



Deferred Payment Agreement - Eligibility

Eligibility - Legal Status

The Care Act 2014 (sections 34 and 35) requires local authorities to offer Deferred Payments Agreements to allow persons to defer the sale of their home where it is needed to fund care fees. The Care and Support Deferred Payment Regulations 2014 set out the legal framework and local authorities' responsibilities in greater detail.

* A definition of **HOME** in the Care Act, 2014 sections 34 and 35 (a) – 'the property which the adult occupies as his or her only or main residence (or in a property which the adult used to occupy as such)'.

Eligibility Criteria

The points below will be taken into account when assessing your eligibility:

1. Anyone whose eligible assessed needs are to be met by the provision of care in a Care Home.

NOTE - This is determined when someone is assessed as having eligible needs which the local authority decides should be met through a care home placement. This should comply with choice of accommodation regulations and care and support planning guidance and so take reasonable account of a person's preferences.

2. Anyone who has less than (or equal to) the upper funding threshold figure (currently £23,250) in assets. This excludes the value of their home that used to be their normal place of residence (i.e. in savings and other non-housing assets).
3. Anyone whose home is not disregarded. For example it is not occupied by a spouse or dependent relative as defined in regulations on charging for care and support (i.e. someone whose home is taken into account in the local authority financial assessment and so might need to be sold).
4. The person must have a beneficial financial interest in the property.
5. There should be no outstanding mortgage on the property (or if accepting a mortgaged property, the outstanding amount must leave sufficient value to meet the criteria for self-funding).
6. The adult, or their legal representative, must consent to the agreement.
7. The Deferred Payment Agreement must be signed by a person with capacity to make the decision or their legal representative. Bristol City Council recommends you seek independent advice on how to support someone who lacks capacity to manage their financial affairs.
8. When accepting a property as security, Bristol City 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, the applicant or their agent must complete registration before making application for a Deferred Payment Agreement.

Notes:-

- Bristol City Council will usually expect the person to have at least 6 years' worth of funding in the property to consider offering a deferred payment.
- Bristol City Council may consider other forms of security rather than the person's property – these are Solicitor's undertaking or a Guarantor. No other security will be permitted.

- Bristol City Council will refuse an application for a Deferred Payment Agreement if it is not satisfied that its interest is secure (aside from where it is able to secure a first legal mortgage charge, which it must accept as adequate security). The security provided must satisfy Bristol City Council that it could gain ownership of the asset on the death of the person or sale of the property..
- If a spouse or dependent relative moves into the property following entry into the deferred payment scheme, the local authority will review eligibility. Also in these circumstances Bristol City Council will not extend the property disregard that can apply to a spouse or relative.
- If the property is subsequently disregarded (and the person qualifies for local authority support as a consequence) then the deferred payment is frozen and interest will continue to accrue. Bristol City Council will issue an invoice for the amount that has been deferred.
- Bristol City Council will ask the person to complete an application for the scheme.
- Bristol City Council will refuse a deferred payment application if they cannot obtain a legal charge by way of mortgage on the property (first charge, only); or security by Solicitor's undertaking or a Guarantor.
- Bristol City Council will refuse a deferred payment application if the person lacks capacity and there is no appointed deputy to make such a decision.
- Bristol City Council may refuse a deferred payment where someone is seeking a top up. Bristol City Council will be guided by consideration of sustainability i.e. if there is sufficient equity in the property to sustain the top-up Bristol City Council will refuse a deferred payment where a person does not agree to the terms and conditions of the agreement, for example a requirement to insure and maintain the property.
- A person who does not want to sell their property, and also chooses not to take advantage of the scheme, will be deemed to be able to pay the full cost of their care and will be invoiced as such. Non-payment of the invoices will be dealt with via Bristol City Council's debt recovery process.

- The Deferred Payments Regulations set the maximum interest rate that can be charged on deferred payments. This maximum rate is fixed for periods of six months, and changes every 1 January and 1 July. Bristol City Council will apply interest at the Government maximum rate. This is Compound interest.
- Bristol City Council will pass on costs incurred during and at the end of the agreement, including any costs associated with revaluing the property, the cost of providing statements, and any charges incurred in removing a legal charge from a property. This will reflect the actual costs incurred.
- It is necessary for the person or a legal representative to sign a document confirming that they wish to take advantage of the Deferred Payment Agreement and that all implications have been explained. A formal Legal Agreement must be agreed with the Legal Department, Bristol City Council.

Bristol City Council – Deferred payment conditions:-

Set up fee: £500. Annual charge: £100

Interest rate: Compound interest based on the 15 year average gilt yield as set out by the Office for Budget Responsibility in the Economic and Fiscal outlook report plus a default component of 0.15%. The interest rates can be obtained from our Finance team.

Bristol City Council recommends that anyone considering a Deferred Payment Agreement obtains independent financial advice.

Where can I find out more about Deferred Payment Agreements?

Website: www.bristol.gov.uk/payingforadultcare

Email: ccfstriageteam@bristol.gov.uk - Tel: 0117 9037706