Factsheet 40

Deprivation of assets in social care

September 2026

About this factsheet

This factsheet looks at deprivation of assets, which can be an issue when a local authority carries out a financial assessment in relation to meeting needs for care and support. It also explains how to challenge a deliberate deprivation decision made by a local authority.

A local authority can look at whether you have removed your assets from its reach to avoid paying a contribution towards social care services being provided, for example by giving money to another person. If it concludes this has taken place, it has powers to treat you as if you still possess the assets.

You may find it helpful to read Age UK's other factsheets on care funding, particularly Age UK factsheet 10, *Paying for permanent residential care* and factsheet 46, *Paying for care and support at home*.

This factsheet may not be relevant if a local authority is not funding your care and support needs currently, for example because your savings or income are too high. However, it can apply if you subsequently need to apply to the local authority for help with funding.

The information in this factsheet is correct for the period September 2026 to August 2027.

The information in this factsheet is applicable to England. If you are in Wales, Scotland or Northern Ireland, please contact Age Cymru, Age Scotland or Age NI. Contact details are at the back of this factsheet.

Contact details for any organisation mentioned in this factsheet can be found in the *Useful organisations* section.

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1 Sources and terminology

Care Act 2014, charging regulations and statutory guidance

The information in this factsheet is based on the *Care Act 2014* (‘*the Act’*). Supporting regulations are the *Care and Support (Charging and Assessment of Resources) Regulations 2014* (*'the charging regulations'*).

The other main reference source is the *Care and Support Statutory Guidance* (*'the guidance'*). Section 8 deals with ‘*Charging and financial assessment’*, and Annexes include:

Annex B: Treatment of capital

Annex C: Treatment of income

Annex D: Recovery of Debts

Annex E: Deprivation of assets

Care homes and nursing homes

This factsheet includes information about residential care, meaning ‘*care homes*’ and ‘*nursing homes*’. These are the standard terms used by the Care Quality Commission (CQC), the industry standards regulator.

Nursing homes are care homes where a nurse must be present to provide or supervise medical-type care alongside the basic personal care.

The term ‘*care home*’ is used for both types of home in the text, unless ‘*nursing home*’ is specifically required.

Local authority

In this factsheet, references to a *'local authority*' mean the adult social services or social care department of the local authority or council. It is used to describe similar departments in: a county council, a district council for an area where there is no county council, a London borough council, or the Common Council of the City of London.

Assets

In this factsheet, ‘*assets*’ refers to capital such as savings and property, or income such as pensions or benefits. This is in line with the guidance, which defines *‘assets’* as capital or income.

The guidance states that it is important you are not charged twice on the same resources. Therefore, resources should only be treated as income or capital but not both.

If you save money from your income, those savings are normally treated as capital, but they should not be assessed as both income and capital in the same period. In a period when money is received as income, the resource should be disregarded as capital during the same period.

2 What is deliberate deprivation of assets?

Deliberate deprivation of assets means you have intentionally decreased your overall assets, in order to reduce how much you are required to pay towards services that meet your needs for care and support.

The local authority must show that you knew you may need care and support in the future when you carried out this action. It is therefore an evidence-based test of both foreseeability and intention.

Inheritance Tax gifting rules do not apply to social care. Any past disposal of assets can be considered as possible deprivation.

Deliberate deprivation should not be automatically assumed

Annex E of the guidance states that deliberate deprivation should not be automatically assumed because *'there may be valid reasons why someone no longer has an asset and a local authority should ensure it fully explores this first'.*

For example, if you pay off a debt that is not immediately due, this must not be considered as deprivation. This is why a local authority must consider explanations and any supporting evidence in each case before it makes its decision.

3 Deprivation and the financial assessment

If you have needs for care and support, you can ask the local authority for a needs assessment. Following this assessment, the local authority may have a duty to provide or arrange services to meet your needs, such as a care package at home or a placement in a care home.

In most cases, the local authority can charge for meeting your needs and there is a financial assessment to determine what you must pay. The local authority calculates the charge by taking into account your income and capital. There is a general charging system under the Act for both residential and non-residential care, but it has some differences depending on the type of service you receive.

Annex E of the guidance states:

> *People should be treated with dignity and respect and be able to spend the money they have saved as they wish – it is their money after all.…[but] it is important that people pay the contribution to their care costs that they are responsible for. This is key to the overall affordability of the care and support system. A local authority should therefore ensure that people are not rewarded for trying to avoid paying their assessed contribution.*

You may want to pass on savings or other capital to your children or others during your lifetime, but it can affect your eligibility for local authority funding assistance with care fees, as well as means tested benefits such as Pension Credit.

4 When is deprivation deliberate?

The guidance advises local authorities to understand that avoiding your assessed care charges may not be the only motive behind the disposal of eligible capital or income ahead of your financial assessment. There may be justifiable reasons, so the local authority must show why it has come to a deliberate deprivation conclusion. If you disagree with their decision, you can challenge it. See section 10 for more information.

Intention

Your intention to avoid paying care charges must be a **significant factor, or the only reason**, you have disposed of an asset, in order to be found to have deliberately deprived yourself. The local authority must justify their decision if they intend to take a disposed asset into account.

Foreseeability

Annex E of the guidance states it is unreasonable to decide you have disposed of an asset to reduce the level of care charges payable if, at the time of the disposal, you were fit and healthy and could not have foreseen a need for care and support.

If you have a long-term health condition, the local authority should not automatically treat you as having been able to foresee a need for care and support since the onset of your symptoms. They should consider the individual factors such as how well your condition was being managed at the time and whether you could have foreseen any deterioration.

Local authority investigations

The local authority may conduct its own investigations into whether deprivation of assets has occurred, rather than relying solely on information you provide. Annex E of the guidance lists factors they should take into account:

- whether avoiding care and support charges was a significant motivation
- when the asset was disposed of, could you have a reasonable expectation of the need for care and support?
- did you have a reasonable expectation of needing to contribute to the cost of your eligible care needs?

In several complaint investigations, the Local Government and Social Care Ombudsman has found local authorities at fault for failing to consider whether the significant motivation was avoiding care and support charges when concluding that deliberate deprivation occurred.

For example, in *South Gloucestershire Council (17 013 122)*, the Ombudsman found the local authority at fault because it failed to fully explore why the adult transferred a large amount of capital to family, when it decided deliberate deprivation had occurred. It also failed to provide reasons for its decision.

Unpredictable consequences of your actions

The nature of the rules on deliberate deprivation of assets mean it is not possible to predict with certainty whether the local authority will raise the issue during a future financial assessment. An authority will not usually advise you beforehand how it might treat a particular transfer at a later date. The rules relate to the moment your financial assessment happens.

Case study examples from Annex E of the guidance

Example of where deprivation has not occurred:

> *Max has moved into a care home and has a 50% interest in a property that continues to be occupied by his civil partner, David. The value of the property is disregarded whilst David lives there, but he decides to move to a smaller property that he can better manage and so sells their shared home to fund this.*
>
> *At the time the property is sold, Max's 50% share of the proceeds could be taken into account in the financial assessment, but, in order to ensure that David is able to purchase the smaller property, Max makes part of his share of the proceeds from the sale available.*
>
> *In such circumstance, it would not be reasonable to treat Max as having deprived himself of capital to reduce his care home charges.*

Example of where deprivation of assets may be considered:

> *Emma gives her daughter Imogen a painting worth £2,000 the week before she enters care home. The local authority should not consider this as deprivation as the item is a personal possession and would not have been taken into account in her financial assessment.*
>
> *However, if Emma had purchased the painting immediately prior to entering a care home to give to her daughter with £2,000 previously in a savings account, deprivation should be considered.*

5 Deprivation of capital

Deprivation covers a broad range of ways you might transfer a capital asset out of your possession. Annex E of the guidance has examples that may be deemed to be deprivation of capital:

- a lump-sum payment to someone else, for example as a gift
- substantial expenditure has been incurred suddenly and is out of character with previous spending
- the title deeds of a property have been transferred to someone else
- assets put into a trust that cannot be revoked
- assets converted into another form that are disregarded in the financial assessment, for example personal possessions
- assets reduced by living extravagantly, for example gambling
- assets used to purchase an investment bond with life insurance.

Other courses of action, such as selling an asset for less than its true value, may also be seen as deprivation. The onus is on you to prove you no longer possess an asset.

Transferring a capital asset does not necessarily mean it is not taken into account in your financial assessment. If the local authority find that deliberate deprivation has occurred, the asset can still be '*notionally*' included in the calculation.

'*Notionally*' means that, even though you may not have that capital asset anymore, you are treated as if you do still possess it. See section 7.2.1 for more information about notional capital.

Annex E has examples of acceptable evidence to show you no longer possess a capital asset:

- a trust deed
- deed of gift
- receipts for expenditure
- proof that debts have been repaid.

6 Deprivation of income

It is possible to deliberately deprive yourself of income. For example, if you give away or sell the right to income from an occupational pension. It could be treated as deprivation if you are entitled to Pension Credit but have chosen not to claim it.

The local authority must determine whether deliberate deprivation of income has occurred. The guidance states they should consider:

- was it your income?
- what was the purpose of the disposal of the income?
- the timing of the disposal - when the income was disposed of, could you have a reasonable expectation of the need for care and support?

As income can be converted into capital, deliberate deprivation can relate to the tariff income calculation in the financial assessment. The local authority can consider whether depriving yourself of a source of income has had the effect of reducing what you are required to pay.

If the local authority considers you have deliberately deprived yourself of income, they may treat you as possessing '*notional'* income, meaning the amount of income is still included in your financial assessment.

See section 7.2.2 for more information about notional income.

7 The consequences of deliberate deprivation

7.1 What is notional capital and income?

If deliberate deprivation is found, the local authority can decide to treat you as if you still possess the asset for the purpose of the financial assessment. This means treating you as having '*notional*' capital or income, even if you no longer actually possess it.

If you deprive yourself of an actual resource and convert it into something of lesser value, you are treated as notionally possessing the difference between the value of the new resource and the one replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference is treated as notional capital.

7.2 Local authority duties and deprivation

If notional capital is included in the financial assessment due to deliberate deprivation being found, you may be treated as a self-funder. This is where your capital, including notional capital, exceeds the upper threshold of £23,250 for funding assistance. This may affect the local authority's duties towards meeting your needs.

For non-residential care services, as a self-funder the local authority must meet your needs on request. You can be charged the full cost of your care as well as an arrangement fee.

If you are a self-funder for residential care, the local authority do not have a duty to meet your needs, unless you lack mental capacity and have no one to assist you. However, if you have mental capacity but cannot arrange your own care and have no one to help you, the local authority should use its discretion to ensure your needs are met and you are not put at risk.

The local authority can recover any unpaid care charges as a debt.

7.2.1 Notional capital

Annex B of the guidance states notional capital may be capital:

- that is available to you if you applied for it, or
- that has been paid or given to a third party, or
- you have deprived yourself of to reduce how much you pay for care services.

In the financial assessment, your capital is the total of your actual and notional capital.

Whilst you are receiving care services, the amount of notional capital goes down over time by the difference between the amount you actually have to pay and the amount you would have paid if you were not treated as having notional capital. This is called *'diminishing notional capital'*.

7.2.2 Notional income and pensions freedoms

Similarly, you may be treated as having notional income. It can include income that is available on application but you have not applied for it, or that is due but you have not received it, or you have deliberately deprived yourself of for the purpose of reducing the amount you must pay for care services.

In all cases, the local authority must satisfy itself the income would, or should, have been available to you. Notional income should be treated like other income, meaning there may be circumstances where it must be disregarded.

Notional income should be calculated from the date it could be expected to be acquired if an application was made. The guidance states that when doing this *'a local authority should assume the application was made when it first became aware of the possibility and take account of any time limits which may limit the period of arrears'.*

Pension Freedoms

Pension Freedoms allow flexibility about how you can access defined contribution pension funds, including letting you access your full pension pot as a lump sum. Notional income can be applied if you reach State Pension age and have a pension pot but have not purchased an annuity or arranged to draw down the equivalent maximum annuity income that would be available.

When applying notional income to a pension pot, the guidance advises local authorities to calculate this *'as the maximum income that would be available if the person had taken out an annuity'.* The guidance states '*estimates of the notional income can be received from the pension provider or from estimates provided by the Government Actuary's Department*.'

The following case example illustrates how a pension pot can be treated:

> *Ben has a pension fund worth £30,000. He has taken the opportunity to access this flexibly and as a result is only drawing down £5 a week as income at the point he begins to receive care and support. The equivalent maximum annuity income would be £120 per week. For the purposes of the financial assessment, the local authority can assume an income £120 per week.*

If applying maximum notional income, any actual income should be disregarded to avoid double counting.

In circumstances where you draw down an income higher than the maximum available under an annuity product, the actual income that is drawn down should be taken into account. If you have removed the funds and placed them in another product or savings account, they should be treated according to the rules for that product. See Age UK factsheet 91, *Pension Freedom and benefits*, for further information.

7.3 Recovering charges from a third-party

If you transfer an asset to another person (a third-party) to avoid a charge prior to the financial assessment, the third party may be liable to pay the local authority the difference between what you would have been charged and what you were charged at the time of the assessment. However, a third-party is not liable to pay anything exceeding the benefit they received from the transfer of the asset.

If you transfer funds to more than one third-party, each is liable to pay the local authority the difference between what it would have charged and did charge you for receiving care, in proportion to the amount they received. When pursing the recovery of charges from a third party, a local authority must have regard to Annex D of the guidance, *'Recovery of debts*'. See section 8 for more information.

Annex E of the guidance provides an example of the treatment of third-party liability:

> *Mrs Tong has £23,250 in her savings account. This is the total of her assets. One week before entering care she gives her daughters Louisa and Jenny and her son Frank £7,750 each. This was with the sole intention of avoiding care and support charges.*
>
> *Had Mrs Tong not given the money away, the first £14,250 would have been disregarded and she would have been charged a tariff income on her assets between £14,250 and £23,250. Assuming £1 for every £250 of assets, this means Mrs Tong should have paid £36 per week towards the cost of her care.*
>
> *After 10 weeks of care, Mrs Tong should have contributed £360. This means Louisa, Jenny and Frank are each liable for £120 towards the cost of their mother's care.*

7.4 Possible consequences of asset transfers

Apart from issues about deprivation of assets, transferring assets to another person may have significant consequences. Once an asset is transferred out of your name, you no longer have control over it and you cannot necessarily rely on the new owner acting in accordance with your wishes. You should consider how you might be affected if disagreements arise in the future.

Legal advice
It is advisable to seek legal and financial advice before transferring an asset. Age UK cannot give advice on this area of law.
The Law Society produces guidance for solicitors on gifts of property and the implications for long-term care www.lawsociety.org.uk/support-services/advice/practice-notes/making-gifts-of-assets/ (you must register to read this).

Issues to consider

- You may want to move from your current property to somewhere more suitable. If the property has been transferred, you need the new owner's agreement to do this.
- If you no longer own your home, you cannot raise income or capital against the equity in it.
- If you retain the right to live rent free in your former home, this may be treated as a '*gift with a reservation*' for Inheritance Tax purposes and the property included in your estate.
- If the new owner marries, divorces, or uses the property as security for a loan, your position may be affected.

Issues affecting the new owner of an asset

- The new owner may become responsible for the upkeep and maintenance of the property. To avoid possible disputes, it must be made clear who is responsible for these tasks.
- Any means-tested benefits the new owner receives may be affected by taking possession of a property or other assets.
- The new owner may become liable for Capital Gains Tax at some point in the future.

8 Local authority recovery of debts

If the local authority decides you have deprived yourself of assets and you do not pay care charges, you may end up in debt to them. The local authority has the power to recover sums due to it as a debt.

If the local authority say you have debts owing to them, it is important to act as soon as possible. It is not advisable to ignore demands, as failure to deal with a debt can have serious consequences, such as debt enforcement through the County Court. You should consider getting specialist debt advice. See Age UK factsheet 75, *Dealing with debt*, for information.

Debt recovery period

The maximum debt recovery period is six years. After this period, the debt must be written off.

Deferred payment agreement

As a first port of call, a local authority must offer you the option of a deferred payment agreement (DPA), if possible.

They can only make an application to the County Court if you have refused this option, or you do not meet the DPA eligibility criteria. For more information, see section 8 of Age UK factsheet 38, *Property and paying for residential care*.

Local authority options to recover debt

A local authority can start County Court proceedings to recover a debt if you do not pay the amount due. If you own your home, this can result in having a legal charge placed on your property, which ensures they receive the outstanding funds when it is sold.

However, a local authority should only resort to court action after all other reasonable alternatives for recovering the debt have been exhausted. This requires appropriate engagement with you or your representatives to find out why the debt has accrued.

The following options are recommended in guidance before proceeding to County Court.

Negotiate an agreement. This can be through dealing directly with you or your representative to broker a solution. This can be instigated by the local authority, but in some circumstances, it may be better led by an independent person such as an advisor or solicitor. In some cases, local authorities must involve an independent advocate to support you to understand the options available.

Mediation. An independent third party assists you and the local authority to reach an agreement. This could be carried out by a professional mediation service but can be carried out by anyone not involved in the issue, such as an independent social worker or a local voluntary organisation. It is important to understand it is you and the local authority, not the mediator, who decide the course of action.

Arbitration. This involves an independent arbitrator hearing both sides of the issue and making a decision that resolves the issue. Local authorities should be aware that arbitration is usually binding on both sides and therefore they cannot usually take the case to court after the arbitrator has made a decision.

The duty to act reasonably

Local authorities are bound by the public law principle of acting reasonably at all times and they must also act in accordance with human rights legislation and the wellbeing principle in the Act.

In most cases, especially where a failure to pay the correct charges was inadvertent, there are other simpler routes to follow.

Any debt repayments must be affordable, based on your individual circumstances. Even if there is a debt, they need to consider whether it is appropriate to recover it. There may be many complex issues to take into account.

In deciding how to recover a debt, the local authority should consider all the circumstances of the case before deciding a course of action. For example, was it deliberate avoidance of payment or due to circumstances beyond your control? This could be because you have developed cognitive difficulties leading to a lack of mental capacity.

The authority should concentrate on how to avoid you getting into debt in the first place. For example, by giving you a clear explanation and written information on your responsibilities for paying for care and support at the outset of any arrangements they make for you. The local authority has a duty to maintain adequate records relating to any debt and any recovery action they take.

If you lack mental capacity

If you are assessed as lacking mental capacity to deal with the debt, the local authority must act in line with the *Mental Capacity Act 2005*. This means they must establish whether there is someone with legal authority to make financial decisions on your behalf, such as a Lasting Power of Attorney for financial decisions or deputy for property and financial affairs, and if there is, engage with that person with a view to resolving the debt.

If no one has authority to act for you, the local authority should explore whether someone who knows you, such as a family member, is willing and able to acquire legal authority. If there is no one willing and able to do so, it may be appropriate for the local authority to apply to the Court of Protection to be appointed as your deputy. For further information about a deputy application, see section 5 of Age UK factsheet 22, *Arranging for someone to make decisions on your behalf*.

The local authority should not try to recover debts while there is no one with legal authority to act for you, for example by sending letters demanding payment. Instead, they should wait until legal authority is in place and then engage with that person.

9 The information and advice duty

The local authority is required to provide information and advice to everyone who needs it in their area. This must cover the following:

- the local care and support system and how it operates
- the choice of types of care and support
- the choice of providers available to you
- how to access the care and support available
- how to access independent financial advice on matters relevant to the meeting of needs for care and support, and
- how to raise concerns about the safety or wellbeing of someone who has needs for care and support.

For further information about independent financial advice, see section 12 of Age UK factsheet 43, *Getting legal and financial advice*.

10 Challenging local authority deprivation decisions

If you disagree with a decision by the local authority about deprivation of assets, you can challenge this using the formal complaints procedure.

Referencing this factsheet, remind the local authority they must show you were **significantly motivated by avoiding care costs**, that when the asset was disposed of, you had a **reasonable expectation of the need for care and support,** and a **reasonable expectation of the need to contribute towards the cost** of meeting those needs.

The local authority must base its decision on the facts of your individual case and consider all relevant circumstances. It should allow you to submit relevant evidence in support of your account.

They must avoid setting blanket policies stating that particular forms of spending, for example purchasing a funeral plan or a high-cost care package, will automatically be treated as deliberate deprivation.

If you believe the disposal of assets took place at a time when you could not have reasonably expected to have needs for care and support, explain the reasons for this. Refer to any evidence you have, for example bank statements showing you spent money before you had needs for care and support. You can point out that deliberate deprivation cannot be found if the disposal took place when you were fit and healthy and could not have foreseen needing care and support.

If you dispose of assets at a time when you have care and support needs, for example when receiving care services, the local authority should not automatically assume that deliberate deprivation has occurred. They must be able to show that you were also significantly motivated by avoiding paying towards your care costs.

Be clear and specific as you can about your motives, explaining any reasons why the disposal of assets in question was unconnected with avoiding paying towards care costs.

If you are not satisfied with the outcome of your complaint, you can take it to the Local Government and Social Care Ombudsman. For information, see Age UK factsheet 59, *How to resolve problems and complain about social care*.

Ombudsman guidance

In a complaint, you may find it helpful to refer to guidance published by the Ombudsman, *Deprivation of Capital: guidance for adult social care practitioners*.

This gives examples where the Ombudsman has found local authorities at fault when making decisions about deliberate deprivation of capital. For example, by treating all gifts as deliberate deprivation, as well as setting out good practice for local authorities.

Useful organisations

Carers UK
www.carersuk.org
Email: advice@carersuk.org
Telephone 0808 808 7777 (Monday to Friday 9am – 6pm)

Provides information, advice and support for carers, including information about benefits.

Citizens Advice
www.citizensadvice.org.uk
Telephone 0800 144 8848

National network of advice centres offering free, confidential, independent advice, face to face or by telephone.

Equality Advisory Support Service (EASS)
www.equalityadvisoryservice.com
Telephone helpline 0808 800 0082 Mon-Fri 9am-7pm, Sat 10am-2pm

Provides information and advice about the *Equality Act 2010* and human rights.

Local Government and Social Care Ombudsman
www.lgo.org.uk
Telephone 0300 061 0614

Final stage for complaints about local authorities and care providers. It is a free service.

Their deprivation guidance can be found at www.lgo.org.uk/information-centre/news/2022/aug/ombudsman-issues-guidance-on-care-finance-decisions

Age UK

Age UK provides advice and information for people in later life through our Age UK Advice line, publications and online. Call Age UK Advice to find out whether there is a local Age UK near you, and to order free copies of our information guides and factsheets.

Age UK Advice
www.ageuk.org.uk
0800 169 65 65
Lines are open seven days a week from 8.00am to 7.00pm

In Wales contact

Age Cymru Advice
www.agecymru.wales
0300 303 4498

In Northern Ireland contact

Age NI
www.ageni.org
0808 808 7575

In Scotland contact

Age Scotland
www.agescotland.org.uk
0800 124 4222

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Next update September 2027

The evidence sources used to create this factsheet are available on request. Contact *resources@ageuk.org.uk*

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