

Worcestershire County Council

Deprivation of Assets Policy

**(Relating to Financial Assessments
for Care & Support)**

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Table of Contents

01. Policy Statement	3
02. What is deliberate deprivation?	3
03. Has deprivation of assets occurred?	4
04. What information and evidence will need to be supplied?	5
05. What happens if it is decided that deliberate deprivation has occurred?	5
06. Recovering charges from the third party	5

1.0 Policy Statement

This policy aims to support the financial assessment process, making charging fair and consistent for all service users in accordance with guidelines, set out by Central Government. The Council must comply with the Department of Health's Care and Support Statutory Guidance, issued under the Care Act 2014, ensuring that there is equitable charging, taking in to consideration a person's assets; this may be both their capital and income.

When undertaking a financial assessment, the Council may identify circumstances that may suggest a person may have deliberately deprived themselves of assets in order to reduce the level of contribution they make towards their care and support, or secure assistance in paying for their care and support from Worcestershire County Council.

Where the Council considers that deliberate deprivation may have occurred, the Council will have regard to this policy, which is written in accordance with Annex E of the Department of Health Care and Support Statutory Guidance, issued under the Care Act 2014.

To see the Government Guidance please visit:

- <https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation>

In this policy the reference to 'you' refers to the person receiving the care and support from Worcestershire County Council.

In this policy the reference to the 'Council' refers to Worcestershire County Council.

2.0 What is Deliberate Deprivation?

Deprivation of assets is where a person has *intentionally* reduced their overall assets, in order to pay less towards their care and support needs or to secure assistance from the Council.

The person or their legally appointed representative must have been aware that care and support would be required either imminently or at some point in the future and the person's level of assets would affect their contribution towards the care and support.

It is important that people pay the contribution towards their care costs that they are responsible for. This is key to the overall affordability of the Care and Support system. Therefore, the Council will make necessary enquiries to ensure that people are not rewarded for trying to avoid paying their

assessed contribution.

People should be treated with dignity and respect and be able to spend the money they have saved as they wish.

The Council will not automatically assume that deprivation has occurred, there may be valid reasons why someone no longer has an asset, which the Council will first explore and it is up to the person or their legal representative to prove they no longer have the asset and provide the Council with information and evidence as to why they no longer have it, to enable the Council to make an informed decision as to whether deliberate deprivation has occurred.

The term deliberate deprivation covers a broad range of ways in which the owner of an asset might transfer it out of his or her possession. For example:

- a lump-sum payment such as a gift or to pay off a debt
- transferring the title deeds of a property to someone else
- putting money into a trust that cannot be revoked
- converting money into another form that has to be disregarded from the means test, e.g. personal possessions, investment bonds with life insurance
- reducing capital through substantial expenditure on items such as expensive holidays or by extravagant living.

Other courses of action, such as selling an asset for less than its true value, may also be seen as deprivation.

3.0 Has deprivation of assets occurred?

There may be many reasons for a person depriving themselves of an asset; the Council will consider the following before deciding whether deliberate deprivation to avoid care and support charges has occurred:

- a) The timing of the disposal of the asset. At the point the asset was disposed of could the person have reasonable expectation of the need for care and support?; and
- b) Did the person have reasonable expectation of the need to contribute towards the cost of their eligible care and support needs?

- c) How did the person requiring care and support expect the cost of this to be met?

4.0 What information and evidence will need to be supplied?

We want to establish the reason for the transfer or disposal, including why it was done when it was. We may want to see receipts or documentary evidence. We will look to see if the transfer or disposal was at a time when care needs were being considered. We will look at what considerations or provisions were in place to meet such needs. We will also consider if 'gifts' were made historically and regularly.

5.0 What happens if it is decided that deliberate deprivation has occurred?

If you are found to have deliberately deprived yourself of capital or income, you can be treated as having 'notional capital' or 'notional income' to the value of the capital or income you disposed of for the purpose of the means test.

If the notional capital added to your actual capital comes to more than £23,250, the Council may assess you as being able to meet the full cost of your care, even though your actual capital is less than the upper limit.

Having included notional capital in your finances, the Council will work out if or when you may be eligible for help towards the cost of your care.

If the person has deprived themselves of an actual asset and converted that asset in to another, of a lesser value, the person will be treated as notionally possessing the difference between the value of the new asset and the one which it replaced.

6.0 Recovering Charges from a third party

Where the person has transferred the asset to someone else, that person, is liable to pay the Council the difference between what it would have charged and did charge the person receiving care and support.

However, the person is not liable to pay any more than the benefit that they have received from the transfer.

If the person has transferred funds to more than one person, each of those people is liable to pay the Council the difference between what it would have charged or did charge the person in proportion to the amount they received.

As with any other debt, the Council can use the County Court process to require or recover? debts.