants can pay utilities and council tax.
- If the property is rented out during a deferred payment agreement, the local authority should permit retention of a percentage of rental income. The local authority may offer other incentives to encourage the rental of properties.
- Sometimes the local authority might offer to place tenants from their housing list into the empty property and pay rent to you.

GENERIC DISADVANTAGES OF A DPA

- The ongoing cost of upkeep and maintenance of the house.
- The ongoing cost for heating and lighting bills so that the house does not look unoccupied.
- Keeping the house insured (potentially a problem if no-one is living there).

- Ongoing mortgage payments will still need to be made if a mortgage is outstanding.
- House prices could fall leaving less money to pay back the care fees.
- Deferred Payment Agreements do not provide a “no negative equity” guarantee.
- Interest that could have been earned on the proceeds if the house had been sold and the equity put into savings or investments, would be lost. If the client’s health circumstances change and they move from the residential home they are in (and/or return home) the agreement will most likely end, and in such circumstances, the loan would need to be repaid within a few months.

DEFERRED PAYMENT ARRANGEMENTS IN SCOTLAND, WALES AND NORTHER IRELAND

The way care is funded works differently across the UK. Information in respect of DPA’s outside of England can be found via the following links:

Scotland: <http://www.careinfoscotland.scot/topics/care-homes/paying-care-home-fees/deferred-payment/>

Wales:

<https://www.rctcbc.gov.uk/EN/Resident/AdultsandOlderPeople/Alternativestolivinginyourhome/relateddocuments/DeferredPaymentsScheme.pdf>

Northern Ireland: In Northern Ireland, there is no formal deferred payment system, but it might be available via the regional Trust structure: <https://www.nidirect.gov.uk/contacts/health-and-social-care-trusts>

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