

# **Paying for Residential Care The Deferred Payment Scheme**

## **What is the Deferred Payment Scheme?**

If you are a home owner and we take the value of your home into account when calculating your charges towards residential care, this scheme is designed to assist you with the payment of your care home fees. We can offer you a loan to pay any shortfall in your assessed accommodation charges if you do not wish to sell your home or are unable to sell your home quickly enough to pay for your care. This is known as a Deferred Payment.

## **How do I become eligible for the scheme?**

To join the scheme you must have been assessed by Social Services as requiring residential or nursing care and be eligible for funding from the council. You must have a beneficial interest in the property you have been living in which is worth enough to cover the period of the placement. You must also pay a weekly contribution based on an assessment of income and assets. Social Services would expect there to be sufficient assets to cover at least 3 years of care costs.

## **How does the scheme work?**

For the first twelve weeks the value of your home is disregarded. After twelve weeks the Council may allow you to 'defer' the shortfall between the care costs and your assessed contribution. In return the council will pay the balance of care costs up to an agreed rate that would have been met from the sale of the property.

After this twelve week period you may also use the scheme to pay for more expensive accommodation depending on the net value of your property and the approval of the Council.

## **What if I'm not the sole owner of the property?**

You may still be eligible to take up Deferred Payments even if you are not the sole owner of the property as long as your share would be enough to pay back the loan once sold. It is important that you discuss this with the co-owner and that he/she signs the Deferred Payment Agreement. They should also be advised to seek independent legal and financial advice.

## **Can I rent out my property?**

Yes, you can rent out your property but any rental income received must be used to contribute towards your weekly accommodation charges. This will also reduce the amount you will have to pay back to us.

It is advised that no letting agreement is entered into before the Deferred Payment Agreement and the legal Charge are in place. It is recommended that only short term tenancy agreements are made as the property may have

to be sold on death to ensure the loan is paid back within the agreed timescales. We will request sight of any tenancy agreement for our records.

### **What if I have an outstanding mortgage on my property?**

We will still consider your application. However, we will need to be satisfied that the value of the property will be enough to repay the amount owed to us once the outstanding mortgage has been paid. We would also need to ensure that you have adequate financial resources available to continue making your regular mortgage payments, in addition to your weekly accommodation charges.

### **Will I have to sign a contract?**

We will enter into a legal agreement, called a Deferred Payment Agreement with you or your legally appointed representative, stating that you agree to repay us when the property is sold. When we enter in to a Deferred Payment Agreement with you, we will place a Legal Charge on your property that will register our interest in the property with the Land Registry. A legal Charge is similar to a mortgage which means that we are loaning you money interest free and when the property is sold or when your estate is settled, we will be repaid the amount owed to us from the proceeds of the sale.

You will not be able to complete the sale of the property or transfer ownership until we withdraw our Legal Charge upon repayment of the loan.

### **Will there be a charge for this?**

You will be asked to meet the cost of us placing a Legal Charge with the Land Registry. This fee must be paid upon request/receipt of an invoice and cannot be added on to the Deferred Payment Loan.

You will also be asked to pay a Legal Contribution Cost/Annual Administration Cost and a Valuation Fee for the relevant property.

### **When must the loan be repaid?**

When the property is eventually sold or you terminate the agreement, the loan must be paid back to us. This should occur the day after the agreement is terminated or 90 days after your death. If the loan is not repaid within the stated timescale, we will apply an interest charge on the outstanding loan either from the day after the agreement is terminated or the 91<sup>st</sup> day after death, up until the repayment is made.

### **What are the advantages of the scheme?**

On a Deferred Payment Scheme you are entitled to claim Attendance Allowance or if under the age of 60, the care component of Disability Living Allowance whilst you are in residential care. This means you will have extra

income to contribute towards your weekly accommodation charges which will reduce the amount you will have to pay back to us.

A Deferred Payment is an interest free loan and you will not incur any interest charges whilst your accommodation charges are deferred.

You may rent out your home and use the income to contribute towards your weekly accommodation charges, again this will reduce the amount you will have to pay back to us.

You may choose a more expensive accommodation that will incur a top up payment to the fees the Council pay. This top up can be added to the Deferred Payment loan.

When you need to repay the loan owed to us, depending on the amount owed, you may choose for it to be paid from savings or a loan etc. and so the property may not be sold.

### **What are the disadvantages of the scheme?**

If a property is not put up for sale, you may not be entitled to Pension Credits towards the cost of your accommodation charges. This could have a knock on effect to entitlement to such things as free eye tests and dental treatment.

You should also consider what arrangements you will need to put into place to ensure the property is secure and maintained. You will also have to pay insurance on the building and contents and pay heating bills to save the property from damp and frost.

We strongly recommend that you seek independent legal and financial advice before you enter into a Deferred Payment Agreement with us.

### **Can my application be refused?**

Yes, granting a deferred payment is at the discretion of the Council. A refusal to allow a Deferred Payment will be clearly communicated in writing to you. Reasons for refusal might be: -

- You have other assets available to you to meet the cost of the accommodation charge such as savings over the capital threshold
- You have an outstanding mortgage on your property that will not leave sufficient funds for us to recover our costs
- The value of the property, or your share of the value, would not leave sufficient funds for us to recover our costs
- You do not own the land (leasehold property) and the lease has less than 20 years to run

### **I am thinking of applying for Deferred Payments, what do I do next?**

Ensure you seek independent legal and financial advice. This can be obtained from a solicitor, Citizens Advise Bureau, voluntary/charitable organisations etc.

If you are acting on behalf of the person wishing to apply ensure you have the legal authority to do so. This should be a legally recognised arrangement such as a Lasting Power of Attorney or Deputyship. Again, advice can be obtained from the above agencies of the Office of the Public Guardian ([www.publicguardian.gov.uk](http://www.publicguardian.gov.uk))

If the property is co-owned, the co-owner must be in agreement and willing to sign the Deferred Payment Agreement. Also advise them to seek independent legal and financial advice.

You may wish to contact the Department of Works and Pensions to find out how your existing benefits may be affected and whether you may be entitled to any additional benefits.

If your property is to be left empty you may want to discuss with your insurance company the appropriate insurance cover needed.

You may want to discuss with family or friends about putting arrangements in place to ensure the property is maintained and safe.

If you require further information the Financial Assessment Team can be contacted at:-

Financial Assessment Team  
Government Buildings  
Dinerth Road  
Colwyn Bay  
LL28 4UL

Telephone 01492 574122

If you wish to apply, please complete the enclosed form and send to Conwy County Borough Council, Financial Assessment Team, P O Box 1, Conwy, LL30 9GL.

## Deferred Payments Application Form

Please ensure that you refer to the guidance notes at the back of the form to help you fill out the application fully and accurately.

### Section A – residents details

Title ..... Surname .....

First Names .....

Date of Birth ...../...../.....

### Section B – representative applying on behalf of the resident

Title ..... Surname .....

First Names .....

Address .....

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.....Post code .....

Telephone number .....

Relationship to resident .....

Do you have the legal authority to act on behalf of the person named in section A above? Yes / No

If **YES**, please state what authority you have

- Lasting Power of Attorney
- Enduring Power of Attorney
- Deputyship

(Please enclose a copy of such legal documentation with this form)

If **NO**, or if you are in the process of applying, we will not be able to proceed with your application until such arrangements are in place and a copy of the relevant legal documentation has been received.

### Section C – details of the property

Address .....

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.....Post code .....

Please state if the person named in Section A is the –

- Sole owner
- Joint/co-owner

If a joint/co-owner, please state name(s) & address of the other owner(s) as detailed on the property deeds

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Please state the year that the property was purchased .....

Estimate up to date value of the property £.....

Is the title to property registered with the Land Registry                      Yes/No

If known, what is the title number .....

Is there an outstanding mortgage on the property                      Yes/No

If **YES**, please complete the following

Amount outstanding on the mortgage £ .....

Mortgage Lender .....

Please enclose a copy of a recent mortgage statement with this form

Please state if you intend to rent out the property                      Yes/No

If **YES**, what is the expected weekly rental income £.....

**Section D – other information**

Please give any other information which you feel may be relevant

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**Section E – declaration**

- I wish to make an application to the Deferred Payment Scheme and understand that acceptance of my application is at the discretion of Conwy County Borough Council
- I understand that the Deferred Payment is only effective where a Deferred Payment Agreement has been completed and that I can withdraw my application if I wish
- If the title to the property is not registered in the Land Registry, I confirm that I shall apply for its voluntary registration and upon completion inform Conwy County Borough Council of its new title number
- I agree to enter into a Restriction or Legal Charge with the Council in respect of the deferred payment and after, to the registration of such Restriction or Charge at my cost in the Land Registry
- I confirm that I own/jointly own the property stated in Section C and that I authorise Conwy County Borough Council to carry out the necessary checks to confirm this
- I agree to a Legal Charge with the Land Registry being placed on the property stated in Section C and that I shall meet such costs
- I agree that I will be responsible for payment of my assessed weekly accommodation charges based on my income, as specified under the Social Services and Well-being (Wales) Act 2014 Part 4 and 5 Code of Practice (Charging and Financial Assessment)
- I confirm that I have read and understood this application form and the accompanying leaflet and that I have been advised to seek independent legal & financial advice
- I understand that if information is needed as part of a criminal investigation, or to protect people from harm, this information will be shared as necessary
- I understand that Conwy County Borough Council has a duty to protect the public funds it administers, and to this end may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.
- I authorise Conwy County Borough Council to share the information; or to make necessary enquiries to check the information within the form with relevant Agencies in relation to the processing of my application
- I confirm that the information given in this form is to the best of my knowledge a true and accurate record

Signed .....Date ...../...../.....

Print name .....

Signed on behalf of .....

**Only sign on behalf of the resident if you are the person named in**



## **Section B and have the legal authority to act on their behalf**

### **Guidance for completion of the application form**

Please take time to read through the application form and gather together the relevant information you will need to ensure that the form is completed as accurately as possible. Any required information not supplied or completed incorrectly, may delay the application being processed.

If at any time you require addition guidance or clarification to help you complete the form, please contact the Financial Assessment Team.

### **Section A**

The resident is the person who is/will be living within a residential care setting and wishes to defer their assessed weekly accommodation charges.

It should be made clear that the resident can only sign the form where they have the capacity to understand what it is they are signing and fully understand its implications.

### **Section B**

If the resident does not have capacity, they will require a representative to act on their behalf.

You can only act as a representative if you have the legal authority to do so. This would be a legally recognised arrangement such as a Lasting Power of Attorney/Deputyship. Please supply a copy of the relevant legal documentation granting such authority with your application form.

If you do not have legal authority to act, we will not be able to process the application until such arrangements are in place. If you are in the process of applying, we will put your application on hold until we receive documentary evidence from you that it has been granted.

If you have Appointeeship granted from the Department of Work and Pensions (DWP), this only allows you to deal with a persons benefits and so you will need to make legal arrangements as outlined above.

Further advice on how to make such arrangements can be sought from such agencies as the Office of the Public Guardian, Citizens Advice Bureau, local solicitor, voluntary/charitable organisations for older people etc.

### **Section C**

If the property is jointly/co-owned by another person(s), we will need their full name(s) and current address.

If you are not sure if the property is jointly/co-owned, or you cannot access the property deeds to check, we will contact the Land Registry on your behalf to request that a search is completed to establish ownership. It would be helpful if you can provide an estimated value of the property,

which can usually be obtained from a local estate agency.

It is important that you let us know if there is an outstanding mortgage owed against the property and the amount. We will also require a copy of a recent mortgage statement from your lender to confirm this.

If you are renting out, or are going to rent out the property, please ensure that you inform us of this and the weekly rental income you receive/will receive. Such income may make a difference to the weekly assessed accommodation charges you will need to pay.

## **Section D**

Please provide us with any other information that you think may be relevant to your application, this may include such things as –

- If you are unable to confirm ownership of the property
- A solicitor has been appointed to act with regards to the Deferred Payment Agreement
- The property is being put up for sale
- An application to obtain Lasting Power of Attorney/Deputyship has been made
- If the property is to remain vacant
- If somebody is living at the property who may need to be aware that a Legal Charge will be placed against it
- Documentary evidence required is being obtained and will follow

## **Section E**

We may share the information contained within your application with other agencies or organisations to enable us to carry out the necessary relevant checks while processing the application. We will only share your information with others in line with the law. By law, the agencies and organisations we share your information with have to keep it confidential and use it only for the purposes allowed.

If information is needed as part of a criminal investigation, or when we need to protect you or other people from harm, we may also share information, as necessary.

Conwy County Borough Council, are the data controller and are responsible for managing the information we hold and recognise that this information is important to you. We take our responsibilities seriously and will use personal information fairly, correctly and safely in line with the legal requirements set out by current Data Protection legislation. To view Revenue and Benefits full Privacy Notice then please visit our website [www.conwy.gov.uk/rbas/privacy](http://www.conwy.gov.uk/rbas/privacy)

If the declaration is being signed by the representative, this must be the person named in Section B of the form.

Please ensure you carefully read and fully understand the declaration before signing and returning your application form.

**Once you have submitted your application, we will write to you confirming it has been received.  
If you change your mind and decide that you no longer want to proceed with your application, please let us know in writing.  
We will write to you to confirm if your application has been successful or refused within 28 days. If refused, the reasons why and how to appeal will be clearly stated.**

Address to send form to; Conwy County Borough Council, Financial Assessment Team, PO Box 1, Conwy, LL30 9GL.