

Money Matters

金錢問題 — 一般資訊

پیسے کے معاملات - عام معلومات

টাকাপয়সার বিষয় - সাধারণ তথ্য

مسائل مالية - معلومات عامة

Legal information
Moving into a care home

Money Matters - Legal informaton

Financial assessment

All local councils are legally required to assess your financial ability to meet or contribute towards your accommodation costs. They do this by employing the relevant legislation and regulations.

This includes the National Assistance Act 1948, the Social Work Scotland Act 1968, the National Assistance (Assessment of Resources) Regulations 1992 as amended, together with the Guidance on the Regulations issued at that time by the Secretary of State for Scotland and now by the Scottish Executive.

From the above, your resources are classed as either capital or income (Guidance on the Regulations, Section 6, paragraph 6.001) and buildings are defined as capital (Guidance on the Regulations, Section 6, and paragraph 6.002).

Capital deprivation

The local authority may decide that you have deprived yourself of a capital asset in order to reduce your accommodation charge. If this is the case the local authority may treat you as still possessing the asset (Regulation 25(1)).

After assessing all available information, the local authority may conclude that you have deprived yourself of a capital asset (although not necessarily for the purposes of avoiding a charge for accommodation). (Guidance on the Regulations, Section 6, and paragraph 6.060).



Examples of capital deprivation could include the following:


- A lump-sum payment has been made to someone else (for example, as a gift or to repay a debt)
- A large sum of money has been spent (for example, on an expensive holiday)
- The title deeds of your property have been transferred to someone else (anytime from April 1993 onwards)
- Money has been put into a trust, which cannot be revoked
- Money has been converted into another form, which would be disregarded (for example, personal possessions)
- Capital has been reduced by living extravagantly (for example, gambling or following a much higher standard of living than you could normally afford).

Deprivation can be considered for resources disposed of at any time. (Guidance on Regulations, Section 6, paragraphs 6.063).

The Yule versus South Lanarkshire Judgement

The judgement in the Court of Session in 1998, and, in 1999, in the case of Mrs Rhoda Yule versus South Lanarkshire Council clarified the legislation that was already in existence. The judgement found in favour of South Lanarkshire Council. This was partly because it was considered unreasonable for Mrs Yule, at the age of 79 years, to dispo (give away title to) her property to a relative for no consideration, on the grounds that the probable need for residential care, (and to meet the cost of such), increases with advancing years.

As people get older they are more likely to need care.



The City of Edinburgh Council will also consider matters such as the reason you give for disposing of the asset, whether or not the same purpose might have been achievable by other means, and your age and health at the time of disposal.

Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA)

Under the terms of Section 21 of HASSASSA the local authority has power to pursue the **recipient** of the asset for recovery of sums due to the local authority. This is where a person in residential accommodation has disposed of a capital asset to a recipient for no consideration, or where the consideration is less than the value of the asset. This is within a period of six months from the point when residential care becomes a consideration or while in residential accommodation.

Robertson versus Fife Council – 25 July 2002

This House of Lords judgement has had the effect of separating your needs assessment from your financial assessment. It is important to emphasise that this does not mean that there was a change to the way local authorities conduct their financial assessments. Neither did it affect your liability to pay back the local authority for the cost of your care in terms of the National Assistance Act 1948, or in the rules for assessing notional capital.

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Discretionary policy

The City of Edinburgh Council has a policy of exercising discretion. If you can produce satisfactory evidence that someone other than you, the legal owner, provided or helped with the purchase price of the property with an unsecured loan, the Council will deduct the amount of the original loan from the current market value. This is without interest or inflation or other growth, and no unsecured loans other than for the purpose of purchase of property is allowed for repayment.

No allowance is made for improvements to, or upkeep of, property.

Carer status

The City of Edinburgh Council exercises discretion to disregard the capital value of any property, owned by you, which continues to be the only and permanent home of any person (related or unrelated) who has been your main carer for a substantial length of time. The property must remain in your ownership and continue to be the only and permanent home of your former carer. In the event of either of these conditions ceasing, for example, the property is sold, the right to a reassessment of your financial contribution, on basis of the value of the property, is retained and you are likely to have to meet the full cost of your care.

For more general information about residential care and money matters see the leaflet *Money Matters - General Information*.

The legislative information mentioned in this leaflet is correct at the time of going to print but is subject to revision by central government.

You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact Interpretation and Translation Service (ITS) on 0131 242 8181 and quote reference number 04413. ITS can also give information on community language translations.

如欲查詢本文件的翻譯資訊，請電愛丁堡市議會傳譯及翻譯服務部 (ITS)及說明檔案編號 04413，電話：0131 242 8181。

اپنی کیونٹی میں بولی جانے والی زبان میں اس دستاویز کے ترجمے کے بارے میں معلومات کیلئے برائے مہربانی انٹرپرائیمنڈ ٹرانسلیشن سروس ITS کو 0131 242 8181 پر ٹیلیفون کریں اور ریفرنس نمبر 04413 کا حوالہ دیں۔

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For first time contact with
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Edinburgh please contact



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