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for older people, their families and carers

factsheet

Counsel and Care factsheet: 13

Beneficial interest and sole ownership: selling the property

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 in accordance with the **Charging for Residential Accommodation Guide (CRAG** – available at www.dh.gov.uk). (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,



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someone had a property but transferred it to someone else before moving to a care home.

Once your beneficial interest (see factsheets **8: Valuing beneficial interest in property** and **9: Valuing interest in property: 'right to buy'** for more information) has been valued and accepted by Social Services, or if you are a sole owner and entitled to all proceeds of the sale, the council will take this amount (minus 10% sales expenses) into account in your **financial assessment** for care home fees.

12 week disregard

Department of Health circular **LAC (2001) 10** places a **duty** on Social Services in England to provide a 12-week disregard for older people that are moving permanently into a care home and who are selling a property. It is designed to give the resident 'breathing space' until the property can be sold. LAC (2001) 10 states that the council should, **"Enter into 12 week contracts with care homes to cover the 3-months property disregard."** In other words, Social Services contract to pay this element of the care fees to the care home just as they would for paying the care fees of a resident who was council funded. The contract lasts for a maximum of 12 weeks or until the resident sells the property (or their share of the property). At that point, the council carries out an assessment of whether the resident is eligible for financial support to pay the care home fees. They will either be self funded (responsible for paying all the care home fees until their capital reaches £23,000 in England, £22,500 in Scotland and £22,000 in

Wales) or council funded. The former is more likely if the resident has sold their property (or part of) or still has a property (or part of) to sell.

Deferred payments

If the property cannot be sold within the 12 weeks and you are not able to meet the cost of the care fees from income or other capital out with the property above the upper capital limit (currently £23,000 in England and £22,000 in Wales), or the lower capital limit in Scotland (£13,750), you may want to request a **deferred payments agreement** from the council. This is an interest free **loan** to pay care fees against the value of any beneficial interest you have in the property and lasts until the property is sold or 56 days after the beneficial owner passes away (after which interest can be applied if the property is not sold by that point and the care fees paid back). The council has some discretion on whether to enter into such an agreement. If your beneficial interest is established, but there is a dispute about the value of that beneficial interest and the council are paying care fees for you in the meantime, it may be important to ask for this agreement to avoid interest accruing on care fees owed from the start. Please see **guides 16: Care Home Fees: paying them in England, 52: Scotland or 72: Wales.**

Bridging loans

As an alternative to deferred payments, there is a loan that can be used to pay the care home fees until the property can be sold. Whilst we would not recommend companies due to not having used their services we are aware that **Bridgefast**, an independent

property and sales management company, provide such loans and can help arrange for the sale of a property. Their telephone number is **0845 053 0089** and their website address is www.bridgefast.co.uk. You may want to contact them and request information on their services and any **interest** rate they charge on such a loan before deciding whether this is a viable alternative.

Independent financial advice

You may want to contact the NHFA if you are selling the property and want to consider purchasing **long-term care insurance** to guarantee future care fees. There may be various financial products on the market that would enable the you to do this and it may involve investing a lump sum of tens of thousands of pounds. The telephone number for the NHFA is **0800 998833**. The financial adviser has a duty to help you weigh up whether it would make financial sense to purchase one of these products. This is dependent upon various factors such as: **life expectancy** (for example, it may take five years for the purchase to become financially beneficial – the point at which the total cost of the fees to that date surpasses the total investment), the **cost** of the financial product, and whether the money is invested in a portfolio that will protect some of it in the event of **premature death**. As an alternative, you may want to contact **Saga** on **0800 056 8153** or **Eldercare Solutions** on **01707 368 945** for independent advice on care fee planning.

Financial and legal advice

The **Financial Services Authority** (FSA) can be contacted on **0845 606 1234** or through their website: www.fsa.gov.uk. They regulate providers of financial advice. 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 paying for care. The **Royal Institute of Chartered Surveyors** (RICS) who specialise in establishing the value of beneficial interest in a property can be contacted at 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, 12 week disregards, deferred payments or capital as it relates to financial assessments, please see the other factsheets in this series or our guides at 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 relating to any of the above issues, you may want to contact our advice line on **0845 300 7585** or send your enquiry by email to 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.

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