Westmorland
& Furness
Council

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Deferred Payment Agreements

This fact sheet is provided to assist you in deciding whether a Deferred Payment Agreement (DPA) is the best way for you to fund your care home or supported living costs. If, after reading the fact sheet you have any further questions or queries then please contact the Community Finance Officer, contact details at the end of this sheet

What is a Deferred Payment Agreement?

The Care Act 2014 (The Act) established a universal deferred payment scheme which all Local Authorities had to implement from April 2015 and standardises the way DPA's are offered across the country to a certain degree. The Act supersedes previous charging policies such as Charging for Residential Accommodation Guidance (CRAG) 2014, it is therefore important that if you are accessing information online that you refer to post 1 April 2015 information only.

If you require care, the Local Authority must carry out a needs assessment (of the care and support you need) and a financial assessment (to ascertain what you will be required to pay towards your care fees). You will be given a written record of what your assessed needs are, how they are proposed to be met and the costs that will be incurred. Your income and assets will be taken into account when assessing what you need to pay.

If you are to receive care in a care home you may be expected to contribute to your care costs. In some cases, if you are eligible, the Local Authority can agree to secure your ongoing Care Charges against property that you own. The Council will (subject to certain eligibility criteria) agree to defer care charges that can be secured by a first legal charge against real property (that is, your home). The regulations specify that someone is eligible for, and so must be offered, a deferred payment agreement if they meet all three of the following criteria at the point of applying for a deferred payment agreement:

(a) anyone whose needs are to be met by the provision of care in a care home. This is determined when someone is assessed as having eligible needs which the local authority decides should be met through a care home placement. This should take reasonable account of a person's preferences;

(b) anyone who has less than (or equal to) £23,250 in assets excluding the value of their home (that is, in savings and other non-housing assets); and

(c) anyone whose home is not disregarded, for example it is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support (i.e. someone whose home is considered in the local authority financial assessment and so might otherwise need to be sold to pay for the care costs).

You can delay paying some of your care costs by entering into a DPA with the Local Authority. A DPA can delay the need for you to sell your home, and provides peace of mind during a time that can be challenging for you and your loved ones as you make the transition into care.

It should be stressed from the outset that the payment for care and support is deferred and not 'written off'; you will have to repay the costs of provision of care and support incurred at a later date (similar to repayment of a loan). For the duration of the deferral interest will be charged on your care costs.

If you take up an offer of a DPA a legal document will be drawn up which details the terms under which the payment is deferred. Independent legal/ financial advice on the implications of entering into the agreement should be obtained as the loan has the same implications as a legal mortgage which could be obtained from a bank or building society.

If the property is jointly owned, the joint owner's consent and co-operation will be needed. All owners will need to be signatories to the charge agreement, and the co-owner will need to agree not to object to the sale of the property for the purpose of repaying the debt due to the Local Authority when the agreement comes to an end.

There are serious potential implications for anyone who may live in the property at the time when the repayment becomes due which will also need to be considered.

How does the Deferred Payment Agreement work?

When moving into permanent residential care, the value of a property (if it is a primary home and only residence) will not be taken into account in any assessment for the first 12 weeks. However, after that date an assessment will include the value of your share of the property and a contribution will be expected from the capital element of the assets. Sometimes the value of a person's home is not taken into account, for example when a partner continues to live there or if the stay in the care home is expected to be temporary. We will advise you at the time of assessment whether property is or is not included dependent upon individual circumstances.

A DPA is designed to help if you have been assessed as having to pay the 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. If you do not have other capital assets from which the weekly charge can be paid and if you enter into a DPA the charge will accrue as a debt. The debt will be secured on your property. This differs in some respects from the type of loan offered by a mortgage company for example as with those types of loans you are effectively given a lump sum initially. This is not the case with deferred payments where the debt accrues from week to week.

You can repay the loan at any time by giving the Local Authority notice and repaying the deferred charges. If you choose not to repay the loan it will continue to accrue until such time as you choose to repay the loan or until after you have passed away when the loan will be repaid from your estate. It should be stressed that after your death, if there is money owing, the Local Authority will be in a position to insist that the house be sold if the loan cannot be repaid by other means. The only other trigger for the Local Authority to be in a position to insist on repayment (and the sale of your house) would be if the terms of the agreement were breached. For example, if you did not pay the contribution you were assessed as needing to pay or you did not adequately maintain or insure your property as required by the agreement.

Further Details

The agreement covers both the responsibilities of the Council and your responsibilities, one of which is to make sure that your home is insured and maintained. If you incur expenses in maintaining your home while you are in residential or nursing care, the expenses may be set off against your capital and income assessment.

The Local Authority is not required to offer a DPA if there is already an outstanding mortgage or equity release scheme secured on the property.

The level of costs that can be deferred will be governed by the amount of equity (or value) in your home. The Local Authority sets the limit at 90% of the equity less the lower capital limit (which is currently £14,250). Whilst further care costs cannot be deferred once the limit has been reached interest will still continue to be added.

The amount you are indebted to pay back will have interest charged on it in the same way a normal loan would be charged on money borrowed from a bank. The Local Authority currently charges 4.05% from 1 July 2024; this rate will be reviewed every six months. The interest will apply from the day you enter into the DPA. You will receive regular statements every four weeks advising you how your charge is being calculated and what the outstanding sum on your deferred payment account is.

The Local Authority will add a charge for setting up and administering the DPA. You will be informed of the charges you will be expected to pay prior to entering into the agreement.

If the DPA is terminated because of your death, the amount owed to a Local Authority under DPA falls due 90 days after you have died. Responsibility for arranging for repayment of the amount due (in the case of payment from your estate) therefore falls to the executor of the will or your administrator if you do not have a will. Interest will continue to accrue on the amount owed to the Local Authority after your death and until the amount due to the Local Authority is repaid in full. After the 90 day period, if the Local Authority concludes active steps to repay the debt are not being taken, for example if the sale is not progressing and the Local Authority has actively sought to resolve the situation (or the Local Authority concludes the executor is wilfully obstructing sale of the property), the Local Authority may enter into legal proceedings to reclaim the amount due to it. This can result in a forced sale of the property.

It is important that you obtain independent legal/financial advice on the implications of the agreement. The Local Authority will let you have a sample copy of the Agreement and associated documents to allow you to discuss these with your legal and/or financial advisor(s). Should you wish to take advantage of a DPA the Local Authority would hope to have the Agreement finalised within the initial 12 weeks of residential care but will be reliant upon your co-operation, the co-operation of any co-owner and on the person you instruct to assist you with the document.

We will need the following documentation which can be provided by a Solicitor if you do not have them to hand

- If your property is not registered with the Land Registry we will need an up-to-date epitome of title which is an extract from the title deeds.
- If the property is registered we will need a copy of the Office Copy Entries from the Land Registry and the title plan.

We will also need the name and address of your solicitor or financial advisor to communicate with. If you do not instruct a solicitor you will also have to provide us with a completed Land Registry form ID1. The form will have to be countersigned by a solicitor or approved person. A solicitor may charge you for this service.

The Local Authority will then prepare the Deferred Payment Agreement and a separate legal charge document. The documents will be sent to you or your solicitor for signature by you. The legal charge on the property will be registered at the Land Registry. You will receive communication when this has been done. You will be charged for the preparation and associated registration fees.

If you own the property jointly, the joint owner(s) will also be required to sign the legal charge document. The Council insists that the joint owner(s) receive independent legal advice. The Council will require a certificate from the solicitor/financial adviser confirming that relevant independent advice has been given by him/her to the joint owner(s).

Whilst in the agreement, you will have a responsibility to ensure that any necessary maintenance is carried out on the property to retain its value. You will need to ask someone to attend to this maintenance for you and appreciate that there will be on going expenses in this regard.

You will be required to ensure that your property is adequately insured against all usual risks, such as fire, flood, etc.

You will also need to pay your weekly contribution in a timely and regular manner. If you fail to pay your contribution on a regular basis the Local Authority reserves the right to add this debt to the loan amount.

The agreement will set out that if you choose to have someone reside in your property (who is not the owner of the property) and you receive payment for their occupation (eg rent), you will be expected to use the rental income to increase the amount you pay each week, thus reducing the weekly payments made by the Local Authority, and minimising the eventual deferred payment debt. Any such occupant will need to have a formal Assured Shorthold Tenancy Agreement to regulate their occupation in the house.

You can end the agreement at any time by repaying the amount outstanding. The loan becomes payable immediately in full if you sell your home. Otherwise the agreement ends on your death and the loan becomes payable 90 days later.

Charges

The table below details the current costs that you may be charged by the Council in respect of a deferred payment agreement for 2024/25. You will be given the option of paying these fees as you incur them or they can be added to the loan to be paid at a later date.

Setting up a DPA	£250
Annual review	£50
Termination of DPA	£50
Interest charge (reviewed 6 monthly)	4.25% from 1 January 2025

You should remember that you may incur additional costs in obtaining independent advice or in obtaining the documents necessary to set up the Deferred Payment Agreement.

Other Options

If you choose to rent out your property the rental income may be enough 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 utility bills and council tax which will reduce your outgoings. However landlords must comply with various statutory requirements and so it is recommended that you take independent advice if you are considering this option.

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

If you would prefer that someone else liaises with the Local Authority regarding your care costs you should give notice in writing. If you have a deputy or attorney we will need to know their details so that we can communicate with them on your behalf. The Local Authority can apply to be appointed deputy and apply for a DPA where it is considered to be in your best interests.

Further Information

The Community Finance Officer who is carrying out the financial assessment will be able to explain the Scheme in more detail and answer any initial questions that you may have.

Acceptance of any application under the scheme is subject to you meeting the criteria for entering the scheme and the Local Authority being able to obtain security against your property. If your request is turned down, you will be told the reason and advised how to complain if you remain unhappy with the decision.

You should take independent financial and legal advice to help you decide which course of action will be better for you financially.

How to contact Community Finance:

If you live in the **Eden area**, call:
01768 812244
Or you can email
eden.cfo@westmorlandandfurness.gov.uk

If you live in the **Barrow and Ulverston area**, call:
01229 407486
Or you can email
fcfo.Mailbox@westmorlandandfurness.gov.uk

If you live in the **South Lakes area**, call:
01539 713287
Or you can email
southlakes.cfo@westmorlandandfurness.gov.uk

If you have an **emergency** during office hours, contact your practitioner or your local Adult Social Care office. We are open 9.00am to 5.00pm Monday to Thursday and 9.00am to 4.30pm on Friday.

If you have an emergency when our offices are closed, ring our Emergency Duty Team on 01228 526690. They cover the whole of Cumbria and work overnight, at weekends and bank holidays.

If you require this document in another format (eg CD, audio cassette, Braille or large type) or in another language, please telephone **01228 227113**

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如果您希望通过母语了解此信息，
请致电

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W celu uzyskania informacji w Państwa języku proszę zatelefonować pod numer

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December 2024

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