

Property Disregards

Mandatory Disregard

The Council will disregard the value of your main or only home when:

- a) If the person's stay in a care home is temporary and they:
 - intend to return to that property and that property is still available to them.
- b) Where the person no longer occupies the property, but it is occupied in part or whole as their main or only home by any of the people listed below, the mandatory disregard only applies where the property has been continuously occupied since before the person went into a care home (for discretionary disregards see below):
 - a. the persons partner, former partner, or civil partner, except where they are estranged.
 - b. a lone parent who is the person's estranged or divorced partner.
 - c. a relative as defined in the paragraph below of the person or member of the person's family who is:
 - i. Aged 60 or over, or
 - ii. Is a child of the resident aged under 18, or
 - iii. Is incapacitated.

This person is referred to in the policy as the 'Qualifying Relative'.

For the purposes of the disregard a 'Qualifying Relative' is defined as including any of the following:

- a) Parent (including an adoptive parent)
- b) Parent-in-law
- c) Son (including an adoptive son)
- d) Son-in-law
- e) Daughter (including an adoptive daughter)
- f) Daughter-in-law
- g) Stepparent.
- h) Stepson.
- i) Stepdaughter
- j) Brother
- k) Sister
- l) Grandparent
- m) Grandchild
- n) Uncle
- o) Aunt

- p) Nephew
- q) Niece
- r) The spouse, civil partner, or unmarried partner of (a) to (k) inclusive.

A member of the person's family is defined as someone who is living with the qualifying relative as part of an unmarried couple, married to or in a civil partnership. For the purposes of the disregard the meaning of "incapacitated" is not closely defined.

However, it will be reasonable to conclude that a relative is incapacitated if either of the following conditions apply:

- a) the relative is receiving one (or more) of the following benefits: incapacity benefit, severe disablement allowance, disability living allowance, personal independence payments, armed forces independence payments, attendance allowance, constant Attendance Allowance, or a similar benefit.
or
- b) the relative does not receive any disability related benefit but their degree of incapacity is equivalent to that required to qualify for such a benefit.

Medical or other evidence may be needed before a decision is reached. For the purpose of the property disregard, the meaning of "occupy" is not closely defined. In most cases it will be obvious whether the property is occupied by a qualifying relative as their main or only home. However, there will be some cases where this may not be clear, and the Council should undertake a factual inquiry weighing up all relevant factors in order to reach a decision. An emotional attachment to the property alone is not sufficient for the disregard to apply.

The Council will need to take account of the individual circumstances of each case; however, the Council will consider the following factors in making a decision.

- Does the relative currently occupy another property?
- If the relative has somewhere else to live, do they own or rent the property (i.e. how secure/ permanent is it?)
- If the relative is not physically present is there any evidence of a firm intention to return to or live in the property
- Where does the relative pay council tax?
- Where is the relative registered to vote?
- Where is the relative registered with a doctor?
- Are the relative's belongings located in the property?
- Is there evidence that the relative has a physical connection with the property?

- Where address is given when claims for benefits and pension have been made (where applicable)

The Council will disregard the property, where the relative meets the qualifying conditions (i.e. is aged 60 or over or is incapacitated) and has occupied the property as their main or only home since before the resident entered the care home.

Discretionary Disregard

The Council may also use its discretion to apply a property disregard in other circumstances. However, the Council will need to balance this discretion with ensuring a person's assets are not maintained at public expense. An example where it may be appropriate to apply the disregard is where it is the sole residence of someone who has given up their own home in order to care for the person who is now in a care home or is perhaps the elderly companion of the person.

The Council may apply the disregard when a qualifying relative moves into the property after the resident enters a care home. Where this happens, the Council will need to consider all the relevant factors in deciding whether the property must be disregarded. Factors such as the timing and purpose of the move may be relevant to establishing if the property is the relative's main or only home.