



**DELIBERATE
DEPRIVATION**

If you are subject to a means test in relation to the funding of your care then your Local Authority will take into account your income, capital and property when making this assessment.

If you have taken steps in the past to give your assets away, or are contemplating doing so, then you should proceed with caution. You must not be considered to have deliberately deprived yourself of assets which should form part of a means assessment.

What is Deliberate Deprivation?

If you have intentionally reduced your overall assets in order to qualify for funding this amounts to deliberate deprivation. This could be making cash gifts, or giving away all or some of your interest in a property.

The local Authority can scrutinise any transaction they believe may have been a deliberate deprivation. Although many people believe that the Local Authority can only look back over the last 7 years (a reference to a rule relating to Inheritance Tax) this is not the case and in fact there is no time limit as to how far back they can look.

The Care Act 2014 and Annex E

The Care Act 2014 was an important step forward in care funding and establishes the premise that people should be entitled to spend their savings as they wish., However, it also states that key to the affordability and continuance of the Care and Support system is the need for people to pay the contribution toward their care fees that they are responsible for. It is therefore the responsibility of the Local Authority to ensure that people do not succeed in trying to avoid paying the contribution they are responsible for by deliberately reducing their assets.

*“Clear and straightforward service. Maxine's fees were clearly stated and I felt able to raise all relevant issues”
P R, Corsham*



Annex E of the Care Act 2014 gives some examples of ‘Deliberate’ and of ‘Deprivation’

Deliberate:

The local Authority will look at motivation, timing and expectation. E.g.

- Whether avoiding the care and support charge was a significant motivation or if there were other motivations
- The timing of the disposal of the asset. At the point the capital was disposed of, could the person have 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 care?

Deprivation:

The Local Authority will look at any transaction that they feel could be a deliberate deprivation. E.g.

- A lump-sum payment to someone else, such as a gift
- Substantial expenditure incurred suddenly and out of character with previous spending
- The title deeds of a property 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



What can the Local Authority do?

It is important to realise that if you give assets away, regardless of when, and the Local Authority can show that you anticipated that you would need Care and Support and that you reduced your assets in order to reduce your contribution to the costs of that care and support then they can take steps to recover the contributions you would have made had you not reduced your assets.

If the Local Authority finds that deliberate deprivation has occurred, they have a range of powers to ensure that they can access your assets as if the deprivation had not occurred. These include recovering the charges from the person who is now in possession of the asset or transferring property back into your name. They can also start County Court proceedings against you to recover debts if you do not pay, or if you have misrepresented information to them about your financial position.

For clear, friendly advice on all aspects of estate and care fee planning, please contact our highly experienced private client specialists today.



HAVE YOU BEEN PUTTING OFF UPDATING YOUR WILL?

Get in touch today.



ARE YOU AWARE OF THE INTESTACY RULES?

Speak to your lawyer for more information.

OUR OFFICES

CALNE

The Strand, Calne
Wiltshire, SN11 0JU
Tel: 01249 812086

CHIPPENHAM HIGH STREET

Mill House, 1 New Road
Chippenham
Wiltshire, SN15 1EJ
Tel: 01249 444499

CHIPPENHAM, GREENWAYS

Unit 5,
Greenways Business Park
Bellinger Close, Chippenham
Wiltshire, SN15 1BN
Tel: 01249 475880

CORSHAM

23 Pickwick Road,
Corsham,
Wiltshire, SN13 9BH
Tel: 01249 712193

DEVIZES

Ramsbury House
30 Market Place, Devizes
Wiltshire, SN10 1JG
Tel: 01380 726913

MELKSHAM

5 Bath Road, Melksham
Wiltshire, SN12 6LN
Tel: 01225 703036

TROWBRIDGE

2 Fore Street, Trowbridge
Wiltshire, BA14 8HX
Tel: 01225 762683