



You may also find the following sheets useful – these can be found on the Council's website:

**C1: Access to care services**

**C2: Moving into a Care Home**

**F1: Paying for residential and nursing care**

**F2: Guide for people who pay for their own care home placement**

**F4: Guide for Third Party contributions**

**F5: Guide for people who want help dealing with their financial affairs**

This information sheet explains about your rights as a homeowner and how your charge is calculated if you move into a care home. It covers:

- The value of your property and charging
- The 12-week property disregard
- Deferred Payment Agreements
- Applying for a Deferred Payment

We advise you to get independent financial advice about how to pay for your accommodation in a care home as there may be other options available to you. You should also check if you qualify for Income Support or Pension Credit, and Attendance Allowance, Disability Living Allowance or Personal Independence Payment.

Before Bath and North East Somerset Council can help with your care home placement and fees, we must assess your care needs and agree that they meet our criteria for the type of care required.

For more information and advice about care and support please access the Council's Website.

We will then carry out a financial calculation to see how much you should pay towards it.

### **Will the value of my property be taken into account?**

If you own your own home, the value will be assessed at its market value less any mortgage or loan secured on it and will normally be included as capital. It will not be included if your stay is temporary or one of the following people is still living there:

- Your husband or wife or partner.
- A lone parent who is your estranged or divorced partner;
- A relative who is over 60 or who is disabled
- A child of yours who is under 18 and who the law says you must support

## **What happens if the value of the property is not included as capital?**

When we calculate how much you can afford to pay towards your accommodation and care fees, we will exclude the value of your property. You will still be expected to pay towards your accommodation and care fees from your income and any other capital you have.

This will only apply while the person who is still occupying the property continues to live there. If there is a change, you must tell us immediately, as the property will have to be taken into account for calculating your charges.

## **What happens if the value of my property is included as capital? And will I qualify for the 12 week property disregard?**

The Government has recognised that it may be difficult for people to make immediate decisions about selling their property when they go onto a care home. The Council has to disregard the value of your property for 12 weeks from the date you move permanently into residential care. During these 12 weeks, you will still have to pay towards your accommodation fees from your income and any savings you have. After the 12 weeks we will also take into account the value of your property within the calculation.

There are some exceptions to the 12 week property disregard, including the following;

- People who have multiple property interests
- People who have been previously funding their own residential care

## **How will my charge be calculated?**

A Care Finance Officer will visit you, or the person who deals with your finances, to work out how much you can afford to pay. You or your financial agent will be asked to provide evidence of income, capital, property ownership and any mortgage or loan secured against the property. They will then calculate how much you should pay from the start of your placement and what the charges will be after the 12 week property disregard (if applicable).

If the property is sold within the 12-week period (if applicable) and your share of the property is worth more than £23,250, you will be expected to pay the full cost of care from the date the property is sold. It is very important that you let us know if the property is sold during this time.

You should not transfer or give away property with the intention of avoiding residential care charges, or when you know you need care and support. If you do, the Council can charge the person who received the property for your residential care. You are therefore advised not to transfer your property to anyone else if you are considering moving into residential or nursing care, or otherwise already know that you need care and support from the Council.

If you bought a Council house under the 'right to buy', and someone else has helped you with the purchase, we will assume you still have an interest in the property at least equivalent to the percentage discount (earned). We will need to see records of the purchase etc. to accurately determine the value of your interest in the property.

During the 12-week period (if applicable) you will be expected to make some decisions on how you will continue to fund your care after the 12 week property disregard period. It is at this stage you may wish to apply for a deferred payment agreement.

## What is a Deferred Payment Agreement? (DPA)

A deferred payment agreement enables you to enter into an agreement with Bath and North East Somerset Council. This allows the Council to continue to pay the part of your care charge you cannot afford, after the 12-week property disregard period (if applicable) ends, as a loan.

The deferred payment loan would need to be repaid by you or your estate, when you sell your property or leave the care home, whichever happens first. This allows anyone who doesn't want to sell their property immediately, or who can't sell it quickly enough, to pay their care fees.

The rules for taking advantage of the scheme are as follows:-

- you entered a care home on a permanent basis;
- you do not have sufficient income or savings over £23,250, other than the value of your home, to meet the cost of your care;
- you do not wish to sell your home at the moment or if you do it may take some time and the funds will not be available quickly enough to meet the costs of your care;
- you have a beneficial interest in the property which is your former home;
- your property is worth or your beneficial interest in the property is worth enough to meet the criteria to fund the cost of your care;
- there is no outstanding mortgage, or any outstanding mortgage will leave sufficient money to meet the criteria to fund the cost of the care;

If your property is jointly owned, either as joint tenants or tenants in common and is not disregarded, the Council can only offer a DPA if all the joint owners agree. Every person with an interest in the property will need to sign the DPA and legal security and agree to be bound by the arrangement to discharge the debt when it falls due.

If you wish to take advantage of the scheme you will need to agree to the Council placing a security on the property (this is like a mortgage). This means the Council can get back the money it has loaned you from the proceeds from the sale of your property.

There are some things that you may want to think about before considering the scheme, such as:-

- You should take legal or other professional advice about what entering into this agreement will mean for you.
- A legal security (mortgage) will be registered against your property.
- You will need to maintain and insure your property.
- If you decide to rent out your property, any rental income you receive will be taken into account in the calculation of your charge for your care costs that you are able to make from your income.
- There are some Social Security Benefit implications of joining the scheme and you will need to investigate these implications with these relevant agencies.
- If your property already has a bank or building society loan secured against it (e.g. a mortgage) you will need to make sure you can continue to pay the instalments. The Council is not able to make an allowance in your assessment for these payments.
- You will need to pay interest on the loan at the rate set by the Government.
- You will need to make a payment towards the legal and other expenses the Council incurs setting up and administering the loan agreement. A copy of our charges can be found at the end of this leaflet.

- We may have to carry out re-valuations of your property from time to time. This will help you know what benefits you may be entitled to and will help us to ensure that your loan does not exceed the amount you will have to repay.
- You will be sent regular statements and/or invoices to advise you of the accruing debt/loan.
- You will have to enter into a written agreement with the Council. This will set out that you agree to repay the loan in full on the date on which the DPA is terminated by you or at the end of 90 days, after the date of your death. The loan would also need to be repaid in the event of your property being sold.

It is very important that you decide whether or not you wish to ask for a Deferred Payment as soon as possible when you move into residential care. This is so we have time to set up your Deferred Payment. If we don't hear from you, we will stop paying towards your care when the 12 week disregard (if applicable) comes to an end. You will then become self-funding and will have to pay the full cost of your care direct to the home.

### **Who can sign up to the agreement?**

The formal written agreement must be signed either by the person who needs the care or by someone who holds an Enduring Power of Attorney or Lasting Power of Attorney for that person. The agreement can also be signed by someone who is a Deputy, appointed by the Court of Protection.

If you are reading this leaflet on behalf of someone else and you are aware that there is no Power of Attorney or Deputy in place please read information sheet F5, which provides advice on this area. If there is no official legal representative in place when the agreement needs to be signed, then we will not be able to authorise a DPA.

When accepting a property as security, Bath and North East Somerset Council must be able to place a Land Registry charge on the property; and it must be the first charge. If the property has not been registered, you must complete registration of the deeds at the Land Registry before making application for a Deferred Payment Agreement. We would recommend that you contact a solicitor to assist you with this.

If the Council agrees to your request for a deferred payment agreement, you are advised to seek independent financial and legal advice before arrangements are finalised. You should particularly check your entitlement to Income Support or Pension Credit and Attendance Allowance or the Disability Living Allowance (care component).

If your property is to remain empty for any period you will need to look into issues of security, insurance, council tax and maintenance and how these will be paid for. It may be better for you to consider renting out the property both to keep it occupied and give you some additional income.

You are also recommended to appoint solicitors to deal with the Council in respect of the placing of the legal charge against your property and necessary documentation. You will need to pay the fees the solicitor will charge for this advice.

### **How do I apply for a Deferred Payment Agreement?**

If you wish to take advantage of the Deferred Payments scheme, please complete the application form at the end of this information sheet and return it to your local adult social care finance team using the prepaid envelope that the Care Finance Officer will provide. You should

keep the other copy of the form for your records. You must return the form within 28 days. If you are not able to complete the form in this time, then please phone the Care Finance Officer to let them know about any delay.

If Bath and North East Somerset Council agrees to your request for Deferred Payments, a Solicitor in the Council will contact you, or your legal representative, with regard to the process for setting up the formal legal agreements and placing the charge against your property.

Following updated rules by the Land Registry, it is now a requirement that identity checks are carried out on all attorneys that are proposing to sign a Deferred Payment Agreement. If your attorney is acting without legal representation we will ask them to complete the Land Registry form ID1 and take it to a solicitor for them to complete the second part of the form to confirm that the necessary identity checks have been made. The form would then need to be forwarded to the Council's legal department so that it can then be attached to the application when registering the DPA at the Land Registry.

**We advise you to get independent financial and legal advice before arrangements are finalised.**

In some exceptional circumstances your request for a Deferred Payment Agreement may be turned down. The reasons will be given to you in writing and you will be told about how to appeal against the decision.

**What would happen if I rented my house out while I am in residential care?**

Any rental income that you receive will be taken into account in the calculation of the charge for your care costs that you are able to make from your income. However a certain percentage for reasonable maintenance costs would be allowed in the financial assessment.

### **Third Party Payments**

Bath & North East Somerset Council sets weekly fee levels for different types of care each year. Your Social Worker will tell you what they are. If you choose to go to a home that charges more than these levels, a third party will usually have to pay the difference. This could be a family member, a friend or other person or a charity.

However, as you have property to sell; the law says you can pay the top-up from your own capital if you are entering into a deferred payment agreement. The Council must make sure that these levels of payments are sustainable, taking into consideration the value of your property. Please note when you are considering more expensive placements that we cannot always agree to fund these, even under a deferred payment agreement.

**Deferred payment agreements  
Interest rate – amended every six months**

<b>Compound interest rate (applied daily)</b>	<b>Period applicable</b>
2.25%	<b>01.07.2015 – 31.12.2015</b>
2.15%	<b>01.01.2016 - 30.06.2016.</b>
1.85%	<b>01.07.2016 – 31.12.2016</b>

**Administration charges**

<b>Set up fees</b>	
Land search fee	£10
Legal cost to prepare agreement and register charge	£350
Land registration fee	Cost charged by Land Registry dependent on value of property
Professional valuation (where required)	Cost incurred by Council (notified in advance)
<b>Review fees (every 6 months)</b>	
Cost to review debt value and compliance Preparation of interim statement	£30
<b>Termination fees</b>	
Legal cost to agree termination of agreement, repayment and removal of charge	£350

**Independent Financial Advice**

**We advise you to take independent financial advice, as there may be several different ways of funding care available.**

**Useful phone numbers**

Age UK Bath & North East Somerset – independent information and advocacy for older people and their carers:

Phone: 01225 466135

Email: [reception@ageukbanes.co.uk](mailto:reception@ageukbanes.co.uk)

Website: <http://www.ageuk.org.uk/bathandnortheastsomerset>

Carers' Centre Bath & North East Somerset - Expert help is available for carers who are struggling emotionally with their caring role, feeling isolated and in need of a friend or needing support when dealing with health and care planning:

Phone: 01761 431388

Email: [info@banescarerscentre.org.uk](mailto:info@banescarerscentre.org.uk)

Website: [www.banescarerscentre.org.uk](http://www.banescarerscentre.org.uk)

An **Emergency Duty Team** is available to help deal with crises in peoples' care, or with any welfare emergency involving adults, children and families that occurs outside normal office hours. Phone: 01454 615165

### **Care Guide**

Bath & North East Somerset Council produces a Care Guide which provides information about Care Homes in the area. It is aimed at people who fund their own care and support because they are not eligible for assistance from the Council, as well as those who may qualify for a formal care needs assessment and/or financial support. See

<http://www.bathnes.gov.uk/careguide>

### **Useful Websites**

Please note the Council cannot accept responsibility for external websites content:

- The Law Society - <http://www.lawsociety.org.uk/> - Independent information to help you find the legal support you need. Read their guides on common legal issues.
- Care Quality Commission - [www.cqc.org.uk](http://www.cqc.org.uk)
- Bath & North East Somerset Clinical Commissioning Group - [www.bathandnortheastsomersetccg.nhs.uk/](http://www.bathandnortheastsomersetccg.nhs.uk/)
- Bath & North East Somerset Carers' Centre - [www.banescarerscentre.org.uk/](http://www.banescarerscentre.org.uk/)
- Caring Connections - [www.caringinfo.org](http://www.caringinfo.org)
- NHS Find a Care Home - [www.nhs.uk/CarersDirect/guide/practicalsupport/Pages/Carehomes.aspx](http://www.nhs.uk/CarersDirect/guide/practicalsupport/Pages/Carehomes.aspx)
- Alzheimer's Society - [www.alzheimers.org.uk](http://www.alzheimers.org.uk)
- Independent Age – advice and support for older age - [www.independentage.org/](http://www.independentage.org/)
- Sirona Care & Health - [www.sirona-cic.org.uk/](http://www.sirona-cic.org.uk/)
- Age UK Bath & North East Somerset - [www.ageuk.org.uk](http://www.ageuk.org.uk)

**Bath and North East Somerset Council – Deferred payment application form**

<b>Section 1</b>		<b>Details of person applying for the Deferred Payments Agreement</b>	
Title (e.g. Mr, Mrs, Ms )			
First Name(s)			
Last Name			
Date of Birth			
Address			
Email			
Telephone number			
Are you	Single Married (Please circle one) Divorced Separated Widowed Civil Partnership		
<b>Section 2</b>		<b>Details of representative of person applying for the Deferred Payments Scheme (if relevant)</b>	
Title			
First Name(s)			
Last Name			
Address			
Telephone			
Email			
Relationship to person named above			
Do you have legal authority to act on behalf of the person named in Section 1?  If yes, please confirm your status.	Power of Attorney (Please circle one) Enduring or Lasting Power of Attorney Deputy or receiver Solicitor		
If they took appropriate legal or financial advice, is there any reason why the person named at section 1 would not be able to understand what a deferred payment agreement involves?			

If not, what would prevent them from being able to understand what a deferred payment agreement involves?

Please provide a copy of any registered power of attorney or court order appointing you as deputy or a copy of any other authorisation for you to act on behalf of the person named in Section 1.

<b>Section 3</b>	<b>About the property</b>
Please give the full address of the property	
What is the current value of the property?	£
Do you have a mortgage or other secured loan on the property?	Yes (Please circle) No
If Yes: What type of mortgage or loan do you have?	Repayment (Please circle) Interest Only
If other type of loan please give details	
How much do you pay each month (include any endowment or insurance premium)	£ per month
Name of mortgage lender	
Account number	
Date of mortgage agreement	
Amount of outstanding mortgage	
Please attach a copy of the most recent mortgage statement	

<b>Section 4</b>	<b>Other people who own part of the property or otherwise have an interest in the property</b>
Does anyone else have an interest in the property with you?	Yes No (Please circle)
If Yes: Please give their details and their interest	
Name	
Address	
Interest in property	
Please attach a copy of all documents setting up these arrangements including all and any relevant wills, trust documents and / or land registry restrictions.	

<b>Section 5</b>	<b>About the property</b>
What type of property is it?	Detached house Semi-detached house Terraced house Bungalow Flat Other (Please circle)
If other please give details	

<b>Section 6</b>	<b>Other people who live in the property</b>
Does anyone else live in the property?	Yes No (Please circle)
If yes please give details as follows:	
Name	
Age	
Date moved into the property	
Relationship to person named in Section 1	
If the property is rented or otherwise let out, please provide a copy of the most recent lease or tenancy agreement.	

<b>Section 7</b>	<b>Property maintenance</b>
You will need to maintain the property and land, including gardens and outbuildings. This	

<p>means the property will need to be insured and utility bills will need to be paid. You may wish to consider renting the property out to ensure it is maintained and if so we recommend you seek independent advice regarding this. Please explain how do you intend to maintain and upkeep the property, including whether you plan to rent it out.</p>
<p>Please provide a copy of any insurance policy or maintenance agreement currently in place in respect of the property.</p>

Section 8	Land registry / title deeds
Is your property registered with the Land Registry?	<p>Yes (Please circle) No not sure</p>
Title number if known:	
Please provide the name and address of the person or organisation that holds the title deeds for the property.	
Name	
Address	
Contact number	

Section 9 Please check and ensure you have provided these documents	Checklist for Documentation (indicate which are attached)
Copy of court order or power of attorney appointing legal representative	
Copy of most recent mortgage statement	
Copy of any wills, trust deeds or other documents showing joint or other interests in the property	
Copy of any lease, tenancy or other occupation agreement in place in relation to any current occupants of the property	
Copy of current insurance policy in place in relation to the property	
Any maintenance agreement in place in relation to the property	

### Section 10 – Declaration

I wish to make an application under the Deferred Payment Agreement. I understand that acceptance of any application under the agreement is at the discretion of Bath and North East Somerset Council subject to my application meeting the eligibility criteria and the local authority being able to obtain adequate security. The deferred payment will not take effect until a formal agreement is entered into.

I confirm that I and all other persons who occupy or have an interest in the property specified in

Section 3 has been told of the need to take independent legal and financial advice before I enter into an agreement under the Deferred Payment Agreement.

I confirm that the information given on this form is true and accurate to the best of my knowledge.

I have read and understood this application for the Deferred Payments Agreement and the terms of this declaration.

Bath and North East Somerset Council will use the information you have provided for the purpose of deciding on the application for a Deferred Payment Agreement and the financial assessment of the person's charge. No personal information you have given us will be passed on to third parties for commercial purposes. Our policy is that all information will be shared among officers and other agencies where the legal framework allows it, if this will help to improve the service you receive and to develop other services.

If you do not wish certain information about you to be exchanged within the Council, you can request that this does not happen.

Your full name	
Your signature	
Date	

If you are signing on behalf of the person applying to use the Deferred Payment Agreement, you must be the person named in Section 2.