

# Deferred Payment Agreement - 'What you need to know'

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## What is the 'deferred payments scheme'?

The Care Act 2014 introduced a universal deferred payments scheme so that no one should be forced to sell their home in their lifetime to pay for their social care. It is designed to help "defer" or delay paying the costs of care and support until a later date.

## Can I apply for a deferred payment?

The City Council must offer a deferred payment to you if you have adequate security (by the City Council obtaining a land registry charge on your property) and you:

- Are ordinarily resident in Southampton
- Have capital, excluding the value of your home, of less than £23,250
- Have been professionally assessed and have an eligible unmet need for care and support and that need is to be met in a permanent residential or nursing care home.
- Own or have part legal ownership of a property (which is not benefitting from a property disregard) and ensure your property is registered with the Land Registry. If the property is not yours you must arrange for it to be registered at your own expense.
- Have mental capacity to agree to a deferred payment agreement or have a legally appointed agent willing to agree to this.
- Have no other beneficial or legal interests on the property e.g. mortgages, equity release schemes, or secured legal charges.

The City Council has discretion to approve a Deferred Payment Agreement in other circumstances even if the above criteria have not been met.

Whilst in the agreement you will also need to:

- Have a responsible person willing and able to ensure that necessary maintenance is carried out on the property to retain its value. You are liable for such expenses
- Insure your property at your expense, and supply us a copy of the certificate. Please note that the policy must show that the property is insured as unoccupied if there is no one living in it.
- Pay your assessed financial contribution to your care in a timely and regular manner.

If you fail to pay your financial contribution, the City Council reserves the right to add this debt to the loan amount.

## Can the City Council refuse to offer a Deferred Payment?

Yes. Even if you meet the criteria, the City Council may refuse your application if we decide it is unlikely the debt will be repaid. The possible reasons for this could be where:

- a) the City Council is unable to secure a first legal charge on your property,
- b) you are seeking a top up and there is insufficient equity and/or
- c) you do not agree to the terms and conditions of the legal agreement, called the Deferred Payment Agreement (DPA)

The City Council do have the right to turn down a request but in these cases the reason will be given to you in writing. You will be advised on how to appeal against the decision, if you wish to do so.

## How does the scheme work?

Deferred payments are effectively a loan to be repaid when your property is sold or you die. However, the scheme doesn't work in exactly the same way as a conventional bank loan. Instead the Council will pay the full cost of your care to your residential home on a monthly basis for as long as necessary, providing there is enough value left in your property to cover these costs. You will still be financially assessed and have to pay a weekly client contribution towards your care during the period of the deferred payment.

You will be assessed to decide what you can afford to pay and the council will pay the shortfall. The part the Council pays is your 'deferred payment'. The deferred payment builds up as a debt which must be repaid when your home is sold.

Many people sell their home either immediately or later on. However, you do not have to sell your home if you don't want to during the period of the deferred payment period. You may for example, with the Council's permission, decide to rent it out to generate income. If you do this, the income must be declared and used to contribute to your care home costs and this will reduce the amount of deferred payment which has to be repaid when your property is sold.

## Valuation of your property

The City Council will obtain one professional valuation of your property to calculate the amount available to fund your care. This will be the share of the property you own (where there is more than one owner), minus 10% allowance for sale costs and minus the lower capital limit of £14,250. For example if you own half of your property with a partner, valued at £200,000, the equity would be calculated as follows:

Professional valuation of property	£200,000
Your 50% share	£100,000
Minus 10% allowance for sale costs	- £10,000
Minus lower capital limit	- £14,250
Equity in the property	<u>£75,750</u>

For a deferred payment to be considered there should be no other beneficial or legal interests on the property e.g. mortgages, equity release schemes, or secured legal charges.

## **Are there any charges or interest attached to the deferred payment?**

Most Local Authorities will be charging administrative fees and interest.

Southampton City Council from the 6<sup>th</sup> May 2019 will be charging a flat rate administrative charge of **£730** which must be paid when you submit your application. There will be no charges in subsequent years.

The Council will be charging interest on the deferred amount for the whole period that the agreement is in place. The interest will form part of the total overall amount owed to the Council. The Council will charge interest at the maximum government approved standard interest rate which is updated on the 1<sup>st</sup> January and 1<sup>st</sup> July. The interest will be compounded and added to the deferred loan.

### **'12 week property disregard'**

If you need to sell your home to pay for care, you will have a 'breathing space' of 12 weeks starting from when you moved into your permanent care home. During this time, your property is disregarded and you only have to pay your invoiced client contributions as opposed to the full cost of your care. This only applies if you have less than £23,250 in savings.

After 12 weeks, or until your property is sold if quicker, the amount you have to pay will be re-calculated to take the value of your home into account.

If you are not able to sell your home within the 12 week period, then you can apply for the deferred payment scheme. A member of the Finance Assessment Team will be able to provide you with more information regarding this.

### **Maintaining your property**

If you have a deferred payment agreement you will be required to meet the cost of maintaining the property e.g. insurance and repairs. You have a right to keep up to £144 of your income per week for this and other purposes and this will be taken account of in the calculation of the amount you contribute towards your care. This is called your disposable income allowance ("DIA"). You can decide to contribute some of your DIA towards the costs of your care if you want to, and thus reduce the amount deferred.

### **The Legal Agreement and Legal charge**

If you decide to use the deferred payments scheme, you will need to complete a written application form. If the City Council agree in principle to accept your application, we will ask you to sign a written Legal Agreement and a Legal charge which will be registered with the Land Registry to safeguard the loan. If your property is not registered with the Land Registry you will need to apply to get it registered at your own cost before your application will be considered.

The Legal Agreement clearly sets out the terms and conditions and information necessary for you to understand your rights and obligations under the agreement. You

will be advised to seek your own legal and financial advice prior to signing the agreement.

## **Ending the agreement**

You can end the agreement at any time and the loan will then become repayable immediately. Please note that you will then be responsible for paying the care home directly.

The agreement will also end if you die, sell your home or if you have not sold your home and the value of the property is not enough to cover your care costs. If the agreement ends on your death, the loan becomes repayable 90 days later.

If the loan is not repaid within the agreed time the City Council may commence County Court proceedings against you. These proceedings will attract Court Fees costs and interest at the County Court rate.

## **Can I add the cost of my top up charges to the deferred payment?**

Many residential homes charge a supplement or 'top up' for their better rooms. If you use the deferred payments scheme you can apply to add the cost of the 'top up' payments to your deferred payments scheme loan if the City Council agrees that there is enough value in your home.

## **How do I apply to use the deferred payments scheme?**

The first step is to complete the Deferred Payments Application Form which can be downloaded from the Southampton City Council website. Alternatively this can be obtained in paper format from the Finance & Benefits team or Customer Payment & Debt team.

Please complete and send all the required documentation to:

C P & D Team  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

You can request a paper copy of the application form from:

Finance and Benefits Team	023 8083 3003 and choose option 3
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Customer Payment & Debt Team	023 8083 3388
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Acceptance of any application under the scheme is subject to you meeting the criteria for entering the scheme, and the City Council being able to obtain sufficient security on your property. The Customer Payment & Debt Team will advise you if your deferred application has been approved in principle.

**You are strongly recommended to take independent legal and/or financial advice before you sign the deferred payment scheme application form and supporting documentation.**

### **Where can I get advice?**

There are a number of places where you are able to get independent financial advice to help you make the right decision for you. Some of the places where you can receive independent financial advice are:

Society of Later Life Advisors (SOLLA)	0845 303 2909
Citizens Advice Bureau	023 8022 1406
Southampton City Council Welfare Rights Money Advice Service	023 8083 2339
Southampton Advice and Representation Centre	023 8043 1435
Spectrum Advocacy Service	023 8033 0982

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