



Shropshire
Council

Adult Social Care Deferred Payment Policy 2026/27

**Document Title:** Adult Social Care Deferred Payment Policy**Summary**

Publication Date	
Related Legislation/Applicable Section of Legislation	<ul style="list-style-type: none">• The Care Act 2014• The Care and Support (Charging and Assessment of Resources) Regulations 2014• The Care and Support (Deferred Payment) Regulations 2014 (as amended by The Care and Support (Deferred Payment) (Amendment) Regulations 2017) <p>“the Deferred Payment Regulations”</p>
Related Policies, Strategies, Guideline Documents	<ul style="list-style-type: none">• Care and Support Statutory Guidance
Policy Owner (Position)	Service Director of Adult Social Care
Policy Author (Position)	Legal Officer, Legal & Governance and Team Leader Financial Assessments, Adult Social Care Business Support

Review of Policy

This policy will be reviewed in February each year and/or when there is a change in legislation.

Last Review Date	December 2025
Review undertaken by	Michelle Williams, Service Manager ASC Operations Kim Russon, Financial Assessment Team Leader Analise Broomhall, Legal Team Leader
Next Review Date	December 2026

Document Approvals:

Name	Title	Date of Issue	Version Number
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DRAFT

Introduction

Shropshire Council ("the Council") has had a discretionary scheme in place for deferred payments for several years, previously under the National Assistance Act 1948. The introduction of the Care Act 2014 provided a national single legal framework for the establishment of a universal deferred payment scheme. For adults who entered into a deferred payment agreement prior to June 2015, there will be no change to the terms of their agreement.

This policy relates to Deferred Payment Agreements ("Agreement") made further to the Care Act 2014.

For the purposes of this policy the use of the term "adult" shall mean the person who is seeking a Deferred Payment Agreement ("DPA") and includes their legally appointed representative by virtue of appointment under a Lasting/Enduring Power of Attorney or by an Order of the Court of Protection.

Legal Context

The Care Act 2014 (sections 34 to 36) requires local authorities to offer DPAs to allow persons to defer the sale of their main or only home where it is needed to fund care fees.

The Care and Support (Deferred Payment) Regulations 2014 and The Care and Support (Deferred Payment) (Amendment) Regulations 2017 set out the legal framework and local authorities' responsibilities in greater detail.

This policy applies to people who meet the eligibility criteria consistent with legislation and statutory guidance and who are able to provide adequate security as detailed in this policy. The offer of a DPA is effectively a loan to the adult by the Council on the basis of the terms of this policy and the conditions set out in the DPA. Unlike conventional loans or mortgages, the Council will not grant the adult a fixed amount of money from the outset but will set a maximum figure that it can lend ("the Lending Limit") based on the available equity that an adult has in the property being offered as security (see "Deferred Payment Agreement" section below).

Access to the deferred payment scheme is available to adults who have local authority arranged care and adults who arrange and pay for their own care.

The underlying principles of this policy are to ensure that the deferred payment scheme:

- i) Ensures that those adults who have been assessed as needing 24-hour care may not immediately have to sell their property to pay for their care in a care home. It is designed for adults who own their own home solely or jointly but either cannot or do not wish to sell it immediately and cannot meet the full cost of their care home fees from their income or other available capital
- ii) Ensures that those who can afford to pay a contribution towards care should do so
- iii) Ensures that adults seeking a DPA are fully informed about the scheme and the eligibility criteria

- iv) Is self-financing and sustainable

Eligibility Criteria

Mandatory Deferred Payment Agreement offer (“Mandatory Offer”):

The Council **must*** offer a deferred payment to those adults who meet all the following mandatory eligibility criteria:

- a. To an adult who is ordinarily resident (or deemed to be ordinarily resident) in the Council’s administrative area;
- b. to an adult who has care and support needs which the Council considers are to be met by the provision of care in a care home.
- c. to an adult who has a beneficial interest in their main home (or the property that was their former main home prior to going into a care home) and less than (or equal to) £23,250 (“capital threshold”) in other assets (i.e. in savings and other non-housing assets and housing assets other than their main or only home).
- d. To an adult whose home is not disregarded for financial assessment purposes; for example it is not occupied by a spouse or dependent relative as defined in Deferred Payment Regulations on charging for care and support (i.e. someone whose home **is** considered in the Council’s financial assessment and so might need to be sold).
- e. To an adult who is able to provide adequate security for the payment of the debt in the form of a first legal charge which is capable of registration in favour of the Council in the land register, held by the Land Registry, relating to the property. A first legal charge can only be registered on a property if no mortgage is currently recorded in the land register.
- f. To an adult who accepts the terms and conditions of an offer of a DPA, which includes the requirement to register the title of the property being offered as adequate security prior to completion of an application for a DPA. A property with an unregistered title will not be accepted. An offer of a DPA will not be progressed until the Council receives evidence of registration of title.

* In certain circumstances, even when the above eligibility criteria are met, the Council still has a power to refuse to offer a deferred payment agreement. Please see “Refusing a Deferred Payment” section below

The Council **may*** offer a deferred payment to those adults who meet all the mandatory eligibility criteria and are ordinarily resident in another local authority area but this Council has determined that it will or would meet the individual’s care needs under section 19 of The Care Act 2014 if asked to do so.

Discretionary Deferred Payment Agreement Offer:

In addition to the Mandatory Offer, the Council also has the power to offer discretionary DPAs, in certain circumstances, to those adults who are unable to satisfy the Mandatory Offer eligibility criteria ("Discretionary Offer"). The eligibility criteria set by the Council for the offer of a Discretionary Offer is outlined in this policy. Each request for a Discretionary Offer of a DPA will be treated by the Council on a case-by-case basis. In exercising the discretion given to it by the Deferred Payment Legislation, the Council has adopted the following base criteria with respect to its offers of discretionary DPAs:

Exclusions:

- the Council has decided not to exercise its discretion to offer DPAs to adults living in supported living accommodation. Therefore, applications from adults living in supported living accommodation shall not be considered eligible for a Discretionary Offer
- the Council has decided not to exercise its discretion to offer DPAs where types of adequate security (other than charges being capable of registration in favour of the Council in the land register against land or property owned by the adult which are not the adult's main or former main home) are being offered. Therefore, applications from adults offering other forms of security, (e.g. undertakings, shares, valuable assets such as paintings, vehicles etc) shall not be considered eligible for a Discretionary Offer

Grounds for consideration:

Discretionary Offers will be considered, on a case-by-case basis, where the following criteria applies:

- Where the adult is ordinarily resident (or deemed to be ordinarily resident) in the Council's administrative area; or are ordinarily resident in another local authority area but this Council has determined that it will or would meet the individual's care needs under section 19 of The Care Act 2014 if asked to do so.
- Where the adult has care and support needs which the Council considers are to be met by the provision of care in a care home.
- Where the adult has less than (or equal to) the capital threshold in other assets (i.e. in savings and other non-housing assets (excluding land and property which was not their former home)) and is unable to offer a first legal charge on what was their main home or former main home prior to going into a care home but can provide adequate security on other land or property which they own instead. Adequate security in these circumstances is considered to be a legal charge against the land or property being offered, which is capable of registration in favour of the Council in the land register, held by the Land Registry, relating to the property. The adult must be able to demonstrate that they have sufficient equity available in the beneficial interest that they hold in the land or property to cover the deferred payment debt for a minimum period of 12 months from the effective date of the DPA.

- The Council may, at its discretion, consider applications for a Deferred Payment Agreement (DPA) where there is already a first charge on the adult's main home (or former main home prior to entering care) in favour of a third party. This consideration will be on a case-by-case basis and only where sufficient equity remains in the adult's beneficial interest to allow a second charge to be registered in favour of the Council, providing adequate security for the deferred payment debt for at least 12 months from the effective date of the DPA.
- To an adult who accepts the terms and conditions of an offer of a DPA, which includes the requirement to register the title of the property being offered as adequate security prior to the completion of an application for a DPA. A property with an unregistered title will not be accepted. An offer of a DPA will not be progressed until the Council receives evidence of registration of title.
- Alternative methods of funding will need to be considered in the meantime, the council may consider funding if the placement is at risk, for a fixed term period, however evidence that an application to the Land Registry has been submitted and a request that Land Registry expedite has been made. This will be considered on a case-by-case basis.
- Where an adult wishes to live in care home accommodation which is more expensive than the accommodation that the Council considers is appropriate to meet the adult's assessed care and support needs and the adult has agreed to pay a top-up amount to allow them to stay in the more expensive care home accommodation. The Council is not obliged, under the Deferred Payment Regulations, to agree to offer a DPA to assist with the payment of top-ups or to add such top-up amounts to the core deferred payment debt. The Council has, however, decided, on a strictly case by case basis, to consider applications for a Discretionary Offer where a DPA is requested to assist with the payment of a top-up or top-ups are requested to be added to the deferred payment debt. Such applications will be subject to an evaluation of whether or not the top-up is affordable and sustainable and for the period of which the equity in your property covers
- Where a DPA is agreed to assist with the payment of top-ups is permitted, adults shall be made aware at the commencement of the DPA that if they become unable to meet the top-up payments in the future, or the funding of their care is taken over by the Council when the Lending Limit stated in their DPA has been reached, their care arrangements may be subject to change. The Council will not be obliged to continue to pay for more expensive accommodation than is required to meet the adult's assessed needs if at the time it takes over responsibility for funding the adult's care, lower cost alternative and suitable accommodation is available.

The Deferred Payment Agreement:

Adequate Security

The Care and Support (Deferred Payments) Regulations 2014 (Regulation 4 subsection 1a) states that the Council MUST obtain adequate security for the payment of the adult's deferred amount (this includes payment of any interest and administration costs where they are added to the deferred debt).

In all cases, adequate security must provide sufficient security to cover the costs of care and support in a care home setting (which, where applicable includes the cost of administrative costs relating to the set-up of the DPA, interest charges on the amounts loaned under the DPA and top-up fees) for a minimum period of 12 months from the effective date of the DPA ("adequate security condition").

For the purposes of this section, reference to property means the property being offered as adequate security

In the case of Mandatory Offers, adequate security means a first legal charge capable of registration in favour of the Council against the title of the property of the adult's main (or former main home) on the land register held by the Land Registry. Where the property is jointly owned, all parties will have to agree to the charge being placed.

In the case of a Discretionary Offer, adequate security:

1. a legal charge (ranking behind a first legal charge in favour of a third party) capable of registration in favour of the Council against the title of the adult's main (or former main home) or
2. A legal charge capable of registration in favour of the Council against the title of other land and property in which the adult holds a beneficial interest.

The Council must be aware of and have regard to the following conditions when considering an application for a DPA:

- In all cases: The adult must have a legal or beneficial interest in the property being offered as adequate security.
- For Mandatory Offers: There should be no outstanding prior mortgage on the property.
- For Discretionary Offers: The Council may accept a mortgaged property if, the beneficial interest of the adult and the remaining equity in the property meets the adequate security condition. The Council will require the adult to obtain a valid and up-to-date statement from the existing mortgage lender detailing the amounts outstanding under the first legal charge to assist the Council to establish what remaining equity exists in the adult's beneficial interest in the property.

In order to determine if the Council is able to offer a DPA and if so, for how much, it will need to calculate the adult's available equity in the beneficial interest that the adult holds in the property.

The adult will be required to provide an approximate valuation of the property. The Council will compare this by using a number of means, such as local knowledge, internet sites, or local estate agents. If the adult is not happy with the valuation the Council uses to determine the available equity in the property and the maximum loan offered, a specialist valuation may be required. In these circumstances the adult may be asked to pay for this valuation. The costs of the specialist valuation will be advised to the adult prior to the valuation being obtained.

The equity (or the Lending Limit as it is referred to in the Deferred Payment Agreement) is calculated as follows:

- a. the value of the property being offered to provide adequate security less
- b. 10%; less
- c. the value of any pre-existing charge over the property, less
- d. the % of the beneficial interest of any co-owners (where applicable); less
- e. £14,250 (£14,250 being the current lower capital limit).

Title to the property being offered as adequate security:

- If accepting a property as security, the Council requires that its title must be registered with the Land Registry to enable the DPA to be completed and a charge placed against the title of the property. A property with an unregistered title will not be accepted. An offer of a DPA will not be made until evidence of registration has been supplied by the adult
- Where there are co-owners of the property, the adult must, at its own cost, ensure that the title is up to date to reflect all persons having a beneficial interest in the property. Evidence must be provided that this is in progress.
- Where there are restrictions against disposal of the property, such as by a mortgage lender (which may include the creation of a legal charge) the adult must, at its own cost, secure all consents required to enable the Council to place a charge against the property or arrange for the removal of the restriction (if appropriate) prior to signing of the DPA contract. If the lender charges a fee to provide consent an invoice will be sent for payment, the application will not proceed until payment is received. This fee cannot be added onto the DPA.
- Where there are occupiers of the property, the adult must:
 - a. provide the Council with copies of any pre-existing tenancy agreements which are in place prior to the completion of the DPA; or
 - b. where the property is to be let after the completion of the DPA, obtain the Council's prior written consent to any grant of a new tenancy (see section headed "Renting Property" below for more detail; or
 - c. where the property is being occupied by a person without a tenancy agreement, the adult must, at its own cost, obtain a deed of occupier's consent (in a form to be supplied by the Council) to the proposed DPA prior to its completion

Financial Assessment:

Where the adult has been assessed as requiring long term care and support in a care home setting and requires financial assistance from the Council to help with the payment of such

care home fees it will be a requirement that the adult submits sufficient financial information to the Council to enable the Council to decide what contributions towards the cost of their care that the adult must make. Failure to co-operate with a financial assessment may mean that the Council will have to make assumptions about the income and capital under the control of the adult which in turn could lead to the refusal of an offer of a DPA.

At the time of applying for a DPA the Council will consider whether the adult is eligible to receive a 12-week property disregard further to the Care and Support (Charging and Assessment of Resources) Regulations 2014. Where an adult is eligible for a 12-week property disregard, this means that as part of the financial assessment, the adult's ownership of their main home may be disregarded for the first 12 weeks from the date that they enter care home accommodation on a permanent basis. The contribution that the adult will have to pay towards the cost of their care home fees for the first 12 weeks of permanent care will be means tested against their income and non-housing or other capital assets only.

Where, at the time of applying for a DPA, an adult has already been in care home accommodation on a permanent basis for a period of 12 weeks or more and has been self-funding their own care or have been fully funded by the NHS during that time, the 12-week property disregard **will not** apply. If an adult has been paying for their own care in full (or it has been funded via another source such as the NHS) for less than 12 weeks prior to making an application for a DPA the adult may be entitled to some of the remaining 12-week property disregard period.

Where a 12-week property disregard applies, the earliest date the DPA could commence is from the 13th week of entering care home accommodation, this is dependent on the application being received and the final contract signed. From the 13th week of entering care home accommodation, the revised financial assessment will include the value of the adult's property, and this will be reflected in the contributions that the adult is required to make towards the costs of their care.

Where an adult is not eligible for a 12-week property disregard, the effective date of the DPA will be the first date from which the Council agrees to assist with the cost of funding the adult's care and the calculations relating to the adult's contributions towards the cost of care will, from the outset, include the value of their property.

Where a DPA is agreed, an adult is permitted by the Deferred Payment Regulations to retain a disposable income allowance, (currently 2025/2026 up to £144 per week). The remainder of the adult's income will, as set out below, be expected by the Council to be applied to the payment of their care home accommodation costs. The adult may, if they wish, choose to retain less than the full amount of the disposable income allowance to reduce the amount of the accruing deferred payment debt.

Finalisation of a DPA:

The DPA application and agreement must be signed by a person with mental capacity (as defined by the Mental Capacity Act 2005) to make a decision about their property and financial affairs or by someone acting on behalf of the adult, who is legally authorised to deal with the adult's financial affairs (see The Mental Capacity Act 2005 section below for more information on mental capacity and deputyship).

Fees and Costs associated with the set-up of the DPA

The operation of the deferred payment scheme is, in line with Government guidance, required to be cost neutral to the Council. The Council is entitled to make certain charges in relation to the set-up and administration of a DPA. These include charging interest on the deferred payment debt (see the section headed “Interest” below), Administrative Costs (see section headed “Administrative Costs” below), and Valuation Costs (see section headed “Valuations) below. This includes an annual administration fee for ongoing management of the facility which will be reviewed annually and published via the Council’s charging policy and on its website and adults will be notified of any changes to charging amounts.

Refusing a Deferred Payment

The Council has the power to refuse to make either a Mandatory Offer or a Discretionary Offer of a DPA in the following circumstances:

- The Care and Support (Deferred Payment) Regulations 2014 requires that an adult must provide adequate security. The Council may refuse a DPA if an adult is unable to offer adequate security for the payment of the deferred amount.
- the Council will refuse a DPA if it is unable to obtain a legal charge on the property via the Land Registry, (e.g., the property has an unregistered title or there is insufficient equity in the adult’s beneficial interest in the property/ or a co-owner refuses to agree to the registration of a charge/or a restriction prevents a charge being granted. This list is not exhaustive)
- A DPA will be refused where a person lacks mental capacity and there is no court appointed Deputy (Property and Affairs) or other person legally authorised to act on behalf of the adult via an Enduring Power of Attorney or Lasting Power of Attorney for Property and Financial Affairs
- Where an adult has appointed an attorney to act on its behalf: A DPA will be refused where there are restrictions or conditions in an Order appointing a Deputy/Lasting Power of Attorney/Enduring Power of Attorney which prevent the attorney from having power to create a charge over the property
- Where an adult refuses to submit sufficient information to enable a financial assessment to be undertaken by the Council to enable the Council to calculate the adult’s contribution towards the cost of their care

Where there are joint owners of property, the Council may refuse to offer a DPA if:

- Any co-owners or occupiers of the property (whose occupation is not governed by the terms of a tenancy agreement) refuse to give consent to the charge being registered against the property.
- any co-owners object to the future sale of the property for the purposes of repaying the debt due to the Council.
- There is a restriction against the title of the property which protects the interests of the co-owners and prevents the registration of the Council’s charge and the adult is unable to either remove the restriction or obtain appropriate consents required by the restriction to enable the registration of the charge to proceed.

- Where an adult requests a DPA to assist with the payment of a top-up or for a top up to be added to the deferred payment debt and the Council considers that the acceptance of the request would mean that there was insufficient equity available in the property to meet the adequate security condition.
- where an adult does not agree to the terms and conditions of the DPA, for example, the requirement to register the title to the property, or the requirement to insure and maintain the property.

The Deferred Payment Agreement Terms

Where an adult applies to enter into a DPA the following details shall be recorded in writing:

- the advice provided to the adult by the Council;
- details of signposting given to the adult to assist them towards obtaining independent financial and legal advice;
- details of the final decision from the Council and;
- details of any refusal to continue to proceed with the DPA made by the adult

This written record shall be kept and retained on file in each case and a copy of the decision will be notified to the adult.

The DPA will set out all terms, conditions, and information necessary to enable the person to ascertain their rights and obligations under the DPA. In general, the terms to be included in the DPA shall be:

- (i) agreement that the adult confirms they have sought and received adequate information on options for paying for care and that they understand how the DPA works and understand the agreement they are entering;
- (ii) a term stating the administrative costs and the rates of interest (and how the interest shall be calculated) that will apply to the DPA
- (iii) a term stating that statements shall be issued on a six-monthly basis during the term of the DPA (or within 28 days of a request by the adult) detailing the amounts outstanding, interest rates; remaining equity available
- (iv) a term explaining the maximum Lending Limit and how that will be reviewed on an ongoing basis during the term of the DPA
- (v) details of the circumstances in which the Council may cease to defer any further payments and the notice periods that will be given in such circumstances
- (vi) details of how the DPA may be terminated and the appropriate notice periods that should be given together with notification that the full amount due to the Council i.e. care costs, administrative costs, interest fees, and any top-up amounts become due upon termination
- (vii) a term requiring the Council's consent before allowing a third party to move into the adult's property after the DPA has been made
- (viii) dispute procedures

- (ix) a term requiring the adult to notify the Council of any change in their circumstances which would affect the value of the security or the sustainability of the deferred payment arrangement;
- (x) a term to explain that upon the death of the adult, the full amount due to the Council is payable 90 days following the date of death and that after 90 days, if in the opinion of the Council no active steps are being taken to repay the amount due, the Council may take legal proceedings to recover the debt due, this may include applying for an admin of the property. Evidence that probate is being actively pursued must be provided.
- (xi) a term requiring the property subject to the DPA to be properly maintained and insured for the duration of the DPA and a requirement for the adult to provide evidence of such insurance on an annual basis
- (xii) a term to the effect that the Council will secure the deferred payments by way of a legal charge
- (xiii) a term to explain the purposes for which the deferred payments should be used
- (xiv) a term requiring any joint owners to consent to the charge being created against the property
- (xv) a term requiring the title to the property to be registered at the Land Registry

Information and Charges

The Council will ensure that an adult requiring financial assistance towards the costs of their care home accommodation is made aware of their ability to defer the costs of their care by applying to the Council for a DPA. The adult, upon applying for such financial assistance, will be provided with information which will include details of the eligibility criteria for a DPA, details of any property disregard criteria that may apply, details of any 12-week property disregard period that may apply, the need for a financial assessment to be carried out and any impact the DPA will have on the adult's contribution to the costs of their care. The Council has prepared publicly available information for this purpose, and this can be accessed via the Council's [website](#)

In all cases: Adults requesting financial assistance by way of a DPA will be strongly advised to seek independent financial and legal advice before proceeding with a DPA.

Information:

Council's Obligations during the term of a DPA:

The DPA sets out various contractual requirements between the adult and the Council. The Council's and the adult's responsibilities are set out in brief below:

Statements:

The Council will provide a twice-yearly statement of the outstanding debt to the adult entering into the DPA which will set out details of the accrued debt, interest and administrative fees. The statement will provide an estimated length of time the remaining equity will fund the cost of the care home fees. A statement showing the amount which would have to be paid if the adult wishes to terminate the DPA can be requested at any time by the adult, and this will be provided within 28 days of request. A request for a statement should be submitted to:

FinancialAssessments@shropshire.gov.uk or telephone 01743 258922 option 1

Lending Limit:

The Council will keep the Lending Limit under review in accordance with the market value of the property from time to time. The property may be revalued when it appears that 50% of the value of the adequate security has been met and the Council may adjust the Lending Limit accordingly and keep this under review if the value of the property has changed. The Council will give 30 days' written notice to the adult advising the date on which the Lending Limit is likely to be reached and offer a meeting with the adult to discuss the future cost and funding of care.

The Council will give the Resident at least 30 days' written notice of the date on which the Lending Limit will be reached unless it is not reasonably practicable to do so because, for

example, the Lending Limit is reached by reason of a fall in the market value of the Property (in which case it will give notice within 30 days of becoming aware of it).

At the point in which negative equity is reached the council will issue a redemption statement to facilitate the repayment and this point the Deferred Payment Agreement will cease and the full amount is repayable. A Capital Reduction referral will need to be raised for ongoing support in paying care home fees.

Adult's Obligations during the term of a DPA:

The adult's responsibilities include, but are not limited to the following:

- The adult must notify the Council of any changes in their income or capital during the lifetime of the DPA
- The adult must notify the Council of any changes to their need for care and support, as these may affect the assistance the Council may be able to provide
- The adult must ensure that they have adequate buildings insurance on the property at all times, even if the property is empty and ensure that any terms required by the insurer are met. The Council will wish to see verification of this annually.
- The adult must make arrangements for the property to be adequately maintained during the term of the DPA to ensure it remains in a good state of repair.
- The adult must obtain consent from the Council before allowing someone to move into the property after the DPA has been made (please see section headed "Renting Property"). The Council will require evidence from the adult that they have obtained written consent from the person moving into the property that they have understood that the property is subject to a legal charge in favour of the Council which will take priority to and ranking before any interest the person has or may believe that they will acquire in the property.
- The adult must inform the Council if they decide to sell the property and shall keep the Council fully informed as to the progress of any sale.

Renting Property

Where an adult chooses to rent out their property during the term of a DPA the adult must first obtain the written consent of the Council by contacting the Council's Financial Assessment Team and a financial reassessment will be completed. The rental income received will form part of the assessed contribution and is to be paid towards the care home fees and will adjust the amount of the accruing deferred payment debt.

When a property is jointly owned, other co-owners are entitled to retain their share of any rental income in proportion to their ownership interest.

Where property is rented out, the Council will require a copy of the tenancy agreement and details of the agreed rental income. It is a term of the DPA that the property shall only be let on a short term assured tenancy basis which enables an order for possession to be obtained,

after the expiry of an initial term of no more than six months, upon one month's written notice. The adult or their personal representative(s) will need to ensure that the property is not prevented from being marketed for sale by virtue of its being occupied on a long-term basis or subject to a tenancy agreement which is incapable of being ended at the time that the repayment of the deferred payment debt becomes due. **The Mental Capacity Act 2005**

The Mental Capacity Act 2005 (MCA) applies to care, treatment and support of people aged 16 years and over, in England and Wales, who are unable to make some or all decisions for themselves. Where an adult has been assessed as lacking capacity in relation to making decisions about their property and financial affairs an application for a DPA must be submitted on their behalf by a person who has legal authority to do so. Power to act as an attorney is granted via an Order of the Court of Protection appointing someone to act as the adult's Deputy, a Lasting Power of Attorney for Property and Financial Affairs or an Enduring Power of Attorney (which must be registered by the Court of Protection).

Before an application for a DPA can proceed, an attorney must provide the Council with a full and certified copy of the applicable documents appointing them to act on behalf of the adult for its records.

Changes in the adult's circumstances:

There are certain circumstances where the DPA will not end but the requirement for the Council to fund the care fees via the DPA or the payment of care home fees may temporarily cease to accrue as part of the deferred payment debt.

The core debt accrued to the date where payments made under the DPA are temporarily suspended or cease will continue to accrue interest and administration charges as set out in this policy.

The circumstances in which payments are made via the DPA may cease or be suspended are as follows:

- The adult reaches the Lending Limit (please see section headed "Lending Limit" as to how the Lending Limit may be reviewed).
- The adult is assessed as no longer needing permanent residential or nursing care to meet their care and support needs
- The adult breaches the terms of the DPA
- The adult becomes eligible for NHS Continuing Health Care funding
- A property disregard comes into effect

Ending the DPA:

A DPA may be ended in the following circumstances:

- a. At any time by the adult upon paying the full amount due under the deferred payment debt.
- b. When the property is sold, and the Council is repaid the full amount of the deferred payment debt. Where a property is being sold, the Council requires 30 days' notice of the completion date. The net sale price will be used to calculate the final debt due; the net sale price being the actual sale price less associated fees.

- c. When the adult dies, and the full amount of the of the deferred payment debt is repaid to the Council by the executors or personal representatives of the deceased adult's estate.

Upon the adult's death, the Council is contracted to pay care homes for the day of an adult's death. This amount will be included in the deferred payment. Upon request from the personal representative(s), the Council will provide the total debt details, including accrued interest.

The Council will expect the debt to be repaid 90 days after the date of death. If the Council concludes that the personal representative(s) of the deceased adult is not taking active steps to repay the debt, the Council will commence [debt recovery](#) proceedings to reclaim the amount owed. The legal charge on the property will not be removed until the debt is repaid in full. The Council may take legal proceedings to recover the debt due; this may include applying for an order for sale of the property. Evidence that probate is being actively pursued must be provided.

If someone decides not to continue accruing their care charges against the deferred payment agreement and can pay the charge from another source instead, 30 days written notice is required to stop the debt accruing. Interest and administration charges will continue to accrue until the debt is repaid in full.

Charges:

Charges associated with the DPA will be made in accordance with the Council's charging policy and as set out below:

Administrative Costs:

The Council will advise the adult of the costs of entering into a DPA. There is a one-off non-refundable fee to set up the DPA which is payable upon application of the DPA. This amount is reviewed annually. Please see section headed "Fees and Costs associated with the set-up of the DPA" for more information. The Council will charge an annual administration fee for ongoing management of the facility which will be reviewed annually.

Interest:

Compound interest will be charged daily from the effective date of the DPA until all the debt is settled in full. The interest rate is based on the cost of Government borrowing (as set out by the Office for Budget Responsibility twice a year in their Economic and Fiscal Outlook report). The Council will review this every January and July. The interest rates are detailed on the [Deferred Payment Scheme | Shropshire Council](#) section of our website.

Valuations:

The adult will be required to provide an approximate valuation of the property at their own cost (please see section headed "Adequate Security above"). If the adult is not happy with the valuation the Council uses to determine the available equity in the property and the

maximum loan offered, a specialist valuation may be required. In these circumstances the adult may be asked to pay for this valuation. The costs of the specialist valuation will be advised to the adult prior to the valuation being obtained.

The adult will be required to pay for any re-valuations of the property where the Lending Limit becomes subject to review due to market value changes. The cost of such re-valuation, if conducted by the Council, will be advised to the adult prior to the valuation taking place.

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