Alison Fielden & Co.
Solicitors & Notary Public

FACTSHEET

Long-term care and protecting your home

The thought of needing Long-Term care is a frightening one for many of us.

The government have recently announced that it will launch a consultation into Long-Term care funding, however this news has come too late for many people who are already paying many thousands of pounds for their care.

It has been estimated that in the last ten years over 700,000 people have had to sell their much loved homes to pay for their care – but maybe it doesn't need to be that way.

If you have assets of more than £23,250 you will be expected to fully fund your care, but there are occasions when the value of your home or part of it can be ignored, for example, if you have a spouse or partner living with you or other relatives over the age of 60.

Historically the popular method for holding property by couples was as Beneficial Joint Tenants, and increasingly we are seeing the preferred option being Tenants in Common. The difference being that as Beneficial Joint Tenants when one of you dies the property passes by survivorship regardless of your Will, and as Tenants in Common your share of the house will pass under your Will. This can be useful for tax planning purposes, and more importantly in this context for protecting some of the value of your home.

You would leave a life interest in your share of the property to your spouse, and after your death, if your spouse needs nursing home care, only the value of their share of the property can be taken account of – and even that value can sometimes be questioned.

The value of your home would also be disregarded if your stay in a home is considered temporary, or for the first 12 weeks of your permanent stay.

Simply giving your home outright to your children would not work as the local authority would see that as a device to avoid home fees and charge you as if you still owned the property. It is also very risky should any of your children encounter matrimonial problems or be declared bankrupt. For those reasons alone we feel that it is simply not worth the risk.

If you have very complex care needs, then the NHS should pay for "fully funded care" – but arguing this point can be extremely difficult and time consuming.

Ensure that you claim all the benefits that you are entitled to, such as Attendance Allowance and make sure that you have a Registered Nurse Care Assessment when you enter the home, as the government will pay a Registered Nurse Care Contribution directly to the home to help with your care.

If you do have to resort to using some of the capital to pay for your care you may qualify for a deferred payment scheme, which acts in a similar way to a mortgage. A charge is taken upon your home and your fees are paid back on your death from the proceeds of sale of the home.

Think very carefully before taking up an Equity Release Scheme, for, if you do, the money released from the capital tied up in your home would be used to pay for your home fees before you receive state benefit. If you had not released the capital then you may have qualified for benefits far earlier.

If you would like to discuss the issues raised in this article in more detail please contact our Probate and Wills Department.

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