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factsheet

Counsel and Care factsheet: 14

# Treatment of property: beneficial interest established or sole ownership

## Not 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](http://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



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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.

### **Deferred payments**

If you have a beneficial interest established in a property or are a sole owner, if it is not being sold at the time of moving to a permanent care home placement and if you are unable to meet the cost of the care fees from income or other capital above the upper capital limit (currently £23,000 in England and £22,000 in Wales), or lower capital limit in Scotland (£13,750), you may want to request a deferred payments agreement from the council. The council has discretion on whether to enter into this agreement but if they refuse they should put their reason for refusal in writing. This is a **loan** to pay care fees against the value of your solely-owned property or beneficial interest in property at this time (not a future date when it is sold – if it is a beneficial interest). It lasts until the property is sold or for 56 days after the beneficial owner passes away (after which interest can be added if the property is not sold by that point and/or the care fees paid back).

It may also be important to pursue the deferred payment option if there is **dispute** with the council over the financial assessment. For example, if your beneficial interest in property is established but there is a dispute as to the value of that beneficial interest, it is worth pursuing the deferred payments option. This is because if there is no agreement in place and the council are paying the care home fees, then **interest** may start to accrue on care home fees

from that moment rather than 56 days after the beneficial owner passes away.

## **Effect of deferred payments on benefits/disposable income**

If you secure a deferred payments agreement instead of selling your property (or part of the property) then the following may be the case:

- Entitlement to **pension guarantee credit** may be lost because the DWP will view you as having chosen to access the capital in the property. The value of the property (or part of) may then mean that entitlement is lost at that time due to the tariff element of this benefit (reduction in benefit of £1 for every £500 over £10,000 capital for people in a care home).
- Entitlement to any other **income related benefits** may be lost.
- Your **income** (pension etc) may be taken into account by the council as part of the deferred payment equation. This may reduce the amount to be paid back from the value of the property (by reducing the amount of the deferred payment loan) but may also reduce your disposable income. You may be restricted to the weekly personal expenses allowance (PEA – £21.90 in England/Scotland and £22.00 in Wales) afforded to council funded residents (plus any other capital you have in savings under the upper capital limit).
- If a decision is made to sell at any point and you realise capital from the sale (above that paid back to the council)

you may want to take financial advice on paying long-term care fees.

### **Independent financial advice**

You may want to contact the NHFA if you are selling the property. You may 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 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](http://www.fsa.gov.uk). They may be able to direct you to a financial adviser and they are responsible for regulating 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.

### **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 deferred payments, beneficial interest or any other issue related to capital and 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 relating to any of these issues, 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).

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