Handout: Deprivation of assets

The concept of deliberate deprivation of assets in relation to financial assessment refers to where a person has intentionally deprived themselves of or decreased their overall assets in order to reduce the amount they are charged towards their local authority arranged care.

People’s ability to spend their income and assets as they see fit can be important for promoting their wellbeing and enabling them to live fulfilling and independent lives. However, it is also important that people pay their fair contribution towards their care and support costs and there may be cases where a person has deliberately tried to avoid care and support costs through depriving themselves of assets – either capital or income. In such cases, the local authority may either charge the person as if they still possessed the asset or, if the asset has been transferred to someone else, seek to recover the lost income from charges from that person. However, the local authority cannot recover more than the person gained from the transfer.

A person can deprive themselves of capital in many ways, but common approaches are:

- a lump-sum payment to someone else, for example as a gift or to repay a debt of their own or the person
- substantial one-off expenditure has been incurred
- the title deeds of a property have been transferred to someone else
- assets have been put in to a trust that cannot be revoked.

Their actions may not in all cases be to avoid or reduce social care service charges. The intention behind the factual deprivation should be considered.

Questions of deprivation should only be considered where the person’s assets, if they still had them, would have been taken into account for the purposes of the financial assessment.

Case study: Mrs X gives her daughter a painting worth £2,000 the week before she enters residential care.

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 Mrs X had purchased the painting using £2000 of savings, immediately prior to entering residential care, to give to her daughter, deprivation should be considered.
There may be many reasons for a person disposing of an asset. A local authority should therefore consider the following before deciding whether deprivation for the purpose of avoiding care and support charges has occurred:

- whether avoiding the care and support charge was a significant motivation?
- the timing of the disposal of the asset. At the point the capital was disposed of could the person have had a reasonable expectation of the need for care and support?
- did the person have a reasonable expectation of needing to contribute to the cost of their eligible care needs?

For example, it would be unreasonable to decide that a person had disposed of an asset in order to reduce the level of charges for their care and support needs if at the time the disposal took place they were fit and healthy and could not have foreseen the need for care and support.

Note that it is also possible for a person to deliberately deprive themselves of income. For example, they could give away or sell the right to an income from an occupational pension.

In either case it is up to the person to prove to the local authority that they no longer have the asset or income.

**Case Study: Mr Y has £18,000 in savings and uses £10,000 to buy a car. Two weeks later he enters a care home and gives the car to his daughter.**

Did Mr Y know when he bought the car that he would be moving into residential care? If he did know, then the intention behind the factual deprivation should be considered.

However, all the circumstances must be taken into account so if Mr Y was admitted as an emergency and had no reason to think he may need care and support when he purchased the car, this should not be considered as deprivation.

**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 in order to reduce his care home charges.