

# Long-Term Health Care

Many people are concerned that if they eventually need residential healthcare then their property will be sold to pay for their care. This guide aims to give information & set out ways in which County Wills can help.

## IMPORTANT!

- This Guide is for information only. It is not intended to be a complete statement of the law.
- Nothing in this Guide should be interpreted as suggesting or encouraging any course of action that is or may be unlawful.
- There are no 'foolproof' measures to prevent your assets being used to pay for your residential healthcare. Local Authorities have considerable powers to prevent people avoiding care costs. These measures change from time to time & it is unclear how far Local Authorities will go to pursue contributions they believe are owing to them.

## You need Residential Healthcare - Who pays the fees?

- If you have more than ~£20,000 worth of money & things you own - your assets- then you pay all the fees.
- If you have less than ~£20,000 worth of assets & your Local Authority has assessed your medical needs & consider that you need residential healthcare then your Local Authority will pay on a sliding scale from nothing, if your assets are above ~£20,000, to full payment if your assets are less than £10,000. You have to pay any balance. If the Local Authority pays all of the costs they may only pay for a basic level of care e.g. in a shared room in a home of its choice.
- Your husband/wife may be asked to contribute towards the costs depending on their circumstances.
- The Local Authority CANNOT force you to sell any of your assets including your home to pay your share of the costs.

## What is not included in 'your assets'?

- Your home PROVIDING your partner, a relative who is under 16, over the age of 60 or is incapacitated or someone else dependant on you continues to live in it.
- Your personal effects.

## What you CANNOT do?

- Conceal assets you own.
- Fail to co-operate with your Local Authority.

# What should you do?

## Put your affairs in order

These days our affairs can be complicated even when we do not think of ourselves as wealthy. So it makes sense to make a record of your personal assets & liabilities & keep the lists up to date to help your family & executors.

## Joint Assets

If you have joint assets, such as joint bank accounts, you should consider opening separate accounts. If one of you needs residential health care the person in care will be assessed as owning half of what is in the joint account. If the accounts are separate, the person in care will be assessed as owning only what in their own account.

## Give assets away

Generally, you can give away anything you own at any time, but then you lose control of it. If you give your house away to your children & then fall out they may try to make you leave the house.

HOWEVER, if the Local Authority can convince a Court that you gave assets away specifically to avoid paying for your residential care then they can 'claw back' what you gave away. There is no time limit, but, the more time that passes between giving the assets away & going into residential care the better the chance that the Local Authority will not try to recover the asset.

Gifting substantial assets should be done formally; for land & property, this is a legal requirement.

## Make a will

Most people agree that a Will is important & necessary to make sure that what you own is given to those people you chose after you die. A properly written will can minimise the financial effects of either you or your partner needing residential healthcare after the first death.

## Make a Lasting Power of Attorney

A Lasting Power of Attorney lets you nominate a person or people to look after your financial affair and make decision about you personally in case at some future time you are unable to look after them yourself. A Lasting Power of Attorney is a sensible precaution at any age but is particularly relevant if you are of advanced years, are in business or if you intend spending time abroad.

## Your Home

Your home is usually the single most valuable asset you have. It is usually our home that we expect to be able to pass on when we die. There are two differing ways in which most of us own our homes: -

**Joint Ownership** - on the death of one of you the whole property automatically passes to the survivor REGARDLESS of what your Will says

**Tenants in Common** - each of you owns half of the property & may do whatever you want with your half in your Will or earlier.

If your home is jointly owned it may be sensible to change to tenants in common; 'severing the joint tenancy' as it is called:

You may think of giving your home to your relatives during your lifetime. It is important that you have advice on the pros & cons of doing this.

The following things need to be thought about: -

- The Local Authority under the anti-avoidance measures may still take the value of your home into account.
- You need to be sure that you will always be able to live in the home.
- The person you give your home to may die without making provision for you to keep on living in the home.
- The person you give your home to may suffer bankruptcy or divorce & you may be forced out of the home.
- There may be Inheritance Tax and Capital Gains Tax implications
- The person you give your home to may lose entitlement to benefits or services by owning property that they do not live in.

Renting your home may provide enough income to pay your share of any care costs.

If family members live with you including their name on the title deeds or making them tenants formally establishes their rights to live in the property & reduces the value of the property to you should you need residential healthcare.

## Your Business

The Local Authority will take any business interest into account if you have to go into residential care. This includes business as a sole trader, a partner, or a shareholder. This can be difficult as a sole trader but could be catastrophic for a partnership. 'Keyman' & 'Partnership/Shareholder' protection insurance can help ensure the financial viability of the business in difficult circumstances. If you are in business & trading as a partnership then you need a Partnership Agreement to make sure that the Partners have thought about & agreed all the important aspects of their relationship. In addition, a Partnership Agreement may be able to help prevent your business from being counted as part of your assets.

## Inheritance

Anything inherited before or after you go into residential care will be taken into account. It may be wise to ask anyone considering leaving anything to you to amend their Will or to leave the assets in trust.

## Insurances

Any insurance you may have on your life will not be counted as your asset. But after your death the proceeds may be counted as your partner's asset. Consider writing insurances in trust; perhaps for your children.

## Healthcare Insurance Plans

An insurance-based healthcare payment plan can be used to provide the money needed should you need residential healthcare without using up your own assets.

## Pensions

Any pension income you receive will be counted as yours. It may be possible to take a different option when taking pension benefits that will have different effects on your liability to pay for your own or your partners' residential healthcare costs. Advice can be sought from your financial advisor & from the trustees of your pension scheme.

## Trusts

You should consider setting up a trust for a person requiring residential care, which would start from your own death, & last for the cared person's lifetime. This could allow some benefit to go to the cared person without any danger of the assets in the trust being used to fund the healthcare.

**IF YOU HAVE ANY QUESTIONS OR PROBLEMS PLEASE CONTACT US**