advice and support for older age
Independent Age

Factsheet

Care home fees and your property

This factsheet explains whether you will need to sell your property to pay care home fees, and outlines alternatives such as deferred payment agreements with your council.

It also provides information on property disregards, bridging loans, care home fee plans and what happens if you own a property with someone else.

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Independent Age provides advice to help people claim benefits, access social care and stay independent at home. Our local volunteers provide friendship visits and calls for lonely older people. To find out how Independent Age can help you, call us FREE on **0800 319 6789** or visit **independentage.org**

LanguageLine Solutions

Contents

1. Do I need to sell my property to pay my care home fees? 3
2. The financial assessment 4
Will my home be included? 4
3. The 12-week property disregard 6
How does it work? 7
What happens at the end of the 12-week disregard? 8
4. Deferred payment agreements 9
5. Who can have a deferred payment agreement? 10
How much can I defer paying? 11
6. Securing a deferred payment agreement 12
7. How the agreement works 14
8. Deferred payment agreements: things to consider 15
9. Bridging loans 16
10. Care home fee payment plans 17
11. Equity release 18
12. What happens if you jointly own a property? 19
What is beneficial interest? 19
13. How is the value of my share in a property worked out? 21
Valuing your share in a 'right to buy' property 22
14. Should I let another joint owner of the property buy my share? 23
15. Giving away your home: deprivation of capital 24
16. Getting further advice 25

The information in this factsheet applies to England only. If you're in Wales, contact Age Cymru (0800 022 3444, agecymru.org.uk) for information and advice. In Scotland, contact Age Scotland (0800 470 8090, agescotland.org.uk). In Northern Ireland, contact Age NI (0808 808 7575, ageni.org).

1. Do I need to sell my property to pay my care home fees?

If you're moving into a care home, your contribution to the fees will be means-tested. This means that the council will assess your income and capital (which includes your savings, investments and property) to decide how much you will have to pay towards your care home fees.

If you own a property, it's likely that you will have to pay your own care home fees. However, sometimes your property isn't included in the financial assessment. This is known as a property disregard. This may be for 12 weeks, to give you time to sell or make other arrangements, or long-term, depending on your circumstances. See chapter 2 for more information.

The financial assessment can be more complicated if your property is jointly owned.

If you don't want to sell, there are other options, such as deferred payment agreements and care home fee plans. It's important to get independent financial advice if you decide to explore these options. This factsheet looks at:

- Deferred payment agreements (chapter 4)
- Bridging loans (chapter 9)
- Care home fee payment plans (chapter 10)
- Equity release (chapter 11)

2. The financial assessment

If you're considering a move to a care home, you should have a care needs assessment by the social services department of your local council. If the council agrees that a care home would be best for you, you should also have a financial assessment to see if the council should help you to pay the fees.

The financial assessment looks at:

- your income
- your capital, including your savings
- certain benefits
- the value of your home if you own it.

Will my home be included?

The council can decide whether to take into account the value of your property, and how much of its value to include. What happens will depend on your circumstances.

The value of your home must not be taken into consideration if any of the following people still live there:

- your spouse, civil partner or partner
- a close relative who has a disability or is over 60.

This is known as a mandatory property disregard.

The council can also choose to ignore the value of your property in other circumstances, as long as you are not deliberately avoiding paying care home fees. This is called a discretionary property disregard.

Example:

If someone has given up their home to look after you, but they’re not covered by the mandatory property disregard.

Mary and Jane

Mary has early signs of dementia. She needs a bit of support, but wants to live in her own home. Her best friend Jane agrees to sell her home to move in with Mary. Five years later, Mary needs much more care and after an assessment, social services agree that she should move into a care home. The council uses its discretion to disregard the value of Mary’s property, because it has become Jane’s only home.

If you’ve been living in the property alone, and nobody else owns a share in the property, then the whole of its value (minus 10% to cover the costs of selling) can be taken into account.

If your property is jointly owned, the financial assessment is more complicated (see chapter 12).

Legal advice

If you disagree with the council’s decision about whether your property should be included in your financial assessment, you may want to make a complaint to the council, or get legal advice (see chapter 16).

To do…

See our factsheet **Paying care home fees** for more information about the financial assessment for paying care home fees (0800 319 6789, independentage.org).

3. The 12-week property disregard

If you move into a care home permanently and you have less than £23,250 in savings, the council must not include the value of your property in your financial assessment for 12 weeks. This is called a 12-week property disregard.

The 12-week property disregard is designed to give you 'breathing space' to prepare the property for sale or decide whether you want to sell. The council will pay your care home fees during this period.

The council must also disregard the value of your property for 12 weeks if:

- you are living in a care home, and
- you have less than £23,250 in savings, and
- your property, which was previously disregarded, could now be taken into account because of an unexpected change in your circumstances.

Sue's story

The property that Sue owned with her husband was not taken into account when she had a financial assessment because her husband still lived there (a mandatory property disregard). Unfortunately, her husband's health deteriorated quickly after Sue moved into the care home, and he ended up needing to move into a care home too.

This meant that there was no longer anyone living in the house, and its value could be taken into account by the council as part of Sue and her husband's contributions towards their care home fees.

The council can also choose to apply the 12-week property disregard if there are other unexpected changes in your circumstances, such as a big fall in share prices which bring your savings and capital down below £23,250. It is up to the council whether it decides to offer the disregard in situations like this.

How does it work?

The council should enter into a 12-week contract with your care home to pay a proportion of the care home fees to them. The contract lasts for a maximum of 12 weeks or until you sell your property (or your share of the property if it is jointly owned), whichever is sooner.

During this time you will pay the council any contribution from your income and savings that you have been assessed as having to pay. This includes most of your income (for example your State Pension and any Pension Credit) apart from a personal expenses allowance of at least £24.90.

If you have capital or savings of more than £14,250 but less than £23,250, the savings you have between these two amounts will be counted in your financial assessment. You will be charged £1 extra per week for your care home fees for every £250 in savings you have over £14,250.

You may also have to pay a top-up if you have chosen to move into a care home that charges more than the council would usually pay for similar care. This top-up is usually made by a close family member or friend. However, you can choose to pay the top-up yourself during this disregard period. See our factsheet, **Paying care home top up fees** for more information (0800 319 6789, independentage.org).

Good to know

If you have a 12-week property disregard, you will effectively be seen as part-funded by the council for those 12 weeks. This

means that any Attendance Allowance, care component of Disability Living Allowance or daily living component of Personal Independence Payment you receive should stop after 28 days. If you still qualify, you can start claiming again after that.

What happens at the end of the 12-week disregard?

After the 12-week period is over, the council will review your financial situation to see whether you are eligible for financial support from the council towards your care home fees.

If you haven't sold your property or you don't want to sell, then you can ask for a deferred payment agreement from the council (see chapter 4). If you are having trouble selling, you could also consider a bridging loan (see chapter 9).

4. Deferred payment agreements

If you are unable to sell your home or you don't want to sell it, you may be able to get a deferred payment agreement with your council. This means that they will pay your care home fees and claim the money back later, either when you move out of the care home or after your death.

A deferred payment agreement is a loan and you will have to pay it back. You will also have to pay interest and administration costs.

Deferred payment agreements are useful for people who:

- are having difficulty selling property
- choose not to sell their property
- have a friend or relative still living in the property who is not covered by a mandatory or discretionary property disregard (see chapter 2).

Good to know

The council must give you information about a deferred payment and how it works if you are likely to qualify.

5. Who can have a deferred payment agreement?

The council must offer you a deferred payment agreement if:

- they have assessed your needs and agree that you should be in a care home
- you have assets of less than £23,250 (not including your home)
- your home is not disregarded.

This includes people who lack mental capacity if they have someone with the appropriate legal authority, such as power of attorney, to represent them.

The council can also offer deferred payment agreements to people who don’t meet the eligibility criteria but who they feel might benefit from the arrangement – for example if their assets are close to £23,250.

The council must be sure that they will get the money back, so they will consider each case individually to see if it can go ahead (see chapter 6).

The council should aim to have agreements in place before the end of the 12-week property disregard period, or within 12 weeks of the request being made in other circumstances. You should be given a copy of the proposed agreement, and be given time to consider it before signing. The agreement should be reviewed once a year, or sooner if your care needs change.

Good to know

Councils can charge interest on your loan and a reasonable administration fee for setting it up. They can’t charge more interest than the national maximum interest rate. They should keep a publicly available list of all administration and interest charges. You can choose to pay interest and administration

charges separately or include them in the total amount being deferred.

How much can I defer paying?

It should be possible for you to defer the full amount of your care costs, including any top-ups you need to pay to cover a more expensive care home place.

Good to know

The council must make sure that the amount you defer doesn't go over your equity limit. This limit is 90% of the value of your property minus any other claims on the property, for example a mortgage. The calculation must also include interest and administration costs and allow for possible changes in value, such as a fall in house prices.

Deferred payments should mean you don't have to sell your home in your lifetime. The local authority should discuss with you:

- the expected limit of what your equity could cover
- how your care costs might change over time
- what will happen if you reach your equity limit.

6. Securing a deferred payment agreement

If you qualify for a deferred payment agreement, the council must obtain a valuation of your property and can pass on any reasonable costs of the valuation to you. You may also want to get your own valuation (see chapter 16).

If there is a substantial difference between the two, you should discuss this with the council and agree a value. If you disagree, you may wish to make a complaint.

The council must be certain that they will be able to get their money back before they can enter into a deferred payment agreement with you. One way of doing this is to get a 'first legal mortgage charge' against your property. This gives them the right to reclaim their costs from the sale of your property or to take your property if you don't pay back the money you borrowed for your care.

If your property is jointly owned, the council must get the signed consent of all owners to put a legal charge on the property. The other person (or people) must also agree to the property being sold in the future so that the council can reclaim their costs. If they don't, the council can refuse a deferred payment agreement.

If these options aren't possible, there are other ways to secure the loan, such as:

- a solicitor's undertaking letter (a 'promise' from the solicitor that the funds would be available at a later date)
- through a guarantor
- if you agree that the council could reclaim their costs from a life assurance policy, or a valuable object you own.

Good to know

When making a decision about whether to enter into a deferred payment agreement, the council needs to consider your individual circumstances and the impact that agreeing or disagreeing to your request could have on your wellbeing.

7. How the agreement works

When you and the council have agreed to defer payments, the council must draw up a contract which includes:

- the maximum amount being deferred
- how interest is calculated
- administration charges
- your responsibilities and the council's responsibilities during the agreement
- when the council may refuse to defer further fees or end the agreement.

During the agreement

The council must give you a written statement every six months to show all the charges that are being deferred, including the interest. This should also make clear how much equity there is left. The value of your equity can vary over time.

Once you've deferred 70% of the value of your property, the council should review the deferred payment agreement and talk to you about whether it's still the best way to meet your care costs.

You must maintain and insure your home and tell the council if there are any changes to your income or circumstances.

Repaying deferred payments

The money must be repaid within 56 days if you sell your home or you leave the care home, or be repaid by your executor within 90 days of your death. Interest charges will still be added during this period.

8. Deferred payment agreements: things to consider

If you enter into a deferred payment agreement, your benefits and income may be affected. For example, you may lose your entitlement to Pension Credit or it may be reduced. However, you may be able to claim Attendance Allowance as you will be regarded as a self-funded care home resident.

Your income will be taken into account as part of the deferred payment calculation. You will be allowed to keep up to £144 per week to spend as you wish - this is called your disposable income allowance. You can put some of this money towards your fees if you wish, to reduce the loan from the council.

There may be other considerations:

- your property will still need to be maintained and insured
- you may have to pay the council's legal and other costs up front
- the agreement is a loan – it is not a write-off. You still have to pay your care home fees.

You may wish to let out your property and contribute some of the rental income to reduce the overall amount of the loan. However, rental income is taxable and would also be included in the financial assessment.

Contact our Helpline and arrange to speak to an adviser if you would like more information about deferred payment agreements (0800 319 6789).

9. Bridging loans

If you want to sell your property but can't sell it within the 12-week property disregard period, perhaps because of a poor housing market, you may want to consider taking out a bridging loan. The loan can be used to pay the care home fees until the property is sold.

You can get a bridging loan from the council and many people use a deferred payment agreement as a bridging loan to give themselves time to sell their property.

You can also get a bridging loan from a private company. Some companies can also help with selling the property, such as arranging decorating and maintaining the property to speed up a sale. They are likely to charge a fee for these services.

A bridging loan can be useful but you may need to take further advice – they can be expensive as you usually have to pay monthly interest on the amount that you are borrowing. See chapter 16 for where to go for financial advice.

10. Care home fee payment plans

You might be thinking of buying a long-term care bond or a care fees payment plan to cover the cost of your fees.

The main investment product designed to cover care home fees is an Immediate Care Plan. This is basically an insurance policy. In return for a set premium, the policy agrees to pay a regular income towards care costs for the rest of the policyholder's life. The level of premium depends on things such as your age, health and choice of care home. If you don't need an immediate policy, you can also get Deferred Care Plans to start at a later date.

Immediate Care Plans can help prevent you from outliving your capital. However, they may not cover the full costs of your care in future if your needs change and they can affect your entitlement to means-tested benefits. If you die sooner than expected, your estate might not get any return on the investment.

To do…

You should take independent financial advice to help you decide if an Immediate Care Plan is right for you. Contact the Society of Later Life Advisers (0333 2020 454, societyoflaterlifeadvisers.co.uk) to find an accredited adviser in your area. The financial adviser may charge a fee.

Good to know

All independent financial advisers have to be registered with the Financial Conduct Authority. You can find out whether the adviser you have chosen has experience of working with older people by asking if they have 'Later Life Adviser accreditation'.

11. Equity release

Housing equity is the market value of your home, minus any mortgage or debt. Equity release is a way to free up money from your home without having to sell it. There are two kinds of equity release:

- a lifetime mortgage lets you borrow money against the value of your home, which is paid back when the property is sold or when you die
- a home reversion scheme, which buys a share of your home for a cash payment.

You can receive the money as a lump sum, as a regular payment, or both. There are usually eligibility criteria and conditions.

There are disadvantages to equity release schemes. With a lifetime mortgage, the interest is added to the amount you owe. You will have to pay interest on the interest and that can quickly grow. With a home reversion scheme you will get less than the full value of your home. Your entitlement to benefits may also be affected.

Equity release schemes are regulated by the Financial Conduct Authority and there are rules about what providers must tell you. If you take out a scheme, make sure it is with an authorised provider. You should also get advice from an Independent Financial Adviser (IFA) who specialises in equity release. See chapter 16 for where to go for financial advice.

12. What happens if you jointly own a property?

If you own a home with someone else, the financial assessment will work out whether your share of the property should be taken into account.

What is beneficial interest?

You are a legal owner if your name is on the title deeds. You may or may not be entitled to benefit from the future sale of the property.

You are a beneficial owner if you're entitled to benefit financially from the sale of a property. This share is known as your beneficial interest. Most people are both legal owners and beneficial owners, but you don't need to have your name on the deeds to have a beneficial interest in a property.

You could have beneficial interest if:

- you contributed to the mortgage or purchase price
- you gave someone money to buy their property under a 'right to buy' scheme
- you paid for repairs or alterations to a property
- you have always owned the property, but now someone else - such as your son or daughter - owns part of it
- you were given a share of a property in a will.

If any of these situations apply to you, it may mean that your share of the property will be taken into account in your financial assessment.

The council must ignore your beneficial interest in a property if, for example, your spouse, civil partner or partner lives there or a close relative who is over 60 or who receives disability

benefits. The council also has discretion to ignore your beneficial interest in other circumstances, for example if a carer who gave up their previous home to care for you is continuing to live there.

If you do have a beneficial interest in a property, the council will have to work out how much value to put on your share. The lower the value of your beneficial interest in a property, the less you will have to contribute towards your care home fees.

13. How is the value of my share in a property worked out?

If you and the council agree that the value of your share is significantly more than the upper capital limit of £23,250, then you won't have to get a precise valuation. You will have to pay for your own place in a care home for now. If not, the council will have to value your share of the property.

Working out the value of your share in a jointly-owned property is complicated and each case should be considered individually. The council can't simply value the whole property, divide up the amount and say that is the true value of your share. They must precisely value your share.

Also, the council can't assume that each joint-owner has an equal share of the property. For example, if you've bought a property with your son and daughter, they can't assume that each of you owns a third. Your share could be more or less than this.

The council would consider things that could affect its value, for example:

- if a family member jointly owns the property, how likely is it someone else would want to purchase your share?
- if you've set up a trust with the other owners of the property, this could make it harder still to find a buyer
- the local market - are people buying in the area?
- the value and sale of shares in similar properties.

If you disagree about the value that the council places on your share, the council must arrange for a valuation by an independent valuer.

You may also want to get your own valuation. Contact a chartered surveyor registered with the Royal Institute of

Chartered Surveyors (RICS) (024 7686 8555, ricsfirms.com). There may be a charge for this service. Check that they know about the charging guidance for residential accommodation under the Care Act.

If you still disagree, you can seek legal advice via a community care solicitor. You may be able to get initial legal advice free (see chapter 16).

Alternatively, you can use the council's complaints process – see our factsheet **Complaints about health and social care services**.

Valuing your share in a 'right to buy' property

If you bought your former council property under the 'right to buy' scheme, the council may be able to take into account the discount that you received on the property when working out your beneficial interest.

Each case is different and must be assessed individually. If you have a beneficial interest in a 'right to buy' property, this will be valued by an independent valuer.

14. Should I let another joint owner of the property buy my share?

If one of the other property owners offers to buy your share, talk to the council first to make sure they consider the offer acceptable. If they think you sold your share for too little money, they may conclude that you have deliberately tried to avoid paying care fees. This is known as deprivation of capital (see chapter 15). They can treat this capital as if you still owned it and include it in the financial assessment. You – or the person who bought your share – may have to pay back any money you owe the council.

If the council approves the offer, then the sale price (minus expenses) will count towards your financial assessment. If the sale price added to any savings is over £23,250 (the upper capital limit), then you will have to pay for your care home place yourself.

15. Giving away your home: deprivation of capital

If you give away your property deliberately – for example by transferring it to your children or setting up a trust - in order to avoid paying for your care home fees, this is called deprivation of capital. The council can treat it as if you still own the property and include it in the financial assessment.

The council must look at why and when you gave your property away. There is no time limit to how far back they can go when considering the circumstances but they should not assume that you deliberately tried to deprive yourself of an asset. There may have been good reasons for transferring the property at the time.

The council should consider:

- the reasons behind the transfer
- the timing
- whether you knew that you would need care and support.

For more information, see our factsheet **What can I spend my capital on before moving into a care home?** Or contact our Helpline (0800 319 6789) to arrange to speak to an adviser.

16. Getting further advice

We are not specialist legal or housing advisers. You may want to seek more expert and in-depth advice if necessary.

For property law advice, contact the Housing Advisers at your local Citizens Advice (03444 111 444, citizensadvice.org.uk) or Shelter's housing advice helpline (0808 800 4444, shelter.org.uk).

Legal advice can be expensive. You may want to contact Civil Legal Advice (0345 345 4 345, gov.uk/civil-legal-advice) to find out whether you would qualify for legal aid. They can also give you details of other organisations or solicitors specialising in property law.

You can also find legal specialists through the Law Society (solicitors.lawsociety.org.uk, 020 7320 5650).

Make sure you use a solicitor who specialises in the relevant area of law, even if there are none very local to you. Most specialist solicitors are experienced at working from a distance.

You might be able to get free initial legal advice through a Law Works legal advice clinic (lawworks.org.uk), or from the Disability Law Service (020 7791 9800, dls.org.uk).

If you need financial advice, contact the Society of Later Life Advisers (0333 2020 454, societyoflaterlifeadvisers.co.uk) to find an accredited adviser in your area. The financial adviser may charge a fee.

If you want to get your own valuation of your property, contact a chartered surveyor registered with the Royal Institute of Chartered Surveyors (RICS) (024 7686 8555, ricsfirms.com).

This factsheet has been put together by Independent Age's expert advisers. It is not a full explanation of the law and is aimed at people aged over 60.

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