

**From:** [Foi Enquiries](#)  
**To:** [REDACTED]  
**Subject:** FOI-16-1538 - Deprivation of Capital  
**Date:** 19 December 2016 14:07:15

---

Dear [REDACTED],

Thank you for your information request of 21 November 2016. Aberdeen City Council (ACC) has completed the necessary search for the information requested.

**I am researching the issue of care home costs. I am interested in the powers Local Authorities have and their policies and practices in this respect and in particular the concept of “deprivation of capital”.**

**I would be grateful for all information on:-**

**1. The Council’s policies, guidance (external and internal) and strategy on how they investigate and assess concerns / suspicions in respect of deprivation of capital.**

The statutory reference is the Health and Social Services and Social Security Adjudication Act 1983 (HASSASSA). Aberdeen City council’s policy is defined in CCD2/2015 – Revised Guidance on Charging For Residential Accommodation Deprivation of Capital section 6.056 – 6.067 ,

This policy is available here:

[http://www.sehd.scot.nhs.uk/publications/CC2015\\_02.pdf](http://www.sehd.scot.nhs.uk/publications/CC2015_02.pdf)

**2. What factors are taken into consideration in reaching a decision as to whether a deprivation of capital has occurred?**

Examples of where a person has deprived themselves of capital (although not necessarily for the purposes of avoiding a charge for accommodation)

- A lump-sum payment has been made to someone else (e.g. as a gift or to repay a debt)
- Substantial expenditure has been incurred (e.g. on an expensive holiday)
- The title deeds of a property have been transferred to someone else.
- Money has been put into a trust which cannot be revoked.
- Money has been converted into another form which would fall to be disregarded (e.g. personal possessions)
- Capital has been reduced by living extravagantly (e.g. gambling or following a much higher standard of living than the resident could normally afford)
- Capital has been used to purchase an investment bond with life insurance. Local authorities will wish to give consideration, in respect of each case, to whether deprivation of assets has occurred i.e. did the individual place his capital in such an investment bond so that it would be disregarded for the purposes of the Assessment of Resources Regulations.

**3. What timescale does the Council consider when assessing the previous actions of an individual as to whether is believed that deprivation of capital has occurred?**

ACC can go as far back as required, but the rule of thumb is that if the medical condition they have is a degenerative one and they had received any assistance from ACC and it could be looked on as it was foreseeable that the person may need a nursing/residential care in the future. We would normally go back 7 years we always put all information to our legal

department for advise on the matter. With legislation HASSASSA it is 6 months prior to going in to a nursing home and if the client is already in a nursing home.

**4. In the period 2005-2015 how many individuals have been initially assessed by the Council to have deprived themselves of a capital asset in order to reduce their accommodation charge? Please could I have a breakdown on a yearly basis.**

This information is not recorded in a way which is easily reportable. To answer this question, we would be required to interrogate approximately 1,400 assessments and extract the relevant information.

ACC is unable to provide you with information on **In the period 2005-2015 how many individuals have been initially assessed by the Council to have deprived themselves of a capital asset in order to reduce their accommodation charge** as the cost of providing it has been calculated as being in excess of the statutory maximum (£600). To explain this, it would involve an ACC Officer review approximately 1,400 files and extracting the requested information. This has been calculated at 6 minutes per file, which equates to 140 hours, at the cost of £2,100 in total.

In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby give notice that we are refusing your request under the terms of Section 12 - Excessive Cost of Compliance - of the FOISA.

ACC would be happy to discuss ways in which you may refine your request, so we can provide some information of interest to you within the maximum cost limits. Please do contact the Information Compliance team, who will be happy to advise you, if this is something you would like to pursue.

**5. Of the individuals who were initially assessed as having deprived themselves of capital in order to reduce their accommodation charge:-**

**1. How many challenged that initial decision?**

**2. How many were successful in their challenge?**

Please note, such cases are not usually readily resolved within the year in which they first arise, so determining by year would be difficult.

This information is not recorded in a way which is easily reportable. To answer this question, we would be required to interrogate approximately 1,400 assessments and extract the relevant information.

ACC is unable to provide you with information on **Of the individuals who were initially assessed as having deprived themselves of capital in order to reduce their accommodation charge:- How many challenged that initial decision? How many were successful in their challenge?** as the cost of providing it has been calculated as being in excess of the statutory maximum (£600). To explain this, it would involve an ACC Officer review approximately 1,400 files and extracting the requested information. This has been calculated at 6 minutes per file, which equates to 140 hours, at the cost of £2,100 in total.

In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby give notice that we are refusing your request under the terms of Section 12 - Excessive Cost of

Compliance - of the FOISA.

ACC would be happy to discuss ways in which you may refine your request, so we can provide some information of interest to you within the maximum cost limits. Please do contact the Information Compliance team, who will be happy to advise you, if this is something you would like to pursue.

**3. What guidance / protocols exist regarding how to assess, investigate and decide upon any such challenges?**

As defined in statute. Please see our response to Q1 above.

**4. In terms of successful challenges to the initial assessment, how many individuals came to a resolution with the Council using any internal process within the Council**

This information is not recorded in a way which is easily reportable. To answer this question, we would be required to interrogate approximately 1,400 assessments and extract the relevant information.

ACC is unable to provide you with information on **In terms of successful challenges to the initial assessment, how many individuals came to a resolution with the Council using any internal process within the Council** as the cost of providing it has been calculated as being in excess of the statutory maximum (£600). To explain this, it would involve an ACC Officer review approximately 1,400 files and extracting the requested information. This has been calculated at 6 minutes per file, which equates to 140 hours, at the cost of £2,100 in total.

In order to comply with its obligations under the terms of Section 16 of the FOISA, ACC hereby give notice that we are refusing your request under the terms of Section 12 - Excessive Cost of Compliance - of the FOISA.

ACC would be happy to discuss ways in which you may refine your request, so we can provide some information of interest to you within the maximum cost limits. Please do contact the Information Compliance team, who will be happy to advise you, if this is something you would like to pursue.

**5. In terms of successful challenges to the initial assessment how many individuals came to a resolution with the Council using using an external process? What external processes were used (measured as a percentage)?**

All deprivation of capital cases are investigated. Whilst appeals are made cases are assessed and settled on an individual basis . Cases are generally resolved using ACC internal resources, including the legal department.

It is also worth noting that 'successful' requires clarification in these cases. The term 'successful' is not used in relation to these assessments.

We hope this helps with your request.

Yours sincerely,

Grant Webster

Information Compliance Officer

## **INFORMATION ABOUT THE HANDLING OF YOUR REQUEST**

ACC handled your request for information in accordance with the provisions of the Freedom of Information (Scotland) Act 2002. Please refer to the attached PDF for more information about your rights under FOISA.

Information Compliance Team  
Communications and Promotion  
Office of Chief Executive  
Aberdeen City Council  
Room 1-24  
Town House  
Broad Street  
ABERDEEN AB10 1AQ

[foienquiries@aberdeencity.gov.uk](mailto:foienquiries@aberdeencity.gov.uk)

01224 523827/523602

Tel 03000 200 292

\*03000 numbers are free to call if you have 'free minutes' included in your mobile call plan.  
Calls from BT landlines will be charged at the local call rate of 10.24p per minute (the same as 01224s).

[www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)