

Adult Social Care Deferred Payment Agreements Policy



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Purpose

This policy sets out Surrey County Council's position in relation to Deferred Payment Agreements.

It relates to Deferred Payment Agreements effective from 1 April 2015. It does not apply retrospectively. Deferred Payment Agreements made before 1 April 2015 fall under the council's Deferred Payment Scheme Policy, September 2009.

It has been produced in accordance with the legal requirements set out in:

- [The Care Act 2014](#) (sections 34-36)
- [The Care and Support \(Deferred Payment\) Regulations 2014](#), (as amended by the Care and Support (Deferred Payment) (Amendment) Regulations 2017)
- [Care and Support Statutory Guidance 2014](#)

We will meet the legal requirements outlined in the legislation above. The key elements are described briefly within this policy.

The policy clearly states the council's position on areas where there is discretion within the legislation.

Background

A deferred payment is designed to help a person who has been assessed to pay the full cost of their care home fees but cannot afford to pay the full amount immediately because their capital is tied up in their home. By agreeing to a deferred payment, a person can delay paying the cost of their care home fees until a later date. Typically, this means that a land registry charge is attached to their property and the council will recover the cost of care after the property is sold or from the person's estate.

The Health and Social Care Act 2001 enabled councils to offer Deferred Payment Agreements but did not require it. Surrey County Council has offered Deferred Payment Agreements under the Health and Social Care Act since 2002. The Care Act 2014 now requires that Deferred Payment Agreements are offered to all people who meet certain criteria.

The policy assumes that proper consideration has been given to the inclusion of any property in the assessment of a person's resources. Where there is a mandatory property disregard or where it is appropriate to disregard the

property on discretionary grounds, a Deferred Payment Agreement will not be offered.

A person may only enter into a Deferred Payment Agreement once the 12-weeks property disregard has been completed.

Policy Statement

The Policy Statement below has been developed following a consultation with Surrey residents and with reference to The Equality Act 2010 and its Public Sector Equality Duty. The Equalities Act requires public bodies have due regard to the need to prevent discrimination, advance equal opportunities and encourage positive relationships.

People a deferred payment will be offered to

The council must offer a Deferred Payment Agreement to people who meet all three of the following criteria when they apply:

- The person is assessed as having eligible needs which the council decides should be met through a care home placement, or the person is arranging their own care and support and would be assessed as having eligible needs were the council to have carried out an assessment:
- The person is assessed as having less than or equal to £23,250 (or such other capital limit that may apply) in savings and other capital excluding the value of their home; and
- The property would not be disregarded for charging purposes.

If the person meets the above criteria and is able to provide adequate security for the debt, usually in the form of a first legal charge against the property on the Land Registry, the council must offer a deferred payment.

The council will consider applications for a Deferred Payment Agreement made by people who narrowly fail to meet the above criteria. For example, if the person has slightly more than the £23,250 asset threshold. These applications will be considered on a case by case basis and informed by individual circumstances. In making such decisions the council will have regard to:

- Whether they will meet the criteria in the near future.
- Other support that may be available to them.

The council will also consider applications for a Deferred Payment Agreement for those people moving into supported living type accommodation as defined

in the regulations, where the person intends to retain their former home and pay their accommodation and care costs from a deferred payment. These applications will be considered on a case by case basis but all other aspects of the Deferred Payment Policy will apply.

When a Deferred Payment Scheme Application will be refused

The council will not offer a deferred payment where any one of the following apply:

- If the council cannot secure a first charge on the person's property and no other adequate security can be provided.
- If the person is seeking a top-up for a more expensive placement than the council would usually fund and the amount of the top-up does not seem sustainable for the duration of the placement.
- Where the person does not agree to the terms and conditions of the agreement.
- In the case of jointly-owned property, if all owners or those people with a beneficial interest in the property refuse to consent to a legal charge against the property.

How much can be deferred

The council will require a contribution from the person's income, savings or other assets but must leave the person with up to £144 per week if the person wishes to retain this sum. All other costs, including top-ups and extra care costs can be deferred, subject to having adequate security.

What the council will accept as adequate security

The council will accept a first legal charge on a property as adequate security.

Where this is not available as adequate security the council will consider alternative security in the individual circumstances of the case. Any additional costs that may be incurred by the council as a result of investigating or agreeing to alternative security, including any legal or valuation costs must be met by the person and cannot be added to the deferred debt.

What the Deferred Payment Agreement will cost an individual

The council will make an administration charge for the arrangement of the Deferred Payment Agreement. This charge covers the council's costs to administer the Deferred Payment Agreement which include, for example, legal fees and staff time. The amount of the charge may vary and the current charge will be available on the council's website and in literature about the Deferred Payment Scheme. This charge is payable at the outset and will not usually be part of the deferred debt, unless in the exceptional circumstances of the case, funds are unavailable to pay the charge upfront.

In addition to the administration charge, if a professional valuation of a property is required, or some other form of valuation, the person will be required to meet the valuation fees in full plus any VAT at the time of the valuation. This may happen when the council is considering the application, in the event of a dispute or during the agreement when a review of continued adequate security is made. These fees cannot be added to the deferred debt.

The schedule of charges is set out on page 8.

The council will charge compound interest on the total deferred debt (including any administration charge and accrued interest), until that debt has been repaid. The rate of interest charged will be the 'national maximum interest rate'. The rate will change every six months on 1 January and 1 July to track the market gilts rate stated in a report published by the Office of Budgetary Responsibility. The current rate of interest will be available on the council's website and in literature about the Deferred Payment Scheme.

How a Deferred Payment Agreement can be terminated

The agreement can be brought to an end in any one of these ways:

- By repaying the full amount due to the council. This can be done at any time.
- When the property or security is sold and the council is repaid in full.
- When the person dies and the full amount is repaid to the council.

What information and advice will be provided by the council

The council will, as a minimum, provide information and advice throughout the Deferred Payment Agreement process, in line with its legal duties.

The council will recommend that people seek independent financial advice.

How to make a complaint

Complaints about the financial assessment process or Adult Social Care can be made through the Adult Social Care complaints procedure in the following ways:

- **Online:** Fill in our [online customer feedback form](#)
- **Post:** Fill in our [printable Adults Complaints form](#) available from the Adult Social Care Listening to your views leaflet.
- **Contact the Adult Social Care Customer Relations Team:**
 - **Address:** Adult Social Care, Customer Relations Team, Millmead House, Millmead, Guildford, Surrey, GU2 4BB.
 - **Telephone:** 01483 518300
 - **Text (SMS):** 07527 182 861 (for the deaf or hard of hearing)
 - **Textphone (via Relay UK):** 18001 0300 200 1005
 - **British Sign Language:** www.surreycc.gov.uk/bsl
 - **Email:** asc.customerrelations@surreycc.gov.uk

More information on providing Adult Social Care with your feedback, compliments or complaints can be found on the council's website:

www.surreycc.gov.uk/adultsfeedback

Schedule of charges

Set up charges	£	
Legal fees	936	Payable in full at the outset whether or not the application proceeds to completion
Administration charge including staff time on processing the DPA, printing, and postage costs	468	Payable in full at the outset whether or not the application proceeds to completion
Arrangement fee	364	To set up the contract for your deferred payment agreement
Total arrangement fee	1768	
Land registry charges and search fees	Variable	As determined by Land Registry
Professional fees		
Valuation fees	Variable	Payable in full, in the event that a professional valuation is required
Annual Fee		
Annual administration fee – including staff time on review of the agreement, printing and postage	140.40	Annual fee payable in April
Redemption Fee		
Legal fees for removal of the charge	447.20	
Debt recovery costs	Variable	If the debt is not repaid in full at the end of the agreement, any costs incurred in recovering the debt may be charged in full

This table sets out the schedule of charges.