

# Worcestershire County Council

## Deferred Payment Agreement (DPA) Policy

### Document details

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# The Deferred Payment Agreement

## 1. Policy Statement

Adult Social Care, unlike NHS Health Care, is not free and the Care Act 2014 (sections 34 and 35) introduced a national Deferred Payment Scheme. This scheme imposes a duty on local authorities in England to offer Deferred Payments Agreements to allow people to defer the costs of their care, where their needs are to be met by the provision of care in a care home, provided certain criteria are met.

In exceptional conditions, Local Authorities may also at their discretion enter into Deferred Payment Agreements with people whose care and support is provided in Supported Living or Extra Care accommodation provided certain criteria are met, but not for people receiving care in their own home. In such instances, each case will be considered on its own merits and specific circumstances.

The Care and Support (Deferred Payment) Regulations 2014 and the Care and Support Statutory Guidance set out the legal framework and local authorities' responsibilities in greater detail. These legal duties came into force on 01 April 2015.

The Regulations provide that Worcestershire County Council must offer a Deferred Payment to people meeting certain eligibility criteria (see section two below). A Deferred Payment Agreement can be retained until the person dies, with the amount of care fees accrued being repayable from their estate 90 days after death. They can also be offered to persons who decide to sell their home whilst still alive (the deferred payment providing "bridging finance").

To see the Government Guidance please visit:  
[Government link to explain the Care Act 2014](#)

In this policy the following references apply:

- 'you' refers to the person receiving the service from Worcestershire County Council
- 'the Council' or "we" refers to Worcestershire County Council

## 2. What is a Deferred Payment Agreement?

Unlike NHS Health Care, Adult Social Care is not free. A Deferred Payment Agreements (DPA) are designed for people who own their own home, but either do not wish to, or cannot sell it immediately and cannot meet the full cost of their care home fees from their other income or capital.

A Deferred Payment Agreement is secured on a person's interest in a property / land can only apply to your former main or only home. The Agreement offers a loan, from Worcestershire County Council, which can only be used to pay your care or support fees, using your home as security.

It works in a different way to a conventional loan because the Council doesn't give a fixed sum of money when the agreement begins. Instead, the Council will agree with you a maximum amount we will loan up to, and this will be based on certain criteria.

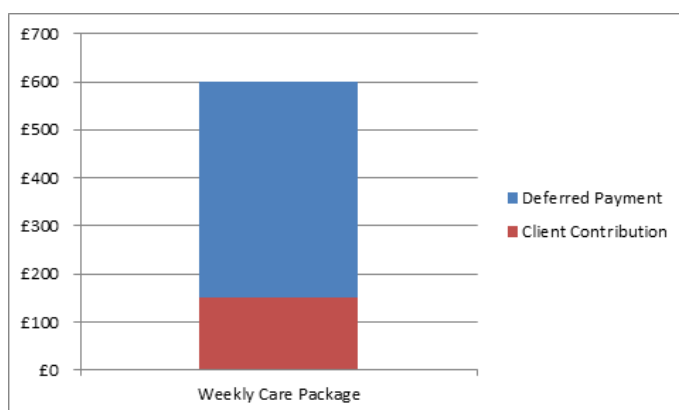
The Council will complete a means tested financial assessment based on your income and savings, and in line with its **Financial Assessment and Care Contributions Policy**, to determine the weekly amount you can afford to contribute towards your care costs.

Each week you are receiving care, the Council will pay the care home the difference between the amount the home charges you per week, and the amount the financial assessment showed you can afford to pay towards your care.

The part that the Council pays is the amount it is loaning you, and called your 'Deferred Payment'. This amount builds up weekly, as a debt to WCC, which is cleared when you have the capital available to pay the amount owed back to the Council, this for many people will be done when they sell their home, either immediately or later on.

**An example of how this works is shown below:**

The weekly cost of the care home	£600
A person's Financially Assessed weekly contribution	<u>£150</u>
<b>The weekly amount of the Deferred Payment</b>	<b>£450</b>



## **Top Ups (also known as Above Banding Supplements)**

A Top Up (sometimes referred to as an Above Banding Supplement) is payable when your preferred choice of accommodation costs more than the amount specified in your personal budget for accommodation of that type. This Top Up amount is the difference between the amounts specified in the personal budget, and the actual cost.

A Top Up can be paid by a third party or, if you enter into a Deferred Payment Agreement, this amount can be added to your loan.

### **3. How will I know if I am eligible for a Deferred Payment?**

Worcestershire County Council must offer a deferred payment to you, if you meet the criteria set out below:

- You have been assessed by a Social Worker as requiring 24 hour care, and this is to be provided in a care home, Supporting Living or an Extra Care accommodation; and
- You own a property which was your former main or only home; and
- Your home is registered in your name with HM Land Registry
- Excluding the value of this home, you have savings / capital less than or equal to the upper capital threshold (see [Appendix 1](#)); and
- If the value of your former main or only home is not disregarded, details of when a disregard can be considered can be found at [Appendix 2](#).
- A Deferred Payment loan can be secured by way of a legal charge being placed on your property in favour of Worcestershire County Council

### **4. Does my property qualify for a Deferred Payment?**

In most cases Worcestershire County Council will only consider offering a Deferred Payment Agreement on the property which is your former main or only home.

You must have either a beneficial or legal interest in the property. The property must be registered with HM Land Registry Department in either your sole name, joint tenants, or as tenants in common.

There should be sufficient equity in your share in the property to cover the costs of a minimum of 12 months care home fees. The Council will secure their loan by way of placing a legal charge against your property.

The Deferred Payment must be agreed to and the agreement signed by you or your legal representative e.g. an Attorney or Deputy. See [Appendix 3](#) for more information on mental capacity and deputyship.

It is recommended that anyone entering into a Deferred Payment Agreement should seek Independent Regulated Financial Advice.

## **5. Do I have to pay to enter into a Deferred Payment Agreement?**

We will write to you with details of the administration charges before you enter into the Deferred Payment Agreement. You will be asked to pay an initial set up administration fee (see [Appendix 1](#)) which will be payable at the time the charge is placed against the property and the Deferred Payment Agreement is entered into. You can however choose to add the fee to the loan. This administration fee covers the Council's legal costs and disbursements involved in drawing up the agreement, carrying out searches and placing the legal charge against your property. Once on the scheme, an annual fee will apply for the duration of the agreement (see [Appendix 1](#)).

Interest will also be applied to the Deferred Payment. This is set nationally by the Department of Health and Social Care and is reviewed every six months, usually in July and January of each year (see [Appendix 1](#)). This interest will be compounded when it is added to the accruing debt.

In certain circumstances additional costs may also be incurred. These will be added to the Deferred Payment debt and we will write to you setting out what these charges are before they are added to the loan. Alternatively, you will have the option to settle these charges as and when they are incurred. An example of these would be if a specialist valuation is required at any point during the lifetime of the agreement.

## **6. What if I do not want to enter into a Deferred Payment Agreement?**

If you decide that you do not want to enter into a Deferred Payment Agreement and the value of your property exceeds the upper capital limit, the Council will assess you as being able to pay for your care fees in full.

You will then receive monthly invoices, in arrears, for the cost of your care. These invoices are payable in full to the Council within 30 days of the date of the invoice.

You can pay by Direct Debit and you can set this up on our website: [www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care](http://www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care). Please note, if payments are not made the Council may proceed with legal action.

## **7. What if I am a legally appointed representative for someone?**

If the person receiving care lacks capacity to make decisions regarding their finances, there must be a legally appointed representative to make decisions on their behalf. This must be someone that holds either a registered Enduring Power of

Attorney for Property and Financial Affairs, a Lasting Power of Attorney for Property and Financial Affairs or a Deputy appointed by the Court of Protection.

The Council is unable to offer a Deferred Payment Agreement until someone is appointed to act legally on their behalf. See [Appendix 3](#) for more details.

## **8. Could the Council refuse to offer me a Deferred Payment Agreement?**

The Council may refuse a Deferred Payment if:

- We cannot place a legal charge on your property. This could be because you already have a legal charge on your property due to an existing mortgage or equity release scheme and this prohibits another charge being placed on the property;
- There is insufficient equity available in the property to cover a minimum of 12 months care home fees;
- You do not have capacity to make decisions and do not have a person legally appointed to act on your behalf, for example an Attorney or Deputy for Property and Financial Affairs. For more information relating to acting on behalf of someone else and the Mental Capacity Act please see [Appendix 3](#)
- Where you are seeking a Top Up and/or where you do not agree to the terms and conditions of the agreement, for example a requirement to insure and maintain the property
- If your property or land is unregistered and you are unable to prove ownership
- A co-owner or interested party do not give their consent to the creation of a legal charge on the property.

The treatment of the property will then be considered in line with the Council's Charging Policy for Care and Support.

## **9. What happens when I first go into a care home?**

If you have savings of more than the upper capital limit (see [Appendix 1](#)), excluding the value of your home, you will be expected to pay for your care fees in full.

Once your savings fall close to the upper capital limit, you can approach the Council for possible assistance towards your care costs. If the Council assesses your care needs as eligible, and they are to be met in a care home, it must offer you a Deferred Payment if the qualifying criteria are met. At the same time, you will also be given a Deferred Payment Agreement information leaflet and Application form. You must complete and return this form within 6 weeks of receipt if you would like to accept the offer to defer the payment.

If you do not return it within 6 weeks, we will assume that you have chosen not to have a Deferred Payment Agreement, and you will be liable for the full cost of

your care from the day care began. You will then receive monthly invoices, in arrears, for the cost of your care. These invoices are payable in full to the Council within 30 days of the date of the invoice. You can pay by Direct Debit and you can set this up on our website: [www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care](http://www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care). Please note, if payments are not made the Council may proceed with legal action.

If, however, you do not have savings above the upper capital limit, the Council may disregard the value of your property which was your former main or normal home, for the first 12 weeks of your permanent residential or nursing care stay.

If your residential or nursing stay was initially temporary, the 12 weeks starts from the date it is decided your care is to be permanent. If your property is sold within this 12-week period, the Council will take into account the money you receive from the sale as capital, and you will be expected to pay the full cost of your care from the date of the completion of the sale.

If you have been in residential or nursing care and paying for your care fees without any assistance from the Council for more than 12 weeks, the 12-week property disregard will not apply to you. If you have been paying for your care in full for less than 12 weeks and your capital falls below the upper capital limit, you may be entitled to some of the 12-week property disregard period.

Although the value of your property is disregarded during this time, you will still be required to complete a means tested financial assessment to establish what you can afford to contribute towards your care costs from your income and other savings.

Whilst we are gathering information to accurately assess how much you will be asked to pay, you will be charged a provisional contribution for your residential or nursing care and this will be payable to the home. (See [Appendix 1](#) for current amount)

Before the end of this 12-week period, you will be asked to confirm if you would like to accept the offer of Deferring Payment of your care fees and enter into Deferred Payment Agreement, as the initial contract with the home will cease at the end of the 12 weeks.

## **10. What is the Financial Assessment and why do I need to complete one?**

Adult Social care, unlike NHS Health Care, is not free. A means tested financial assessment is needed to identify if you are eligible for any financial assistance from the Council towards your care fees, and also to determine what you can afford to contribute towards the cost of the care or support your Social Worker has assessed you as needing.

A financial assessment is means tested based on your income, savings and expenditure. They are completed by a member of the Care Contribution Assessment

Team, in line with the Council's Charging Policy For Care and Support. You can also complete an Online Financial Assessment (OFA) at any time here: <https://worcestershire.mycostofcare.com/OFA> all you need to do is enter details of your benefits, pensions, earnings, savings, assets, and costs. The calculator will then estimate the amount that you might have to pay each week.

If your property falls to be disregarded for the first 12 weeks, your financial assessment will not take into account the value of your home.

From the start of the 13<sup>th</sup> week of your care, the value of your property will be considered in the second financial assessment; this is called the 'Deferred Payment Financial Assessment'

If the total amount of your capital, including the value of your home, exceeds the upper capital limit (see [Appendix 1](#)), you will be assessed as being able to pay for your care fees in full.

However, if you chose to enter into a Deferred Payment Agreement, we will base the financial assessment on your income and savings, excluding the value of your property, and until the value of your home is realised the Council will pay the part of your weekly care fees that you cannot afford. The part that the Council pays is your 'Deferred Payment' and the amount it is loaning to you.

The Deferred Payments build up weekly as a debt. This debt is cleared when you have the capital available to pay the Council the total amount due, this for many people will be done, when they sell their home, either immediately or later on.

### **The Deferred Payment Financial Assessment**

This financial assessment will establish what your contribution towards care will be from the start of your Deferred Payment Agreement and will be reviewed annually.

We will consider your total weekly income and savings and make sure you have available the 'Disposal Income Allowance' as set out in the Council's Charging Policy For Care and Support (See [Appendix 1](#)). This allowance is to cover your weekly personal expenditure and the costs of insuring and maintaining your property whilst you are in the care home.

You may decide that you do not want to take the full amount of the Disposal Income Allowance, instead reducing the amount of debt to the Council you are accruing weekly. Please note however, as a minimum you must retain at least the weekly amount of the Personal Expense Allowance (see [Appendix 1](#))

## **11. What benefits can I claim if I chose to enter into a Deferred Payment Agreement?**

During the Deferred Payment Financial Assessment, the officer will advise you of any benefits they feel you may be entitled to when on a Deferred Payment. You, or

your legal financial representative, will be responsible for applying for these benefits and for notifying the Department for Work and Pensions of any changes in your circumstances too.

Likewise, when there are any changes in your income or benefits; it is your responsibility to notify the Care Contribution Assessment Team of these changes as soon as possible by emailing them at [CCAAdmin@worcestershire.gov.uk](mailto:CCAAdmin@worcestershire.gov.uk).

## **12. Can I rent out my home whilst I am in the care home?**

While you are in a Deferred Payment Agreement with the Council before entering into any tenancy agreement, you must obtain consent from the Council. You can do this by contacting the Care Contribution Assessment Team at [CCAAdmin@worcestershire.gov.uk](mailto:CCAAdmin@worcestershire.gov.uk).

Renting out your property will affect the amount you are asked to pay toward your weekly care fees because this will be new income to you. We will however, disregard 25% of the gross rental income. The Care Contribution Assessment Officer will ask you to provide verification of the proposed tenancy agreement and proposed rental income.

## **13. How do I apply for a Deferred Payment Agreement?**

First of all, you will need to fully complete the Deferred Payment Application Form, found within your Property Information Pack. If you would like to enter into a Deferred Payment Agreement this form should be returned within 6 weeks with any appropriate supporting documentation, such as copies of Last Power of Attorney certificates, wills and possibly death certificates.

If you do not return it within 6 weeks, we will assume that you have chosen not to have a Deferred Payment Agreement, and you will be liable for the full cost of your care. You will then receive monthly invoices, in arrears, for the cost of your care. These invoices are payable in full to the Council within 30 days of the date of the invoice. You can pay by Direct Debit and you can set this up on our website: [www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care](http://www.worcestershire.gov.uk/council-services/adult-social-care/paying-care-and-support/how-pay-adult-social-care). Please note, if payments are not made the Council may proceed with legal action.

## **14. What happens next?**

The Care Contribution Assessment Team will complete a number of preliminary checks and enquires as follows:

### **14.1 Ownership**

To confirm you are the legal / beneficial owner the Council will complete a land registry search to confirm ownership. If your property is registered it will confirm if you are any of the following:

- **Sole ownership** - you own your property outright, with no other owners.
- **Joint Tenants** - you own the property with one or more other people, and when one joint tenant dies that person's share automatically passes to the survivor(s). This means that you cannot leave your share of the property to someone else in your will.
- **Tenants-in-Common** - the property is owned by 2 or more persons, and each person can leave their share in the property to whomever they chose in their will.

Property held as tenants in common may be suitable for a Deferred Payment Agreement in certain circumstances, the Council will consider each case on its own merits. If the co-owner is deceased and probate is currently being administered, the Council will require additional information and the property. If it is unregistered, it may have to be registered with Land Registry before the agreement can be entered in to, or the registration may need to be amended/updated before we offer an agreement. Please note the Council will not cover any related costs in doing this.

In all cases, written informed consent of all co-owner(s) and any other person with an interest in the property will be required agreeing to the legal charge being placed against the property and this charge taking priority to and ranking before their interest in the property.

If a Deferred Payment is not appropriate, then the persons share in the property will be considered in the Financial Assessment as a capital asset, and if that share exceeds the upper capital limit (see [Appendix 1](#)) the person will be required to pay the full costs of their care.

**Unregistered Property** - if the property is unregistered with HM Land Registry and you are unable to prove ownership, you may be refused a Deferred Payment Agreement, until such time that the property is registered.

#### **14.2 Requirement of Co-Owner(s) & Interested Parties Consent**

Where the property that is to be the subject of the Deferred Payment Agreement is co-owned, or there is another interested party, for example, there is a tenant or lodger in the property, we will require in writing genuine and informed consent of each co-owner and/or anyone else the Council considers has an interest in the property/land. This consent will need to confirm their understanding and agreement that your entering into the agreement will lead to the creation of a legal charge taking priority to and ranking before any interest the person has in the property/land which will be the subject of the charge.

If we are unable to place a charge against the property, the persons share will be considered and treated as a capital asset and taken into account in line with the

Council's Charging Policy for Care and Support which may result in the person being assessed as being able to meet the full cost of their care. They will then receive monthly invoices, in arrears, for the cost of care. These invoices are payable in full to the Council within 30 days of the date of the invoice.

#### 14.4 Disregards

There are specific circumstances when the value of your property will be disregarded. See [Appendix 2](#) for full details of such circumstances.

#### 14.5 Valuation

You will be asked to state on your application form the approximate value of your property. The Council will compare this by using several means, such as local knowledge, internet sites and local estate agents.

If you are not happy with the valuation the Council uses to determine the maximum loan offered, a specialist valuation may be required. In these circumstances you may be asked to pay for this valuation.

#### 14.6 Equity

To determine if we can offer a Deferred Payment Agreement and if so how much, we need to calculate your share of the equity available in the property.

This is calculated as shown below:

Value of your share - 10% (sale costs) - any outstanding loan/mortgage - lower capital limit (see [appendix 1](#)) = total amount of equity available.

This total is the maximum the Council will loan up to, this is called your 'Equity Loan Limit'

This is illustrated below:

Value of your share in the property:	£ 150,000
<i>Minus</i> sale costs (10%)	£ 15,000
<i>Minus</i> outstanding mortgage	£ 20,000
<i>Minus</i> lower capital limit	<u>£ 14,250</u>
<b>Equity Loan Limit is</b>	<b>£ 100,750</b>

This amount will be reviewed regularly and subject to change to reflect the current market position.

After all these preliminary checks have been completed a member of the Care Contribution Assessment Team will be in contact with you with a view to providing you with an offer. In some circumstances you may be asked to attend a meeting to finalise our enquiries.

Should you accept the Council's offer you will be asked to sign a Deferred Payment Agreement and its terms and conditions.

### **15. Can a Deferred Payment be considered against the value of any other asset?**

In some circumstances the Council may consider other forms of security providing this security gives the Council adequate protection. Each case will be considered on its own merits, and the Council reserves the right to refuse any other form of security.

### **16. What are my responsibilities whilst the agreement is in place?**

The Deferred Payment Agreement sets out various contractual requirements on you and the Local authority as parties to the agreement. These are detailed in the agreement and are also set out in brief below.

Your responsibilities include, but are not limited to the following:

- You must notify the Council of any changes in your income or savings / capital during the lifetime of the agreement.
- You must notify the Council of any changes to your need for care and support, as these may affect the assistance the Council may be able to provide.
- If your property has not been disregarded for the purpose of your financial assessment you must inform the Council of any changes that may mean that the property subsequently falls to be disregarded.
- You must ensure that you have adequate buildings insurance on the property at all times, even if the property is empty and ensure that any terms required by the insurer are met. The Council may wish to see verification of this from time to time.
- You must agree to adequately maintain the property whilst you are in a care home, to ensure it is in a good state of repair. If you are not able to do this yourself you must have in place an arrangement for regular maintenance to take place. You may wish to appoint someone to oversee this on your behalf and you will need to inform the Council who you have appointed.
- You must obtain consent from the Council before allowing someone to move into the property after the agreement has been made. We will require from any such person their written consent and understanding that the legal charge on the property, in favour of the Council, will take priority to and ranking before any interest the person has in the property.
- You must inform the Council if you decide you wish to sell the property and keep it fully informed as to the progress of any sale.

### **17. What are the Council's responsibilities whilst the agreement is in place?**

The Deferred Payment Agreement sets out various contractual requirements on you and the Local authority as parties to the agreement. The Council's responsibilities are set out in brief below:

- The Council must provide you with a written statement at the end of the initial six month period and then every six months while the loan is active. This statement will detail how much you would have to pay the Council to terminate the agreement on the date the statement is sent, or any later date that you may request. The amount will include any administrative fees and interest applied in addition to advising you of the equity remaining with a projection as to how quickly this will deplete up to your equity limit.
- The Council must provide you with an up-to-date statement within 28 days of your request, which must be done in writing to:

Via email to [DeferredPayments@worcestershire.gov.uk](mailto:DeferredPayments@worcestershire.gov.uk)

Or in writing to:  
FOS Finance Team  
Worcestershire County Council  
County Hall  
Spetchley Road  
Worcester  
WR5 2NP

Once the amount which has been deferred has exceeded 50% of the security, the Council will look again at the valuation of your property or chosen form of security. The Council will then adjust the equity limit accordingly and keep this under review if the value has changed. The Council will give 30 days' written notice of the date of which you are likely to reach your equity loan limit.

## **18. What happens if my circumstances change - will this affect my agreement?**

There are certain circumstances where your agreement will not end, but your care fees temporarily cease to accrue as part of your debt. However, the debt that has accrued so far will still be subject to interest.

These circumstances are listed below:

- You reach your maximum equity loan limit.
- In most cases the Council will only disregard the value of your property where a qualifying relative (as defined in [Appendix 2](#)) has been continuously occupying the property as their only or main home prior to you entering long term care. In certain circumstances the Council may consider disregarding the value of your home should a qualifying relative (as defined in [Appendix 2](#)) move

into your property after you have entered long term permanent care. The Council will, however, need to consider the reason why this person has subsequently moved into the property and each case will be looked at on its own merits.

- You become eligible for Continuing Health Care (CHC) funding via the NHS. Whilst this is in place, the Council will not be assisting with your care fees. At this time your care fees will temporarily cease to accrue as part of your debt, but the balance will still attract interest. You may choose to continue to make contributions from your income during this time, which will reduce the amount outstanding.
- The Council may choose to stop deferring your care costs, if the terms of the agreement are breached, for example, the property fails to be adequately maintained or insured. In such cases, a new Financial Assessment will need to be completed and the remaining equity will be treated as capital which may result in the person being assessed as being able to pay for their care fees in full.
- You are subsequently assessed as no longer needing 24-hour care. A new Financial Assessment will be completed in line with the Council's Charging Policy for Care and Support, depending on what, if any, care and support the person then receives.

## **19. Can the agreement be terminated?**

A Deferred Payment Agreement can be terminated in 3 ways:

- At any time, you or someone acting on your behalf, can repay the full amount due
- When the property (or form of security) is sold and the Council is repaid on the completion of sale
- Or the Council is repaid from the person's estate.

## **20. How and when is the legal charge removed from my property?**

The charge is only removed from the property used as security once the full amount of the accrued debt has been repaid to the Council. On receipt of the repayment, the Council will authorise its Legal Services Division to instruct HM Land Registry to release the charge. This can take between 7 and 10 days to remove.

The charge can also be removed on completion of the sale of the property, following confirmation from your solicitor.

## **21. What if I don't agree with the Council on any of its decisions relating to my Deferred Payment Application?**

If you are unhappy, in the first instance, please contact a member of the Care Contribution Assessment Team via email [CCAdmin@worcestershire.gov.uk](mailto:CCAdmin@worcestershire.gov.uk). They

will discuss your concerns with you. If you still feel that your concerns have not been resolved, then the Council complaints process is available to you.

For more information, please see the Council's Adult Social Care complaints procedure. This is available through the Worcestershire HUB or through contacting the Consumer relations officer (01905 766365) or by visiting [Customer Relations](#) and using the online form.

## **22. Consumer Credit Act**

In most cases a Deferred Payment Agreement will only be offered against your former main or only home. In some cases the Council may choose to apply its discretion whereby a loan is agreed and secured against another form of asset, such as land. In both circumstances, the agreement is exempt from the Consumer Credit Act as per Article 72G(4) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, where both types of Deferred Payment Agreements (secured, and not secured, on land) are to be supplied by a Local Authority and fall within one of the definitions contained in Article 2(2) of European Council Directive 2008/48/EC.

Worcestershire County Council supports the objectives of the Data Protection Act 1998 and is registered as a data controller. Information that you provide will be governed by the requirements of the Data Protection Act 1998 and may be processed by the Council in the performance of its statutory duties or for purposes required by law. More information is available at [Worcestershire County Council](#).

## PROPERTY DISREGARDS

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### CAPITAL LIMITS

Figures set by Government from April 2026 – March 2027.

Upper Capital Limit	£23,250.00
Lower Capital Limit	£14,250.00

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### ADMINISTRATION FEES

#### Initial Set up Fee:

£700.00 per a single client

£750.00 per a joint application (2 clients at the same time)

#### Annual Administration Fee:

£200.00 per year for the duration of the agreement

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### CURRENT INTEREST RATE

From 01<sup>st</sup> July 2025 to 31<sup>st</sup> December 2025 4.65%

Then from 01<sup>st</sup> January 2026 4.75%

reviewed every 6 months by Department of Health and Social Care

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### PERSONAL EXPENSE ALLOWANCE

£31.80 per week from April 2026

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### DISPOSABLE INCOME ALLOWANCE

£144.00 per week from April 2026

End of Appendix 1

## Property Disregards – Mandatory and Discretionary

### 1. Mandatory Disregard

The Council will disregard the value of your main, or only, home when:

- a) Where the person is receiving care in a setting that is not a care home;
- b) If the person's stay in a care home is temporary and they:
  - (i) intend to return to that property and that property is still available to them; or
  - (ii) are taking reasonable steps to dispose of the property in order to acquire another more suitable property to return to.
- c) Where the person no longer occupies the property, but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see below):
  - (i) the person's partner, former partner or civil partner, except where they are estranged;
  - (ii) a lone parent who is the person's estranged or divorced partner;
  - (iii) a relative as defined in the paragraph below of the person or member of the person's family who is:
    - (1) Aged 60 or over, or
    - (2) Is a child of the resident aged under 18, or
    - (3) Is incapacitated.

For the purposes of the disregard a 'Qualifying Relative' is defined as including any of the following:

- (a) Parent (including an adoptive parent)
- (b) Parent-in-law
- (c) Son (including an adoptive son)
- (d) Son-in-law
- (e) Daughter (including an adoptive daughter)
- (f) Daughter-in-law
- (g) Step-parent
- (h) Step-son
- (i) Step-daughter
- (j) Brother
- (k) Sister
- (l) Grandparent
- (m) Grandchild
- (n) Uncle
- (o) Aunt
- (p) Nephew
- (q) Niece
- (r) The spouse, civil partner or unmarried partner of (a) to (k) inclusive.

A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership.

For the purposes of the disregard the meaning of "incapacitated" is not closely defined. However, it will be reasonable to conclude that a relative is incapacitated if either of the following conditions apply:

- (a) the relative is receiving one (or more) of the following benefits: incapacity benefit, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant Attendance Allowance, or a similar benefit; or
- (b) the relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit. Medical or other evidence may be needed before a decision is reached.

For the purpose of the property disregard, the meaning of "occupy" is not closely defined. In most cases it will be obvious whether or not the property is occupied by a qualifying relative as their main or only home. However, there will be some cases where this may not be clear and the local authority should undertake a factual inquiry weighing up all relevant factors in order to reach a decision. An emotional attachment to the property alone is not sufficient for the disregard to apply.

The Council will need to take account of the individual circumstances of each case; however, the Council will consider the following factors in making a decision:

- Does the relative currently occupy another property?
- If the relative has somewhere else to live do they own or rent the property (i.e. how secure/permanent is it?)
- If the relative is not physically present is there evidence of a firm intention to return to or live in the property
- Where does the relative pay council tax?
- Where is the relative registered to vote?
- Where is the relative registered with a doctor?
- Are the relative's belongings located in the property?
- Is there evidence that the relative has a physical connection with the property?
- Where address is given when claims for benefits and pension have been made (where applicable)

The Council will disregard the property, where the relative meets the qualifying conditions (i.e. is aged 60 or over or is incapacitated) and has occupied the property as their main or only home since before the resident entered the care home.

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## 2. Discretionary Disregard

The Council may also use its discretion to apply a property disregard in other circumstances. However, the Council will need to balance this discretion with ensuring a person's assets are not maintained at public expense. An example

where it may be appropriate to apply the disregard is where it is the sole residence of someone who has given up their own home to care for the person who is now in a care home or is perhaps the elderly companion of the person.

The Council may apply the disregard when a qualifying relative moves into the property after the resident enters a care home. Where this happens, the local authority will need to consider all the relevant factors in deciding whether the property must be disregarded. Factors such as the timing and purpose of the move may be relevant to establishing if the property is the relative's main or only home.

End of Appendix 2

### What is the Mental Capacity Act and why is it important to Deferred Payments?

#### Definition

The Mental Capacity Act 2005 (MCA) applies to care, treatment and support of people aged 16 years and over, in England and Wales, who are unable to make some, or all, decisions for themselves. All staff working with people who lack capacity must have regard to the Mental Capacity Act.

The MCA is accompanied by a statutory Code of Practice which explains how the MCA will work on a day-to-day basis, and provides guidance to all those working with, or caring for, people who lack capacity. All staff who are employed in health and social care are legally required to have regard to the MCA Code of Practice.

If the person receiving care does not have capacity to enter into a Deferred Payment Agreement (DPA), or where there may be doubt as to a person's ability to make appropriate decisions, a social worker will be required to complete a Mental Capacity Assessment. Should this Assessment find that the person receiving care lacks the mental capacity to make appropriate decisions, a DPA cannot be entered into unless that person has a legally appointed representative, e.g. an Attorney acting under a registered Enduring Power of Attorney (EPA) or Lasting Power of Attorney (LPA) for Property and Financial Affairs, or is a Court of Protection appointed Deputy for Property and Financial Affairs who can make decisions on their behalf.

#### A list of appropriate people who can enter into an agreement are listed below:

##### **a) Enduring Power of Attorney (EPA) (prior to 01.10.2007)**

An Enduring Power of Attorney gives power to the Attorney to make decisions relating to the Donor's property and financial affairs. It remains valid provided that it was drawn up before 1st October 2007. No new EPAs have been created since 1<sup>st</sup> October 2007, after this date Lasting Powers of Attorney (LPA) were introduced.

The EPA must be registered with the Office of the Public Guardian (OPG) and bear the Court of Protection (COP) seal for it to be able to be used in line with the Office of the Public Guardian guidance.

Details of the law and policies covering EPAs can be found via the Office of the Public Guardian (OPG).

##### **b) Lasting Powers of Attorney (LPA)**

People over the age of 18 can formally appoint one or more people as their Attorney acting under a Lasting Powers of Attorney.

There are two types of LPA, these are:

- 1) Health and Welfare LPA

## 2) Property and Financial Affairs LPA.

Each LPA allows persons to plan for a time when they may no longer have capacity to make certain decisions. The LPA gives the attorney the legal authority to make decisions on the donor's behalf.

Attorneys acting under an LPA have a legal duty to follow the guidance in the Mental Health Act Code of Practice, and to act in the person's best interests.

The person setting up the LPA is legally known as the 'donor'. The person they appoint is then called an 'attorney'. The 'donor' must apply to register their LPA while they still have capacity. Before they can be used, an LPA must be registered with the Office of Public Guardian by the donor and sealed by the Court of Protection.

**The attorney has no legal powers to make a decision for the donor if the LPA is not registered and sealed.**

Staff can check the OPG register if they are unsure about the validity of an LPA. Contact details for the OPG can be found on their website.

### **c) Deputyship**

A Deputy can be:

- i) a representative for the person, the Local Authority, a solicitor
- ii) a member from the Court of Protection's approved panel of Professional Deputies

A Deputy can be appointed by the Court of Protection if there is no one else to act on behalf of the person who is lacking capacity. The appointed Deputy will then manage the person's property and financial affairs and/ or personal welfare decisions.

The Local Authority will need to satisfy itself that there is no conflict of interest in it's exercising the duties of Deputy and the financial management of a person's monies. Where a Local Authority acts as Deputy this is usually carried out in the Finance section, and should be audited.

### **What if there is no one yet appointed to act on behalf of an individual?**

It is normal practice for a family member, friend or legal representative to apply to the Court of Protection to become the person's Deputy.

This application process may take a few months so, whilst this application is being processed, the Council may make interim arrangements for the person's care fees to temporary be paid in full, by the Council. Before this can be considered, the person applying for the Deputyship will be asked to sign a letter confirming they understand that they are liable to repay, from the person's funds, any assessed fees due to the Council once the Deputyship order is in place. At this point, a Deferred Payment application could then be submitted and considered.

For more information please visit:

The Court of Protection: [Court of Protection;](#)  
[Apply to the Court of Protection](#)  
[Deputy responsibilities and application](#)

Email: [Court of Protection Enquiries Email](#)

Telephone: 0300 456 4600 (Monday - Friday 9am to 5pm)

You can also write to the following address: PO Box 70185,  
First Avenue House  
42 - 49 High Holborn  
London  
WC1A 9JA

End of Appendix 3

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