



# Valuing beneficial interest: no nil value

## Financial assessment

The decision on whether to include capital from the value of a property in your financial assessment for care home fees and how much to include, will be made at the time of the **financial assessment** carried out by the local council Social Services. (Please see guides 16: **Care Home Fees: paying them in England, 52 (Scotland)** or **72 (Wales)** for more information.) This can also be a retrospective decision if the council finds out at a later date that, for example, someone had a property but transferred it to someone else before moving to a care home (deprivation of capital).

## **Royal Institute of Chartered Surveyors (RICS)**

If you want to establish the value of an older person's beneficial interest in a property you may want to contact **RICS** on **0870 333 1600** or through their website: [www.rics.org.uk](http://www.rics.org.uk). You may want to ask for a chartered surveyor who understands **CRAG** (please see below) and who understands the concept of **beneficial interest**.

(Please see factsheets **8: Valuing beneficial interest in property** and **9: Valuing interest in property: 'right to buy'** or guides **16: Care Home Fees: paying them in England**, **52: Scotland** or **72: Wales** for more information.)

### **Nil value of the beneficial interest**

The **Charging for Residential Accommodation Guide (CRAG)** used by councils to financially assess whether you should pay care home fees states that the value of your beneficial interest in property is governed by:

- your ability to re-assign the beneficial interest to somebody else (selling to a fellow beneficial owner), and/or
- there being a market i.e. the interest being such as to attract a willing buyer for the interest.

This in theory, according to CRAG, could mean that the actual value of your beneficial interest in a property could be a **percentage** of the valuation, or effectively, if there was no willing buyer and no offer from a fellow beneficial owner, **nil**. However

councils may be more unlikely now than in the past to accept a nil value on your beneficial interest. Their right to do so is a grey area as it relates to CRAG at this time. The council may be less likely to accept a nil value because there are now various ways of releasing capital from a property (including equity release and re-mortgaging) and there is more information on these in factsheets **11: Valuing beneficial interest: equity release** and **12: Valuing beneficial interest: re-mortgaging**.

### **Current policy**

**CRAG**, which is used by councils to financially assess your beneficial interest in a property, was recently **reviewed** and updated. This issue of the nil value on beneficial interest and the council right to refuse to accept a nil value was not explicitly addressed in the review so in theory a nil value is still possible. It is important that the issue is clarified because of the following circumstances:

- Some councils may be refusing to accept a nil value for the older person's beneficial interest even though CRAG implies that the actual value of the beneficial interest could be nil (no market or willing buyer and no offer from a fellow beneficial owner).
- It may be that some councils will offer to be a willing buyer to enable them to establish a market value on the beneficial interest that the older person has (we are not fully aware of the implications of this yet), thus possibly enabling the

council to include this amount in the financial assessment for care home fees.

- Some councils are including the value of the older person's interest in the property, based on their percentage interest (i.e. 50/50 or 70/30) whether there is a willing buyer or not – which may be linked to not accepting a nil value because of the various ways of realising capital from the property.

### **Financial and legal advice**

As we are not legal or financial advisors and the information set out above is the result of research from the relevant policy guidance, you may want to seek more expert and in-depth legal and/or financial advice. The **Financial Services Authority (FSA)** can be contacted on **0845 606 1234** or through their website: [www.fsa.gov.uk](http://www.fsa.gov.uk). They may be able to direct you to a financial adviser. You may also want to talk to the **Community Legal Services (CLS)** on **0845 345 4 345** and ask them to direct you to a solicitor who specialises in community care and financial assessments. The **Royal Institute of Chartered Surveyors (RICS)** who specialise in establishing the value of a person's beneficial interest can be contacted at [www.rics.org.uk](http://www.rics.org.uk) or **0870 333 1600**.

## **Further information**

Counsel and Care is a national charity; however the creation of the Scottish Parliament, and the Welsh and Northern Ireland Assemblies means there are differences in the ways each region cares for and supports older people. The information in this factsheet applies essentially to England although there may be similarities with Scotland, Wales and Northern Ireland.

If you need further information or advice about beneficial interest or the valuation of capital as it relates to financial assessments, please see the other factsheets in this series or our guides at [www.counselandcare.org.uk](http://www.counselandcare.org.uk). All our factsheets and guides can also be ordered by telephoning our guide order line on **0207 241 8522**.

Alternatively, if you have a query in relation to beneficial ownership/interest or financial assessments (including deprivation of capital) for care home fees, you may want to contact our advice line on **0845 300 7585** or send your enquiry by email to [advice@counselandcare.org.uk](mailto:advice@counselandcare.org.uk).

Counsel and Care is the national charity working with older people, their families and carers to get the best care and support. If you have found our service helpful, please consider making a donation or leaving a legacy in your Will. You can arrange either by telephoning 020 7241 8555 or using the secure service on our website [www.counselandcare.org.uk](http://www.counselandcare.org.uk).

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