London Borough of Enfield
Adult Social Care

Deferred Payments Scheme

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ENFIELD Council

Contents

1. Changes to Deferred Payment Agreements under the Care Act

There were several changes to deferred payments under the Care Act 2014 that affected Deferred Payment Agreements after 1 April 2015. Any Deferred Payment Agreements that started before this date are not affected.

2. What is a Deferred Payment Agreement?

A Deferred Payment Agreement (DPA) is a type of contract between the service user and the Council. You may be offered a DPA if you need to go into a care home permanently and have property that is regarded as capital which you would normally need to sell to afford your care home fees.

With a DPA you don't have to sell your property straight away to pay your care home fees. The sale of your property can be deferred until you are ready to sell it or until after your death.

In the meantime, you will pay a contribution based on your disposable income and the Council will pay the rest of your care home fees until your property is sold. We will place a legal charge on your property through the Land Registry, so we can recover the debt owed to us when your property is eventually sold.

There are two types of Deferred Payment Agreements that can be offered if you meet the Councils eligibility criteria – Either a Charging or Loan Style. We cannot advise you on what type of DPA you should choose. You should take independent financial/legal advice if you are not sure which style is more suitable to your circumstances.

A 'Charging Style' deferred payment agreement is one where the council holds the contract with the care home to meet the person's assessed needs. The council will make the full payment to the care home and you will receive invoices from the council for your assessed interim contribution. The remainder will be provided as a loan to you under the DPA.

A 'Loan Style' deferred payment agreement is one where the person hold the contracts with the care home and is loaned the money to pay the care home directly by the council. The council will pay you the difference between the cost of care and the assessed contribution and you will make the payment in full directly to the care home. You will maintain the contract with the care home. Currently the payment for a loan style DPA will be provided to you on an e-card. The e-card allows the council to make payment directly to you for you to pay to your care provider. If you make payment directly from the ecard to the provider you do not need to provide evidence of your payments.

3. Anyone who qualifies for a Deferred Payment must be offered one

3.1 What are the Council's eligibility criteria for a DPA?

- You must have eligible assessed needs under the new national eligibility criteria and the Council has decided that your needs would be met by moving to a care home permanently.
- Your savings must be below the minimum threshold (currently £23,250).
- Your property must be regarded as capital at your financial assessment. Your home will not be regarded as capital if an 'eligible' person, such as your spouse, civil partner or a dependent adult continues to live there.
- The Council must be able to secure a 'First Charge' on your property. The means that if you have an outstanding mortgage or other secured debt on the property, your other lender(s) would

need to agree to this.

- Your property must be insured, adequately maintained and kept secure.
- You must have arrangements to pay all outgoings associated with the property, e.g. Council Tax, utility bills, ground rent and maintenance (if applicable). These cannot be added to the loan. The Council must be satisfied that the debt will be paid when your property is sold. We will take into account any outstanding mortgage on the property and any expenses involved in its sale, as well as the costs of setting up and managing the DPA. If you have a mortgage, your lender will be required to consent to the Council placing a first legal charge on your property.
- You must have the mental capacity to understand the terms of the DPA or have someone acting for you under a Lasting Power of Attorney (LPA) or with the equivalent authority to act on your behalf. You can ask the Council to manage your finances under a Deputyship arrangement. (In cases where there is an indication that the service user does not have the capacity, we will carry out a Mental Capacity Act assessment to determine capacity).
- You or someone with a relevant LPA or equivalent authority, must complete and sign our application form that includes your agreement to the Council placing a legal charge on your property. You must include full details about all your finances. If anyone else owns a share of the property they must also agree to the Council applying a legal charge on the property.

Where the above eligibility criteria are not met, the Council may offer a DPA on a discretionary basis.

4. There is an equity limit

The maximum debt that can be deferred is the value of your property, less 10%, less £14,250 and less any mortgage or other outstanding debt secured on the property.

This is called the equity limit.

Example	
Market value of property	£600,000
Less 10%	-£60,000
	£540,000
Less lower capital limit	-£14,250
Equity limit (amount that can be deferred)	£525,750

You can defer up to the full cost of your care home fees, less any contribution you pay, up to the equity limit. If the equity limit is reached, you will be financially reassessed.

5. Interest can be charged on the loan

The Council will charge interest on the loan. Interest is calculated daily and is compounded. We review the interest rate every six months, in line with the current gilt rate in the Economic and Fiscal Outlook report, published by the Office for Budget Responsibility (OBR). This means that the interest rate we charge may change in July and/or in January each year. If the rate changes we will tell you in advance what the new interest rate will be.

A table of all interest from the start of the Care Act in 2015 to date can be found on Page 7.

6. Fees and administration costs will be charged

You will be charged for the costs incurred by the local authority to set up the DPA. These include the initial valuation fee, Land Registry charges, land searches, legal fees and administration costs. These costs are payable when the DPA is set up.

An annual administration fee is also charged.

If your debt reaches 50% of the equity limit, another property valuation will be carried out.

A list of current fees and charges can be found on page 7.

You will receive an invoice for your fees. Ways to pay can be found on the reverse of the invoice.

You have 28 days from the date of the invoice in which to pay your fees. If we have not received payment by day 29, any outstanding fees will be added to your loan and, therefore, interest will be charged.

7. You can keep up to £144 per week of your personal income

You will be allowed to keep up to £144 of your income for yourself, instead of the usual personal allowance (currently £24.90 per week). You can choose to keep less in order to reduce your debt.

8. You will receive a twice-yearly statement of your DPA

You, or a person authorised to manage your financial affairs, will receive a twice-yearly statement to show:

- the amount that has been deferred for the six-month period (including fees and interest)
- the total amount deferred to date
- the current equity available in your property (based on the original assessed value of your property less any expenses from its sale).

9. DPA start date

If you were previously living in a care home on a private basis for more than 12 weeks and have approached us for funding on a permanent placement as your savings have reduced under £23,250 then you will not be eligible for a 12-week property disregard. The DPA can start from the agreed funding date.

If you were living in your property prior to being placed in a care home on a permanent basis, then subject to our funding criteria you may be eligible to a 12-week property disregard period where the value of your property is not taken into account. During this period, you will pay an interim charge (your weekly income less your Personal Expenses Allowance). Any amount the Council pays on your behalf for the first 12 weeks of your stay will not be added to your loan.

From week 13, the value of your property is taken into account and any fees paid by the Council will be added to your loan under the DPA. The DPA can start from the 13th week.

If your property is sold within the first 12 weeks of your stay, you become liable for all your care home fees from that date. We will cancel any arrangements we have started to make for a DPA.

You can choose to start your DPA at later date if you wish too, you may have available assets that you want to utilise first before taking out a DPA.

10. You can rent out your property and still qualify for a DPA

If you rent out your property, in addition to keeping £144 per week from your income, you can also keep 10% of the net rental income, i.e. less expenses such as agent commission and buildings insurance. The remainder of the rent received, together with any other regarded income must be used to pay your care home fees. Any shortfall will be added to the DPA.

You may choose to rent your property to the Council through our Keeping House Scheme. Full details about this scheme are available on our website at www.enfield.gov.uk/keepinghouse

11. The Council has a right to cancel or suspend the DPA if it foresees that the loan will not be repaid or if your circumstances change

The Council can cancel the DPA if:

- it becomes likely that the debt will exceed the equity limit value of your property when it is sold.
- your circumstances change, for instance, if you no longer have eligible care needs.
- you no longer require care in a residential setting.
- you fail to comply with your obligations and undertakings in the agreement or in relation to the security.
- You do not keep your payments up to date under the loan style agreement (if applicable) and fail to meet the contractual obligations of the loan style DPA.

If the total equity in your property is utilised, we will carry out a further financial assessment and review your care charges accordingly.

12. You have the right to cancel the DPA

The DPA can be cancelled voluntarily by you or someone acting on your behalf at any time, providing the full debt to the Council is repaid and/or if the property is sold. The Council will require written termination of the DPA by you or someone authorised to manage your financial affairs. The DPA will automatically cancel upon your death.

13. What happens if I die before the Debt is paid?

If the DPA does not terminate until your death, the amount owed to the Council will become due 90 days after your death. The debt owed to the Council will normally be paid from the sale of your property, through the legal charge placed on it. However, the debt can be paid by a third party instead, for example, a beneficiary.

Once the debt becomes due, it must be paid promptly and within 90 days. After 90 days a higher interest rate will apply. From 1 April 2015 the higher interest rate will be 8% this remains unchanged. The Council can take legal action against the person or organization who is administering your estate if it feels that insufficient effort is being made to pay the debt.

14. Obtaining financial or legal advice

We recommend that you obtain independent financial and/or legal advice when considering a DPA. The following websites can help you to find a financial/legal adviser if you do not already have one.

Financial Conduct Authority www.fca.org.uk

Gov.uk www.gov.uk/find-a-legal-adviser

Appendix – Deferred Payments Fees and charges

Legal charge for setting up the Agreement	£215
Property valuation fee	£320
Land registry fee	£45
Set up administration costs	£350
Annual administration fee	£110
Termination fee	£53

Start Date	End Date	Interest Rate
01/04/2015	30/06/2015	2.65%
01/07/2015	31/12/2015	2.25%
01/01/2016	30/06/2016	2.15%
01/07/2016	31/12/2016	1.85%
01/01/2017	30/06/2017	1.35%
01/07/2017	31/12/2017	1.65%
01/01/2018	30/06/2018	1.45%
01/07/2018	31/12/2018	1.85%
01/01/2019	30/06/2019	1.65%
01/07/2019	31/12/2019	1.45%
01/01/2020	30/06/2020	1.45%
01/07/2020	31/12/2020	1.05%
01/01/2021	30/06/2021	0.45%

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