Deferred Payment Agreements Policy		
Version	1.2	
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1. Background:

1.1. This policy sets out the framework for our Deferred Payment Agreement from April 2015, based on the Care Act 2014 and the Act's statutory guidance.

1.2. A Deferred Payment provides a person with the flexibility as to how and when they pay for their care and support and means they will not be forced to sell their home during their lifetime to pay for their care. By entering into a deferred payment agreement, a person can 'defer' or delay paying the costs of their care and support until a later date. Deferring payment can help people to delay the need to sell their home, as they make the transition into care.

1.3. Wherever possible we aim to have the Deferred Payment Agreement finalised and in place within 12 weeks of your admission into care.

2. Eligibility for a Deferred Payment Agreement:

2.1. We must offer a Deferred Payment Agreement to anyone who meets all the following eligibility criteria:

- If your eligible care and support needs are to be met by the provision of care in a care home setting and if your assets/savings do not exceed the upper capital limit. This excludes the value of your home
  and
- If your home is not disregarded for financial assessment purposes for example: where a spouse or relative (as defined by the regulations) will remain in occupation i.e. the home will be taken into account in the financial assessment
  and
- If you are able to provide adequate security (see section 4: Types of Security) and the arrangements are both sustainable and affordable.

2.2. We may offer you a Deferred Payment Agreement if you do not meet all of the criteria. Discretion will be applied based on the individual merits of cases when or if:

  - Meeting care costs would leave you with few assessable assets (assets that cannot be liquidated quickly).
  - You would like to use part of the wealth tied up in your home to fund a top- up payment (see Choice of Accommodation and Additional Payments Top Ups)
  - You have any other assessable means to help you meet the cost of your care and support.
  - If you have capital assets slightly above the upper capital limit.

2.3. If you are in Supported Living Accommodation, we may**,** at our discretion, offer a Deferred Payment Agreement when you intend to keep your former home and defer some or all of your associated care and accommodation costs.

2.4. Subject to all other eligibility conditions being satisfied, we will offer you a Deferred Payment Agreement if you have an eligible need for care in a care home but have declined that provision and made your own arrangements.

2.5. If you are living in a care home, and are eligible for a Deferred Payment Agreement, you must have the mental capacity to enter into the agreement. If you lack the capacity, there must be someone legally appointed to manage your finances and enter into the agreement for you. This could be a Deputyship or Lasting Power of Attorney for Property and Affairs.

3. When a Deferred Payment Agreement may be refused:

3.1. We may refuse a request for a Deferred Payment Agreement. If so, you or your legally appointed representative will be notified in writing of our decision. The decision will set out the grounds for the refusal and provide details of how to appeal. There may be many reasons for refusing a deferred payment. For example when:

- We are unable to secure a first legal charge on the property.
- You are seeking a top-up.
- There is insufficient security (equity) for the amount you wish to defer.
- The property is uninsurable.
- You do not agree to the terms and conditions of the agreement.
- You do not supply sufficient information to process the application.

4. How much can be deferred:

4.1. When deciding on the amount to be deferred, we will work with you to consider a range of factors to satisfy ourselves that the arrangement is sustainable. Areas for consideration are:

- The amount of equity in your property
- The amount you will contribute towards your care costs from other sources
- The total cost of the care you are facing (including a top-up)
- The likely period you would want the Deferred Payment Agreement.

4.2. The “equity limit” must be set at the value of the property minus 10%, minus the lower capital limit and the amount of encumbrance (debt) already secured against it.

4.4. We must refuse to allow additional care costs to be deferred beyond the equity limit. However, interest and administrative charges, if charged, can still accrue beyond this point. Here is an example as to how the equity limit is calculated:

Lucille decides to secure her deferred payment agreement with her house, which is worth £165,000. The amount of equity available will be the value of the property minus ten percent, minus a further £14,250 (the lower capital limit):
£165,000 – £16,500 - £14,250 = £134,250
Therefore, her ‘equity limit’ for the total amount she could defer would consequently be: £134,250,

5. Obtaining Security:

5.1. We are required to have adequate security in place before entering into a Deferred Payment Agreement. When you apply for a deferred payment, you must provide evidence that you are able to give us adequate security.

5.2. If you own a property, this will usually be in the form of a first legal charge secured on the property.

6. Types of Security:

6.1. If we are able to place a first legal mortgage charge on the property we must accept this as adequate security.

6.2. We can accept other items as adequate security, at our discretion. These may include:

- Your property, where we will be applying a second charge.
- Beneficial ownership of property where the joint owners all agree for a charge to be registered.
- A third party guarantor - subject to this guarantor having or offering an appropriate form of security.
- A solicitor's letter of undertaking.
- Land and additional properties.

6.1 We will not accept the following items as adequate security for a Deferred Payment Agreement:

- A valuable object, a painting, a car or other asset
- An agreement to repay the amount deferred from the proceeds of a life assurance policy.

7. When do we stop deferring charges:

7.1. We must cease deferring any more care charges when you reach the "equity limit" you are allowed to defer, or if you are no longer receiving care and support in a care home (or Supported Living Accommodation).

7.2. We have discretion to refuse to defer any more charges, under the following circumstances:

- Where your total assets (to include property value) fall below the level of the means test and you become eligible for local authority support in funding your care.

- If you breach the terms of your contract with us.

- If, under the charging regulations, your property becomes eligible for disregard for example where a relative who was living in the property at the time the Deferred Payment Agreement was set up subsequently becomes a dependant relative.

7.3. We will give a minimum of 30 days advance notice that further deferrals will cease, and will provide you with an indication of how your care and support costs will need to be met in future.

7.4. This will also apply when the value of your property has dropped, meaning the equity limit has been reached earlier than expected.

8. How to apply for a Deferred Payment Agreement:

8.1. To apply for a Deferred Payment Agreement, you must complete our application form. When assessing applications for a deferred payment, we will take the sustainability of the deferred payment into account. In addition, we will consider:

- The likely duration of the deferred payment.
- The equity available in your property.
- Contributions which can be made from your savings.
- Contributions which can be made from your income.
- The period of time you would be able to defer your weekly care costs.
- The amount you are contributing to your care costs from other sources.
- The total care costs you may face, including any top-up.
- Your right to retain up to the amount of the Disposable Income Allowance as set by the Department of Health.

8.2. If you are entitled to a Deferred Payment Agreement, you will be financially assessed in accordance with the Department of Health guidance in order to determine and agree your on-going contribution to care cost

8.3. Where we are being asked to consider deferring additional amounts due to preferred accommodation, or where there is an eligible need for care in a care home, we would normally look to ensure there is sufficient equity to fund the placement for a minimum of two years. However, each case is viewed on its own individual merits.

8.4. To apply for a Deferred Payment Agreement, you must complete the application form in full and give us full information about your circumstances and finances.

8.5. If you are considering a top-up, we will need to look at whether the amount or size of the deferral requested is sustainable, given the equity available.

8.6. Under the Deferred Payment Agreement, we will arrange for a valuation of your property, against which the payments are to be deferred.

8.7. If, at the beginning of any deferral, our estimated valuation of your property varies from your estimated value, we will revalue the property using an independent and suitably qualified surveyor.

8.8. Disputes about property valuations will initially be dealt with by discussing the matter with our Charging for Care Services Team. If the dispute cannot be resolved, it will be subject to our standard complaints procedure.

9. Financial Reviews of the Deferred Payment Agreement:

9.1. The Deferred Payment Agreement will be reviewed when you approach or reach the point at which the amount you have deferred is 50% of the value of your property. When the amount you have deferred reaches 70% of the value of your property we will review the Deferred Payment Agreement, the cost of your care and discuss when you might be eligible for any means-tested support. This will include the implications for any top-up currently being paid and consider jointly whether a Deferred Payment Agreement continues to be the best way to meet these costs.

9.2. During the lifetime of the Deferred Payment Agreement, the valuation of your property may be reviewed periodically to make sure the equity limit is not exceeded and, additionally, where the value in any other circumstance may affect the sustainability of the Deferred Payment Agreement.

10. Administration fees and interest charges

10.1 The Deferred Payment Agreement scheme is intended to run on a cost-neutral basis. We can recoup costs incurred with setting up Deferred Payment Agreements. This includes legal fees and ongoing running costs, through administration charges which can be passed onto you. See Annex A.

11. Termination of the Deferred Payment Agreement :

11.1. A Deferred Payment Agreement can be ended in three ways:

- Voluntarily by you or someone acting on your behalf, by repaying the full amount due.
- When your property (or other form of agreed security) is sold and the full amount due is repaid.

- After your death, when the amount due is repaid in full from your estate.

11.2. If we cannot recover the debt we will seek to pursue this through the County Court system, we will then charge the higher County Court rate of interest.

11.3. Once the amount due has been repaid, we will confirm to you or your representative that the agreement has been concluded, and that the charge against your property has been removed.

12. What if I am unhappy with any decision regarding my Deferred Payment Agreement?

12.1. If you believe any decision regarding your Deferred Payment Agreement is incorrect, due to inaccurate information being used, you can ask for a review. The request for a review should include details as to why you think the decision is unjust and be sent to:

Charging for Care Services
Devon County Council
Room G85
County Hall
Topsham Road
Exeter
EX4 2QJ

Your appeal will be acknowledged within ten working days. As soon as your appeal has been investigated, you will receive a response in writing.

<u>Appendix A</u>

Deferred Payment Agreement

1 Administration Fees and Interest Charges

1.1 Administration charges and interest can be added onto the total amount deferred as they accrue, although you may ask to pay these separately if you choose.

1.2. We will charge a one-off Deferred Payment Agreement arrangement fee of £400.00 (the actual cost to us) in addition to all appropriate valuation fees**.**
This includes:

- Costs of registering a charge with the Land Registry, including any Land Registry searches and identity checks that are required

- Costs associated with postage, printing and telecommunications
- Costs of time spent by those providing the service
- Costs for removal of charges against your property

1.3. We will charge a fee of £21.00 to recoup ongoing administration fees which will cover the actual costs of providing a statement at agreed points during the period of the deferred payment agreement.
For example:

- The deferred amount reaching 50% of the equity limit
- The deferred amount reaching 70% of the equity limit
- One-off requests for statements.

1.4. These charges will be reviewed on an annual basis and in line with changes in the costs associated with the delivery of the scheme. You will be notified in advance of these charges being implemented.

1.5. The cost of the valuation(s) that we arranged will be charged to you, and can either be paid at the time or rolled/added to the Deferred Payment Agreement.

1.6. We will charge interest on the deferred payment amount. and it will be compounded.

1.7. The rate of interest will be reviewed on 01 January and 01 July each year. It is set by the Department of Health and linked to the price of market gilt rates + 0.15%.

1.8. The gilt prices are published by the Office of Budgetary Responsibility. Currently, they are published in the Economic and Fiscal Outlook report which comes out twice a year alongside the Budget and Autumn Statements.

1.9. All fees and charges will be clearly set out in the Deferred Payment Agreement. Fees and charges will be set at a level so that they only cover the actual cost of providing a deferred payment.

1.10. A schedule of deferred payment fees and charges will be publicly available. This means that they will be clear for you to see, which will help you or your plan for the costs of your care.