

The Deferred Payment Agreement (DPA)

Our intention in these information sheets is to provide you with a summary of the subject, to provide ideas and direct you to where more comprehensive information can be found. Because the subject involves other areas and to make more readable the information is broken down into 4 sheets; in this sheet we introduce the DPA, in sheet 2 we look at how the DPA works, in sheet 3 we consider the options, in the last sheet 4 we summarise and direct you to supporting information. We use case studies to illustrate points but obviously cannot include every situation, please call us to discuss your own circumstances – see information panel below. You should be aware that the information in this sheet is based on our interpretation of the prevailing legislation.

The DPA was introduced in section 9 of the Care Act 2014 and came into effect from April 1st 2015 and places legal responsibilities on the **local authority (LA)** but you should understand it also has discretionary powers – we will look at these differences.

So what are the circumstances where the LA should offer a DPA?

Will be considered where the following requirements are met

- 1) Savings must be less than £23,250 (but note the LA can apply some discretion here)
- 2) Care provided in an approved care/nursing home
- 3) A property acceptable to the LA to apply their charges
- 4) And the local authority can secure a charge on this property

The local authority should provide information on how they provide a deferred payment agreement (DPA). This information should contain details such as arrangements fees and possibly the legal charges – try looking for this information on the LA website under adult care services

What is the process and what will the LA consider in the DPA application?

1. Making the application for a DPA
2. The extent of the DPA account facility
3. Affordability and sustainability
4. Applying their formal charge

1. The application

Under the Act the LA should undertake a formal assessment. If the circumstances indicate a DPA is to be considered it should be offered, see criteria above, as you would expect there is an application form. If the applicant has “capacity” and able to understand the process **and if the terms and condition are accepted** they can sign the application form. If the applicant does not have “capacity” then powers of attorney will need to be in place using the lasting or the earlier enduring allowing someone else to take this decision. If you will be acting as an attorney just check this will be acceptable to the LA.

2. Extent of the DPA loan facility

The LA will apply their discretion to the % value of the property they will allow the credit facility of the DPA to extend to, this is likely to be reduced by the minimum capital threshold currently £14,250.



To demonstrate this let’s look at the case study of Joyce, she owns a cottage valued at £250,000 and needs care, The LA will accept 70% less the £14,250, so the DPA is £70% of £250,000 = £175,000 less the £14,250 leaving a facility of £160,750. But there will be arrangement fees and legal charges that can be



added to the opening account and this will reduce the £160,750 opening credit facility. The DPA account will be reviewed by the LA every 6 months. These values will change from LA to LA and you should ask for details.

3. Affordability and sustainability

The Act requires the LA to act in a responsible way and that a DPA is the best option for Joyce. If you, or your loved-one, is in similar circumstances ask us about our cash flow forecasting service to make sure this is affordable or to see if there are better ways. The “care charging cap” has now been shelved for 5 years and rescheduled for April 2021. We already know that care charged before April 2021 will not count towards the cap when it is eventually introduced

4. Applying the formal charge

The DPA account will be registered against the title deeds of the property by the LA making a formal charge, in the same way a mortgage would be. They will search the Land Registry to ensure they are able to secure this charge before agreeing to the DPA. It is not unusual to find that a former lender still has charges registered even though the mortgage has been settled. In other cases the title deeds or Land Registry entry is incorrect or incomplete, particularly if it is an older property. There could be delays of several months before the Land Registry charge can be made and during this time the care home charges will need to be paid – either by the applicant, the family or a third party. Ask us for details on how a third-party debt can be used if inheritance tax is an issue but the LA will want the first and possibly only charge!



Setting up the DPA account

You need to be aware the Act only requires the LA to accept the “core care charges” against the account; these core care charge are the rates the LA pays for beds in a home where they reserve block bookings and is often less than you will be asked to pay!

Whilst the LA must offer a DPA when the qualifying conditions are met they have considerable discretion over what will be charged to the account. In the next information sheet we look at how the DPA works

Call Peter Ginger or Nicola Charman on 01296 392999 to arrange an initial no-obligation 30-minute consultation conducted at our expense.

