

**Case 200503530: East Dunbartonshire Council**

**Summary of Investigation**

***Category***

Local government: Financial assessment of eligibility for Council funded care in care home (specifically notional capital); Complaint handling

***Overview***

Mr C complained that in calculating the financial assets of his father (Mr A) East Dunbartonshire Council (the Council) decided to disregard the transfer of Mr A's home to his son nine years previously for 'love, favour and affection' and included the notional value of the Property in his assets. As a consequence of this notional capital Mr A was regarded as self-funding for his care home costs. Mr A had no actual funds and was not able to pay his costs. Mr C stated that his father was faced with bankruptcy and eviction because of the debts incurred. Mr C complained that the Council had not acted reasonably in reaching the decision to regard Mr A as in possession of notional capital as they had reached a decision based on assumptions rather than real evidence. Mr C also complained about the lack of an independent appeal procedure to review his complaint.

***Specific complaints and conclusions***

The complaints which have been investigated are that:

- (a) the Council acted unreasonably in reaching a decision that it would not fund Mr A's care home costs (*upheld*); and
- (b) the Council had no effective procedure for reviewing its decision (*upheld*).

***Redress and recommendations***

The Ombudsman recommends that the Council:

- (i) review their current practice for assessment of nominal capital to ensure that it complies with the spirit of the relevant regulations;
- (ii) reassess Mr A's financial means, excluding the nominal value of the Property; and

- (iii) apologise to Mr C for the previous lack of formal procedures available to him to progress his complaint.

The Council have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 15 March 2006 the Ombudsman received a complaint from a solicitors' firm (the Solicitors) acting on behalf of the complainant (Mr C). Mr C complained that East Dunbartonshire Council (the Council) had acted unreasonably in deciding that it would not fund the care home costs for his father (Mr A). The Council had decided to disregard the transfer of Mr A's home (the Property) to his son nine years previously for 'love, favour and affection' and included the notional value of the Property in his assets. As a consequence of this notional capital Mr A was regarded as self-funding for his care home costs. Mr A was already resident in the care home (the Care Home) and was incurring costs for which he had no funds to pay. Mr C has power of attorney for his father. Mr C and the Solicitors pursued a complaint through the Council but remained unhappy at the decision to refuse funding for Mr A and at the lack of an independent review of their complaint about this decision.

2. The complaints from Mr C which I have investigated are that:

- (a) the Council acted unreasonably in reaching a decision that it would not fund Mr A's care home costs; and
- (b) the Council had no procedure for reviewing its decision.

3. As the investigation progressed, I identified issues concerning the differential interpretation of relevant Scottish Executive guidance in a number of locations throughout Scotland. This is not a complaint against any particular public body and as such I cannot make it the subject of a specific complaint. I have, however, considered the implications of the broader problems identified at the end of this report and will be drawing my concerns to the attention of the Scottish Executive Health Department (SEHD).

### **Investigation**

4. Investigation of this complaint involved obtaining and reviewing the correspondence file from the Council and the documentation provided by the Solicitors. I have reviewed relevant legislation and guidance issued by the Scottish Executive. I have considered a number of legal decisions of relevance to this complaint. I have had informal discussions with a number of parties with regard to

the general problem of local variations in practice throughout Scotland – these included Council Social Services Departments, Age Concern and representatives of the Care Home owners.

5. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

#### *Legislation and Legal Background*

6. The following information does not cover all relevant legislation, guidance or case law but summarises the legislative and legal background to this complaint.

7. The assessment of an individual's financial assets and consequent ability to fund care home costs is carried out in accordance with regulations set out in The National Assistance (Assessment of Resources) Regulations. These are subject to change over time. The Scottish Executive issued guidance to local authorities with respect to these regulations – Charging for Residential Accommodation Guidance (CRAG). For the purpose of this complaint there has been no substantial change in the regulations or guidance since the events of this complaint.

8. The Scottish Executive produce a guide called 'Thinking about moving into a care home?' aimed at members of the public considering moving to a care home which is based on the regulations and the CRAG.

9. The relevant sections of the CRAG are set out in Annex 3 but I would note the following here as of particular significance:

'6.056 The local authority may feel that a resident has deprived himself of a capital asset in order to reduce his accommodation charge. If this is the case the local authority may treat the resident as still possessing the asset. The following factors will need to be considered.

#### Purpose of disposing of an asset

6.061 There may be more than one purpose for disposing of a capital asset only one of which is to avoid a charge for accommodation. Avoiding the charge need not be the resident's main motive but it must be a significant one.

#### Timing of the disposal

6.063 The timing of the disposal should be taken into account when considering the purpose of the disposal. It would be unreasonable to decide that a resident had disposed of an asset in order to reduce his charge for accommodation when the disposal took place at a time when he was fit and healthy and could not have foreseen the need for a move to residential accommodation. The local authority should bear in mind, however, that deprivation can be considered for resources disposed of at any time.

#### Deprivation decided

6.066 If the local authority decides that the resident has disposed of capital in order to avoid a charge or to reduce the charge payable, the local authority will need to decide whether to treat the resident as having the capital (notional capital) and assess the charge payable accordingly; and then whether:

a. it is realistic to recover the assessed charge from the resident (bearing in mind that they may not have the means to pay the debt which will be accruing)..'

10. The document 'Thinking about moving into a care home?' states:

'What if I dispose of my 'capital' before entering a home? (Notional Capital)

If you dispose of capital, for example, if you transfer the title to your property to someone else when you know that you will soon be entering a care home, the social work service may consider that you have done so to avoid contributing towards the cost of your care. It may then assess your finances as if you still possess that capital. Capital which is treated in this way within the financial assessment is known as 'notional capital'.

When deciding if a person who needs care has disposed of capital to avoid meeting the care costs, the social work service will consider when the capital was either given away or disposed of. It would not, however, be reasonable to assume that a person who had been fit and well and could not have foreseen the need to move into a care home at the time when an asset was given away or disposed of had done so to avoid paying for care.

Ultimately, the social work service will decide whether a person has deliberately disposed of capital to avoid paying for care based on the care charging regulations and guidance. If you do not agree with the service's decision, you can complain through its formal complaints procedure.'

11. There have been a number of court cases on this subject but of most relevance is *Yule v South Lanarkshire Council* 1998 SLT 490 (Yule). This case was referred to by both the Solicitors and the Council. The case concerned an ostensibly similar determination of notional capital being possessed by the petitioner who, aged 78, had transferred her property for 'love, favour and affection' to her granddaughter and who, within 12 months, had required care home accommodation. The decision of the court was that the Council were entitled to regard the property as notional capital.

12. In reaching his conclusion the judge in *Yule* noted several factors concerning the petitioner's health and financial arrangements and concluded that it was reasonable to draw from that the inference that the petitioner's health was not perfect at the time of the transfer of the property. The judge went on to state that: 'It is a fact of life, which the (Council) were entitled to take into account, that persons in their late seventies are increasingly likely to require nursing home accommodation.' The judge also concluded that the Council were entitled to reject any motives or explanations offered and that no satisfactory explanation for the transfer had been offered. He concluded that the doubts over the petitioner's health provided a justification for the Council's taking a negative view of the property transfer and that there was material evidence entitling the Council to conclude that the petitioner was able to pay for the accommodation (because of the notional capital).

**(a) The Council acted unreasonably in reaching a decision that it would not fund Mr A's care home costs**

13. Mr C applied for a financial assessment of his father by the Council on 4 January 2005. On 20 January 2005 the Council wrote to Mr C to ask why his father had decided to transfer the property to Mr C for 'love, favour and affection' (that is without receiving any payment) in 1995. Mr C responded on 30 January 2005 stating that he knew of no specific reason and considered it to

have been an entirely spontaneous gesture. He noted that he had made it financially possible for his father to purchase the house originally (in 1988) and his father had thereafter enjoyed rent-free accommodation for several years. Mr C also noted that in 1995 his father was still in good health and that his dementia had not been diagnosed until October 2003 some eight years after the transfer of the property.

14. On 21 February 2005 the Council wrote to Mr C advising him that the Council were regarding his father as being in possession of notional capital to the current value of the transferred property. The letter stated that the basis for the decision was that Mr A was aged 79 years at the point of the transfer and:

'... at a stage in his life where future care costs become an issue for most people and even if they are not imminently an issue it is a fact of life that with the increasing years there is also an increasing frailty.'

I note that this mirrors, in part, the statement made by the court in Yule, although it expands on the court decision by suggesting that future care costs are an issue for *most* people of Mr A's age. The letter went on to conclude that the transfer amounted to an intentional deprivation. The Council advised that it would consider any new information and would be prepared to deduct the original purchase price from the current value if Mr C provided evidence of having paid this.

15. Mr C contacted the Solicitors who wrote to the Council on 25 February 2005 challenging the Council's view. The letter noted that the Council appeared to be implying the decision was based on Mr A's age at the time of transfer and noted that he had at that time been in good health with no knowledge of a future diagnosis of dementia. The Solicitors stated that, were Mr A only physically frail, Mr C and other members of the family would be caring for him in his own home as they had done during any previous times of ill-health.

16. A considerable amount of correspondence followed between the Council and the Solicitors which I will not detail here. The Solicitors disputed the Council decision as lacking any evidence of deliberate deprivation and the Council reiterated its position that Mr A's age made future care home costs an issue. A number of other issues were raised on both sides concerning alternative methods of affecting the transfer of the property (notably transfer by a will), the Council's

need for documentary evidence of the reason for transfer, why the transfer had not taken place at an earlier stage and Mr A's inability to pay his Care Home costs as he had no actual assets.

17. A reading of the correspondence file does reveal escalating frustration and increasingly emotive language on both sides. There is recognition and acceptance from the Council that pursuing their current course might lead to Mr A being threatened with eviction from the Care Home for failure to pay and the Council having to step in to pay his care from that point and subsequently recovering the monies if possible. The Council also considered that the fees already accrued would remain the responsibility of the Care Home to recoup.

18. In March 2005 the Solicitors decided to apply for a Judicial Review of the Council's decision and advised the Council of this. The Council objected to the application for Legal Aid by the Solicitors to pursue this matter. In any event Judicial Review was not sought as Counsel opinion obtained prior to the application for Judicial Review indicated that such review may be unnecessary as the only remedy open to the Care Home to recover the costs would be to take court action against Mr A which would be fruitless as Mr A had no capital. The opinion noted that the notional capital could not be recovered even if Mr A was subject to sequestration as the asset had been passed more than five years ago and was, therefore, legally exempt from the relevant legislation - Bankruptcy (Scotland) Act 1985 (sec 34). This concurred with the view the Council had previously reached and they advised the Solicitors that they considered this to be a difficulty for the Care Home rather than themselves as Mr A was still regarded as self-funding.

19. Council emails indicated that staff took steps to ascertain the policy in other local authority areas and confirmed that they were not acting alone in considering a disposal that took place in excess of nine years ago. My own enquires, which were not exhaustive, suggest that there are a wide range of policies being adopted by local authorities throughout Scotland. The timescales for disregarding transfers range from two years to indefinitely with a number of Councils basing their decision on seven years to mirror current inheritance tax rules. A number of these Councils also retain an option to look back indefinitely if they feel it is warranted in a particular circumstance.



20. The correspondence also indicated that the Council has received other complaints on the same issue and is aware that they must be consistent in their treatment of all cases. My discussions with the debt collectors for the Care Home and representatives of Age Concern indicate that this issue has arisen throughout Scotland and causes considerable distress and concern to a number of older people and their families. I note that the exact extent and nature of the difficulties experienced varies according to the particular policy operated by each Council.

21. On 6 December 2005 the Solicitors were advised by the owners of the Care Home that Mr A's fees were considerably overdue and that it might be necessary to take legal proceedings against Mr A including eviction from the Care Home. The Solicitors informed the Council of this position and asked what they intended to do as Mr A did not have the funds to pay the Care Home fees and consequently faced eviction. The Council contacted the Care Home who agreed to suspend any potential action against Mr A until the Council concluded on the way forward. Council emails at this time indicated a concern that, were they to take over responsibility for Mr A's costs with the Care Home, they would potentially be liable for the costs incurred to date. The Council, therefore, decided to have Mr A's needs re-assessed to see if it might be possible to move him elsewhere and either avoid this problem or use it as a basis for negotiation with the Care Home. This took several weeks to achieve and the Council wrote to the Solicitors on 9 February 2006 with a statement that it was their view that Mr A's needs could be met elsewhere but not without causing difficulties for Mr A who was now settled. Unfortunately the letter made reference to circumstances not relevant to Mr A and this caused a further delay, although the Council immediately apologised for this typographical error and re-sent the letter with the correct information on 22 February 2006. On 1 March 2006 the Care Home wrote to the Solicitors advising that the sum due was now £10,308.45 and that once again they would need to consider the option of eviction for non-payment. The Solicitors again informed the Council of this and their intention to take the matter to the 'Social Work Ombudsman'. The Council determined to do nothing more until they received a more definite intimation of an eviction.

22. In March 2006 the Solicitors approached this office. The Care Home debt collector contacted us directly and it was agreed that they would take no further action until we had concluded our investigation.

*Other Evidence*

23. The Council reasoned that Mr A's age at the time of the property transfer was such that care costs were a consideration for him, as for most people of that age. I note that it was in fact nine years later (aged 88) when Mr A's health deteriorated to the point where care home costs were a concern for him. The Care Home Census for Scotland published by the Scottish Executive in March 2005 indicated that there were 33,600 people over 65 resident in care homes in Scotland – that is 4% of the total population of over 65's. Age Concern's publication 'Older people in the United Kingdom' indicates that for the UK as a whole, 4.2% of those aged 75-84 are in care homes or long stay hospitals, this rises to 19.1% for those over 85.

*(a) Conclusion*

24. I have considerable sympathy for the Council employees who were faced with reaching a decision in this case and who made an honest endeavour to reach the appropriate decision. The CRAG goes some way to setting out the expected approach but lacks the specificity which would permit the Council to make an unequivocal determination. There was clearly recognition on the part of staff that Mr A lacked the necessary funds to pay and the probable consequence of this both for Mr A in being declared bankrupt and the Care Home in trying to recover the costs. Staff were clearly aware of the probable effect on the Council in eventually having to pay Mr A's Care Home costs. Staff were also mindful of the duty of the Council to protect public funds to ensure that those who were able to pay their own costs did so and for the need for a consistent approach both within the Council and in relation to other Councils.

25. A number of issues were raised in this complaint about the merits of the existing regulation and the current law. It is not the role of this office to make or determine the law or to amend regulation. Our role is to consider whether there has been proper administration of the regulations. I, therefore, refer separately to the issues raised by the regulations at the end of this report.

26. The Council made the determination that Mr A was to be regarded as self-funding because, at the age of 79, he was at a stage in his life where future care costs become an issue for most people and they considered this was evidence that the Property had been disposed of, in part, to avoid future care home costs. The Council were correct in their view that neither the CRAG nor Yule placed any onus on them to prove that the disposal was done to avoid care home costs. However, I conclude that in this specific instance the Council's decision was maladministrative for the following reasons.

27. Firstly, with respect to the Council's general view that Mr A was to be regarded as self-funding because, at the age of 79, he was at a stage in his life where future care costs become an issue for most people. The Council consider that they were correct in stating this, but based on the evidence I have identified (see paragraph 23) this statement is not an accurate representation of the situation for the older population. At the time of the transfer of the Property Mr A's age was 79 – an age when only 4% of the population are in care homes or long stay hospitals. As indicated by the court in Yule, and by the Council in this case, the possibility of facing care home costs does increase with years, but even for those beyond 85 years it is only an issue for 19% of that population. Although the need to go into care may, of course, give rise to concern for a greater number of that population, it is far from being demonstrably an issue for most. I do not, therefore, consider it to be reasonable for the Council to have reached the conclusion it did based on the view that care home costs are a factor for most people and in particular, by implication in this case, all 79 year olds.

28. In addition, I consider it was not reasonable for the Council to have decided to disregard the disposal of the Property in the particular circumstances of Mr A who showed no sign of the ill-health that gave rise to his need for care at the time of the transfer and when some 9 years had elapsed from the time of the transfer to the time of the application for funding. Further Mr A's family indicated that it was only the specific nature of Mr A's illness that prevented them caring for him at home as they would wish; and Mr C stated that he had originally provided the purchase price to his parents to allow them to live rent free for a number of years.

29. Finally, I also find that the Council did not give sufficient consideration to CRAG 6.066 (a) regarding a resident's means to pay a debt, and whether they

should alter their decision in light of the known actual financial circumstances of Mr A.

30. For all these reasons I uphold this aspect of the complaint. In reaching this finding I would stress that I acknowledge this was a very difficult and complex decision for the Council. However, taking all the factors into account, on balance, I consider it was unreasonable of them to reach the decision not to fund the care home costs in this particular case.

31. My conclusions are based solely on the circumstances of this complaint. However, this specific case has raised a more general issue of policy and practice. I am concerned that there is a lack of guidance in this area which has given rise to confusion and inconsistent approaches being adopted by Councils throughout Scotland. I return to this in paragraphs 38-41 of this report.

*(a) Recommendation*

32. In light of this conclusion the Ombudsman recommends that the Council review their current practice for assessment of nominal capital to ensure that it complies with the spirit of the relevant regulations; and undertake a new financial assessment of Mr A. The new assessment should not include any notional value of the Property and if Mr A is assessed as eligible for Council funding this funding should be backdated to the date of the original application for funding in January 2005.

**(b) The Council had no independent procedure for reviewing its decision**

33. The Council notified the Solicitors on 9 March 2005 that they would be regarding the Property as notional capital. This was confirmed by a letter from the Legal Services Department on 7 April 2005 following an objection from the Solicitors. At no point was it suggested that the Council's formal complaints procedure be used to pursue the complaint nor was any reference made to other external review (except in so far as the question of a possible Judicial Review was raised by the Solicitors). The Council advised the Solicitors that the procedure for disputes was for the case to be referred to the Legal Services Department by the Social Work Finance Section and that the Solicitors objections were reviewed in this way. On the 14 March 2006 the Council confirmed to the Solicitors that there

was no further internal review or appeal procedure although they were considering introducing one.

34. In May 2006 the Council confirmed to me that they had in fact now introduced the right to request a formal review by the Complaints Review Committee (a statutory body which operates within each Council area to review complaints about Social Work Departments). I advised the Solicitors that they would have the option of following this route if they so chose but they elected to continue the complaint with this office.

*(b) Conclusion*

35. The lack of a review process for complaints regarding assessment meant that this complaint continued for nearly a year without any satisfactory resolution for either Mr C or the Council. The Council did not inform the Solicitors or Mr C that there were alternative routes to pursue their objections and there was no formal process for review of such disputes. I, therefore, uphold this aspect of the complaint.

36. I am concerned again that the current system is confused and inconsistent throughout Scotland and in particular that there is no recognised, independent, appeals process for such financial assessments and decisions. I return to this in paragraphs 38-41 of this report.

*(b) Recommendation*

37. The Ombudsman recognises that the Council have now established a review system for complaints about assessment of notional capital using the Complaints Review Committee and, therefore, has no procedural recommendation to make. The Ombudsman does recommend that the Council give a written apology to Mr C for their previous failure to ensure his objections were reviewed promptly and to have a review system in place.

*Further Comment*

38. The Council's correspondence file contains a number of comments from several members of staff expressing concern at the difficulties in operating under the current guidance and a need for a change in the law and/or regulations to bring clarity to this matter. Such a change could enable them to reach unequivocal

decisions and avoid the very difficult situation that they found themselves in on this occasion. The file also indicates that the treatment of notional capital has caused a number of problems for the Council. The representative of the Care Home provided me with anecdotal evidence that they were aware of a number of other cases and that they dealt with a number of Councils all of whom operated different policies. Age Concern have also advised me that the policy adopted by each Council varies throughout Scotland. This view was confirmed by representatives of the local authority Social Work Departments that I consulted.

39. This office has previously considered a number of cases where the treatment of notional capital formed at least an element of the complaint. These involved different Councils. We have identified that the lack of any specific time-scales in the guidance have caused considerable problems. The different policies operating throughout Scotland lack clarity and deny the public the certainty needed for proper financial planning.

40. A number of Councils link their local policy to the rules for bankruptcy or inheritance tax. It is not for this office to determine what time limits there should be or what consideration should be given to the reasons for the transfer of property for 'love, favour and affection'. However, the current regulation is causing distress to a vulnerable sector of the population and placing a disproportionate administrative burden on Councils.

41. The Ombudsman will send a copy of this report to the SEHD asking them to consider making changes to the existing guidance and regulations in light of the problems identified in this report.

42. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

19 December 2006

**Explanation of abbreviations used**

Mr C	The complainant
Mr A	The aggrieved – Mr C's father
The Council	East Dunbartonshire Council
The Solicitors	Solicitors acting on behalf of Mr C
The Property	Mr A's former home, transferred in 1995 to Mr C
The Care Home	The care home where Mr A currently resides
The Petitioner	The person making a formal, written application to the court for review of a matter
SEHD	Scottish Executive Health Department
CRAG	Charging for Residential Accommodation Guidance
Yule	Yule v South Lanarkshire Council 1998 SLT 490

**Glossary of terms**

Love, favour and affection	The transfer of a property from one party to another for no cost - usually as a gift
Power of Attorney	A legal instrument authorizing one to act as another's attorney or agent
Sequestration	A writ authorizing a law-enforcement official to take into custody the property of a defendant in order to enforce a judgement (that monies are owed)



**List of legislation, guidance and case law**

The National Assistance (Assessment of Resources) Regulations

Charging for Residential Accommodation Guidance

*Extracts from Charging for Residential Accommodation Guidance - Issued April 2006 by the Scottish Executive Health Department*

*Deprivation of Capital*

General

6.056 The local authority may feel that a resident has deprived himself of a capital asset in order to reduce his accommodation charge. If this is the case the local authority may treat the resident as still possessing the asset. The following factors will need to be considered.

Reg 25(1)

Forms of capital to be considered

6.57.1 The local authority should only consider questions of deprivation of capital when the resident ceases to possess capital which would otherwise have been taken into account.

Has deprivation occurred?

6.059 It is up to the resident to prove that he no longer has a resource. Failure to do so will result in the local authority treating the resident as if he still possesses the actual capital. Examples of acceptable evidence of the disposal of capital would include

- a trust deed
- deed of gift
- receipts for expenditure
- proof that debts had been repaid.

6.060 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 (eg as a gift or to repay a debt)

- Substantial expenditure has been incurred (eg 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 (eg personal possessions)
- Capital has been reduced by living extravagantly (eg 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 ie 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.

#### Purpose of disposing of an asset

- 6.061 There may be more than one purpose for disposing of a capital asset only one of which is to avoid a charge for accommodation. Avoiding the charge need not be the resident's main motive but it must be a significant one.
- 6.062 If, for example, a person has used capital to repay a debt, careful consideration should be given to whether there was a need for the debt to be repaid at that time. If it seems unreasonable for the resident to have repaid that debt at that time, it may be that the purpose was to avoid a charge for accommodation.

#### Timing of the disposal

- 6.063 The timing of the disposal should be taken into account when considering the purpose of the disposal. It would be unreasonable to decide that a resident had disposed of an asset in order to reduce his charge for accommodation when the disposal took place at a time when he was fit and healthy and could not have foreseen the need for a move to residential accommodation. The local authority should bear in mind, however, that deprivation can be considered for resources disposed of at any time. The

6 month restriction only applies to using the provisions of Section 21 of the Health and Social Services and Social.

Deprivation decided

6.066 If the local authority decides that the resident has disposed of capital in order to avoid a charge or to reduce the charge payable, the local authority will need to decide whether to treat the resident as having the capital (notional capital) and assess the charge payable accordingly; and then whether:

a. it is realistic to recover the assessed charge from the resident (bearing in mind that they may not have the means to pay the debt which will be accruing);

or

b. if the asset was transferred not more than 6 months before the date the resident begins to live in residential accommodation, or while the resident is living in the accommodation, to use the provisions of Section 21 of the Health and Social Services and Social Security Adjudication Act 1983 to transfer the liability to the recipient of the asset for that part of the charges assessed as a result of the notional capital (see Circular SWSG15/93).

*"Thinking about moving into a care home?"* - Published by the Scottish Executive, January, 2005.

Yule v South Lanarkshire Council 1998 SLT 490

Bankruptcy (Scotland) Act 1985 (sec 34)