



GATESHEAD COUNCIL

ADULT SOCIAL CARE

**DEFERRED PAYMENT POLICY FOR CARE AND SUPPORT
SERVICE**

CONTENTS

1. Introduction
2. Legal Framework & definitions
3. Offering and refusing Deferred Payment agreements
4. The deferred amount and the equity limit
5. The Adult's Contribution
6. Repayment of a deferred amount
7. Termination / refusal to defer charges
8. Refusal to defer
9. Interest
10. Administration costs
11. Terms and conditions
12. Information
13. Disputes and Appeals

1. Introduction

1.1 The Care Act 2014 establishes a universal deferred payment scheme which means that people will not be forced to sell their home in their lifetime to pay for their care and support.

1.2 By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, and provides peace of mind during a time that can be challenging for them and their loved ones as they make the transition into care.

1.3 This document sets out how the deferred payment scheme operates and how Gateshead Council (the Council) will administer its deferred payments scheme.

2. The legal framework and definitions

2.1 The legal framework includes the following:

- The Care Act 2014 (sections 34 and 35)
- The Care and Support (Deferred Payment) Regulations 2014
- Care and Support Statutory Guidance

Gateshead Council's policies of relevance are:

- Gateshead Council Fees and Charges policy
- Gateshead Council Charging policy

2.2 For the purpose of this scheme, the following are defined in accordance with the regulations:

- Care Home means a care home within the meaning given in S3 of the Care Standards Act 2000.
- Supported Living accommodation is accommodation that is not a care home and is defined in s3(2) of the Care and Support (Deferred Payment) Regulations 2014.

3. Offering and Refusing Deferred Payment Agreements

3.1 The Council will only enter a deferred payment agreement with an adult for amounts due for care and support which the local authority considers to be sufficient to meet the adult's needs.

When a Deferred Payment Agreement will be offered

3.2 The Council will offer and will enter into a deferred payment agreement where:

- The person is an adult that has needs for care and support.
- The Council agrees to meet those needs by provision of accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested).
- The adult has a legal or beneficial interest in a property which is the adult's main or only home.
- The value of that interest is not disregarded for the purpose of calculating the amount of the adult's capital when the financial assessment rules are applied.
- The adult's capital (excluding their interest in the property) does not exceed £23,250.
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs is capable of being registered as a first legal charge in favour of the local authority in the land register.
- Genuine and informed consent is given in writing to the creation of a charge that will rank before any interest the person has by anyone with an interest in the land or asset over which a charge will be made or who might prevent the Council from exercising a power of sale or recovering the deferred payment amount.
- The adult agrees to all of the terms and conditions set out in the Deferred Payment Agreement document.

When a Deferred Payment Agreements may be offered

3.3 The Council may offer a deferred payment agreement to an adult provided the following conditions are met:

- The person is an adult that has needs for care and support
- The Council agrees to meet those needs by provision of accommodation or supported living accommodation in a care home under s.18 or 19(1) or (2) Care Act 2014 (or would do so if requested)
- The Council is able to obtain 'adequate security' (as defined by Regulation 4 of The Care and Support (Deferred Payment) Regulations 2014) for the payment of the deferred amount and any interest or administration costs which are treated in the same way as the deferred amount. This will be the case where a charge by way of a legal mortgage for an amount which is at least equal to the deferred amount and any interest or administration costs and is capable of being registered as a first legal charge in favour of the local authority in the land register or

where other security is available which is considered by the council to be sufficient to secure payment of the deferred amount and any interest or administration costs.

3.4 In considering whether to offer a deferred payment the Council will take into account the following factors:

- Where meeting care costs would leave the adult with very few accessible assets.
- If the adult would like to use wealth tied up in their home to fund more than just their core care costs and purchase affordable top-ups.
- If the adult has any other accessible means to help them meet the cost of their care and support.
- If the adult is narrowly not entitled to a deferred payment agreement because they have capital of slightly more than £23,250.

The list above is not exhaustive and the Council will have regard to other considerations where appropriate.

4 The Deferred amount and equity limit

4.1 The amount that will be included in the deferred payment agreement is as defined in Regulation 5 of The Care and Support (Deferred Payment) Regulations 2014.

4.2 The equity limit will be set at 90% of the current market value of the property less £14,250 and less the amount of any encumbrance secured on it which ranks in priority to the Council's charge.

4.3 The Council will treat administration costs and interest in the same way as a deferred amount even after the equity limit is reached.

4.4 The Council may undertake an annual revaluation of the property to ensure that there remains sufficient equity in the property for the deferred amount.

5 The Adult's contribution

5.1 The Council will allow an adult to retain a 'disposable income allowance' of £144 per week from which contributions towards care costs will not be required. However, a person may, if they wish to do so, pay additional contributions from their disposable income allowance.

5.2 In any week where the adult's income (as calculated in line with The Care and Support (Charging and Assessment of Resources) Regulations 2014) exceeds £144 the Council will not defer an amount due for the provision of care and support to meet the adult's needs in that week for the provision of accommodation in a care home or supported living accommodation. The sum

that will not be deferred per week will not exceed the amount by which the adult's income exceeds £144. The adult will be required to pay this sum that is not deferred to the authority or the provider.

6 Repayment of a deferred amount

- 6.1 The deferred amount (including any interest and administration costs) must be repaid on the earlier of:
- The date of sale or disposal of the property over which the Council has a charge
 - 90 days after the death of the adult with whom the agreement is made.
- 6.2 The Council will provide a full breakdown of the total amount deferred to the executor after two weeks from the date of the person's death. Information may be requested prior to this on request.
- 6.3 The executor of the will can decide how the amount due is to be paid; either from the person's estate or from a third party source.

7 Termination

- 7.1 The adult may terminate the deferred payment agreement at any time subject to the conditions below and as detailed in the contract by:
- Giving reasonable notice in writing
 - Making a repayment of the deferred amount including any interest and administration costs.

8 Refusal to defer charges

- 8.1 The Council may refuse to defer any further charges in the following circumstances:
- Where the adult's total assets fall below £23,250 so the person becomes eligible for local authority support in paying for their care
 - Where the person no longer has need for care in a care home (or care in supported living arrangements.)
 - Where the property becomes disregarded under the financial charging regulations so the person qualifies for local authority support in paying for their care.
 - Where the Property can no longer be insured against all the usual risks, unless there are reasonable grounds for concluding that the site value of the property, disregarding any buildings on it, is adequate security for the deferred payment debt.
- 8.2 The Council will cease deferring further amounts when:
- The adult has reached the 'equity limit' that they are allowed to defer.

- The adult is no longer receiving care and support in a care home or in supported living accommodation
- The value of the security has dropped and so the equity limit has been reached earlier than expected.

8.3 As set out in paragraph 5.1 an amount may not be deferred in light of the adult's income exceeding £144 in a particular week.

9 Interest

9.1 The Council will charge interest on all payments that are deferred which will include:

- The deferred amount for care and support.
- Any amounts of interest deferred, unless the adult requests to pay interest separately and not defer it.
- Any administration costs deferred unless the adult requests to pay these separately and not defer them.

9.2 Interest will be treated in the same way as the adult's deferred amount unless a request is made in writing to pay this separately.

9.3 The rate of interest charged will be as set out in the Gateshead Council Fees and Charges Policy.

9.4 Interest will continue to accrue once the equity limit is reached.

9.5 Interest will also continue to accrue after the death of the adult until the deferred amount is repaid to the Council.

10 Administration Costs

10.1 The Council will make a charge for administration costs in accordance with the following paragraphs.

10.2 The administration costs charges will be as set out in the Gateshead Council Fees and Charges Policy.

10.3 Administration costs will be treated in the same way as the deferred payment amount unless the adult requests to pay them separately.

10.4 Administration costs will include the following:

- Postage, printing and photocopying
- Providing statements

- Staff costs
- Overheads (e.g. computer equipment, utility charges etc)
- Valuation and revaluation fees
- Land registry fees
- Costs incurred in perfecting the security obtained in respect of the deferred amount
- Legal costs and fees
- Costs incurred for ensuring compliance by parties to the terms and conditions in the agreement

10.5 Before entering into a deferred payment agreement the Council will give the adult an estimate of the amount of any administration costs the Council are likely to levy.

10.6 The Council will provide a statement setting out the administration costs incurred before requesting payment for the costs or treating them as a deferred amount.

11 Terms and conditions

11.1 The Council's Deferred Payment Agreement document sets out the terms and conditions of the scheme.

11.2 The adult is required to maintain their property and to keep it insured against all losses or damage. Failure to do so may lead to the Council withdrawing support.

12 Information

12.1 The Council will provide the adult with a written statement every 6 months during the agreement or within 28 days of a request. This will include information on:

- The amount the adult will have to pay to terminate the agreement, the date of the statement and the amount of any interest and administration costs accrued.
- Details of the interest calculation and the calculation of administration costs.
- The security accepted by the Council
- The maximum amount to be deferred.

12.2 The Council will provide at least 30 days written notice to the adult of the date the equity limit will be reached or if different, where the parties have agreed an amount to be deferred, the date when that will be reached.

13 Dispute resolution

- 13.1 The Corporate Complaints Procedure may be utilised in relation to any disputes arising in relation to matters covered by this policy.
- 13.2 Where a dispute arises in relation to the Council's valuation of a property or asset the following procedure applies:
- The adult should make representations in writing to the Council's Financial Assessment team. The Council may ask for further evidence and information to support the adult's dispute.
 - Where the parties continue to fail to agree a valuation for the property the adult may obtain an independent valuation at their own expense. The local authority will consider this and will respond in writing.
 - If agreement is not reached the matter may be referred by the adult to the Corporate Complaints Procedure.
 - An appropriate valuation must be agreed prior to proceeding with a deferred payment agreement.