

8.13	Local authority powers to stop deferring costs	23
8.14	Termination of agreement	23
8.15	loan c] ^ deferred payment agreement	24
9	Information, advice and advocacy duty	25
9.1	The independent advocacy du m0 g 0 0 1 453.4s90 g64571 0 595.32 841.92 reW*nBT/F5 11.04	

1 Sources and terms used in this factsheet

Care Act 2014, regulations and statutory guidance

This factsheet is based on the *Care Act 2014* (the Act) and its supporting regulations and the *Care and Support Statutory Guidance* (the Guidance), introduced in April 2015.

Relevant sections of the guidance include chapter 8 *Charging and financial assessment* and annex B

2 Property and the financial assessment

2.1 Local authority arranged residential care

If you ask for local authority support to arrange residential care, they should carry out a needs assessment. Following the assessment, they decide if you meet the eligibility criteria and if residential care is the best way to meet your needs. They must consider all other options that might allow you to remain at home. The care home recommendation must be in a care and support plan agreed with you.

A financial assessment is made to see if you qualify for funding towards the cost of your care. Your income and capital are

Valuation of property

Unless disregarded, any beneficial interest in property is taken into

4 Giving away

Wilkinson case

In the case of *Wilkinson v CAO [2000] EWCA civ 88*, the purpose of a gift of property was not to provide a family home.

8 Deferred payment agreements

A deferred

8.8 Financial contributions from other sources

The share of care costs you defer depends on the amount you pay from other sources. The local authority can require you to pay a contribution for ongoing costs from income such as pensions or rental income, but must allow you to keep a Disposable Income Allowance, see section 8.9.

You can contribute from other sources if you wish. For example, you might decide to contribute from savings or other assets, or through a financial product designed to pay for long-term care. A third party, such

The local authority must ensure any change to the national maximum rate is applied to your DPA agreement, unless it charges less than the national maximum. Your agreement must contain a term ensuring that the interest rate does not exceed the national maximum.

Compound interest

A local authority must ensure you understand that interest charged accrues in a compound way, if it is to be added to the deferred amount. You can ask the authority to allow you to pay the interest separately, on an ongoing basis, to avoid it being compounded.

Compound interest works by charging interest against the fees you have deferred, as well as the interest that has already accrued. The local authority can choose how frequently it applies the interest calculation. It can compound interest on a daily, weekly, fortnightly, four-weekly, or monthly basis. This must be agreed at the outset as part of your DPA contract.

It is important to understand how compoundu995.32 8414rest0(kl)12((a)-3(xi)12(m)-6(u)6(m)-6(.)] TJD

If DPA ends due to death

If your DPA is terminated due to your death, the amount due to the local authority must either be paid out of your estate or by a third party. Your family or a third party may wish to settle the debt to the local authority by other means if they want to avoid selling the property or security. The local authority must accept an alternative means of payment, provided it covers the full amount due.

The executor of your will or administrator of your estate can decide how the amount due is to be paid; either from your estate (usually via the sale of the house or a life assurance policy) or from a third party source.

A local authority should wait at least two weeks following your death before approaching the executor or administrator with a full breakdown of the total amount deferred. A family member or the executor/administrator can approach the local authority to resolve the outstanding amount due prior to this point. Responsibility for arranging repayment of the amount due (in the case of payment from the estate) falls to the executor or administrator.

Interest accrues on the amount owed after death until the amount due to the local authority is repaid in full.

If terminated through your death, the amount owed falls due 90 days after the date of death. After this period, if a local authority believes active steps to repay the debt are not being taken, for example the sale is not progressing, they can take legal proceedings to reclaim the amount due.

In whatever circumstance an agreement is terminated, the person (or a third party) must be provided with a full breakdown of how the amount due has been calculated.

Once the amount has been repaid, the local authority should provide confirmation the agreement has been concluded and confirm (where appropriate) the charge against the property has been removed.

8.15 A 'loan type' deferred payment agreement

Loan type DPAs are different to the 'care' type where the authority arranges your care and defers the charges due to it.

Under a loan type agreement, you arrange your own care, with the authority loaning you an amount towards your fees in instalments. The agreement must make clear:

the authority will make a Tfc8vn wn 8/2r:

9 Information, advice and advocacy duty

Local authorities have a duty to provide information and advice relating to care and support, including deferred payment agreements.

To make well-informed choices, it is essential you can access appropriate information and advice before taking out a DPA. It is important you are kept informed throughout the course of a DPA and that you (and the executor or administrator of your estate where appropriate) receive the necessary information upon termination of the agreement.

Where appropriate, the local authority should give you information about how someone can act for you if you lose mental capacity to manage the DPA yourself, for example by creating a Lasting Power of Attorney.

Most areas of information that must be provided by the local authority are covered above.

Other areas include:

explaining the implications that a DPA may have on your income, social security benefit entitlements, and charging

give an overview of potential advantages and disadvantages of taking out a DPA and explain other options for paying for care to consider

the existence of the 12-week property disregard, which gives additional time to consider options in paying for care, and

taking independent financial advice, including regulated financial advice.

Local authorities must provide easy to read information about how the local scheme works in formats compliant with the *Equality Act 2010*. This must be provided at the earliest appropriate opportunity during the 12-week property disregard.

Specifically relating to your property

The local authority should advise you it needs to consider how you plan to use, maintain, and insure your property. They should advise whether they intend to place conditions on how the property is maintained whilst the DPA is in place. It usually includes requirements for you to maintain and insure your home within the terms and conditions of a DPA.

The local authority should give general information for homeowners on how you may choose to use your property when you enter residential care.

For example, information on renting your property and the potential impact on other people living in the property if a sale is required after your death.

They should give advice and signpost you to more specialist organisations who can provide further advice, including information about the legal responsibilities of landlords and obligations to tenants.

9.1 The independent advocacy duty

The local authority has a duty to appoint an independent advocate if you struggle to understand or make decisions about your care and have no one you want to help you engage in the process, such as a relative or friend.

This builds on what already exists under the *Mental Capacity Act 2005* for people who lack mental capacity. The right applies if you have *substantial difficulty* in doing any of the following:

- understanding relevant information (about social care and health issues)
- retaining that information
- using or weighing up the information
- communicating your views, wishes or feelings.

10 Challenging local authority decisions

If you disagree with a decision by the local authority or are not satisfied with the service provided, they can be challenged through the formal complaints procedure.

This may be because, for example, the local authority has included your property in the financial assessment when it should be disregarded, or you have been refused a deferred payment agreement.

Ask the local authority for details of its procedure. If you are not satisfied with the outcome of your complaint, you can take it to the Local Government and Social Care Ombudsman.

For further information see factsheet 59, *How to resolve problems and complain about social care*.

11 Pension Credit and property

For Pension Credit (PC), the value of your home is ignored for periods of short-term or temporary residential care.

If you are a permanent resident, the value of your property can be disregarded for up to 26 weeks (or longer if reasonable) as long as steps are taken to sell it. If you are in permanent residential care but your house is not up for sale, the value of your interest in your former home is usually included in the financial assessment for PC. This applies even if you have taken out a DPA on the property. However, the deferred amount secured against the property should be disregarded for PC.

The value of a former home is disregarded in certain circumstances, for example if it is occupied by your partner, or a close relative who is over State Pension age or sick or disabled. Unlike the social care financial assessment, there are no discretionary disregards of property under PC rules. See factsheet 48, *Pension Credit*, for more information.

Useful organisations

Care Quality Commission

www.cqc.org.uk

Telephone 03000 616 161

Independent regulator of adult health and social care services in England, covering NHS, local authorities, private companies or voluntary organisations and people detained under the *Mental Health Act*. They assess how local authorities meet their duties under the Care Act 2014.

Care Rights UK

www.carerightsuk.org

Telephone 020 7359 8136

Provides advice and support to older people in care homes, their relatives and friends.

Citizens Advice consumer helpline

www.citizensadvice.org.uk/about-us/contact-us/contact-us/consumer-service

Telephone helpline 0808 223 1133

Consumer advice over the phone and online.

Competition and Markets Authority

www.gov.uk/government/organisations/competition-and-markets-authority

Telephone 020 3738 6000

Produced advice for care homes on complying with consumer law.

Equality Advisory Support Service

www.equalityadvisoryservice.com

Telephone helpline 0808 800 0082 Mon-Fri 9am-7pm, Sat 10am-2pm

Funded by the Equality and Human Rights Commission, the helpline provides information and advice about the *Equality Act 2010* and human rights.

Local Government and So 2elee1 0 0 1 315.67 309.77 Tm0 g0 G(7)JTETQq0.000008871 0 595.392

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice

www.ageuk.org.uk

0800 169 65 65

Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru Advice

www.agecymru.org.uk

0300 303 4498

In Northern Ireland contact

Age NI

www.ageni.org

0808 808 7575

In Scotland contact

Age Scotland

www.agescotland.org.uk

0800 124 4222

Support our work

We rely on donations from our supporters to provide our guides and factsheets for free. If you would like to help us continue to provide vital services, support, information and advice, please make a donation today by visiting www.ageuk.org.uk/donate or by calling 0800 169 87 87.

Our publications are available in large print and audio formats

Next update August 2025

The evidence sources used to create this factsheet are available on request. Contact resources@ageuk.org.uk

This factsheet has been prepared by Age UK and contains general advice only, which we hope will be of use to you. Nothing in this factsheet should be construed as the giving of specific advice and it should not be relied on as a basis for any decision or action. Neither Age UK nor any of its subsidiary companies or charities accepts any liability arising from its use. We aim to ensure that the information is as up to date and accurate as possible, but please be warned that certain areas are subject to change from time to time. Please note that the inclusion of named agencies, websites, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age UK or any of its subsidiary companies or charities.

Every effort has been made to ensure that the information contained in this factsheet is correct. However, things do change, so it is always a good idea to seek expert advice on your personal situation.

Age UK is a charitable company limited by guarantee and registered in England and Wales (registered charity number 1128267 and registered company number 6825798). The registered address is 7th Floor, One America Square, 17 Crosswall, London, EC3N 2LB. Age UK and its subsidiary companies and charities form the Age UK Group, dedicated to improving later life.