



We are often asked to advise clients, or their families, on ways of protecting their assets if they were to go into a residential or nursing home. Over forty thousand homes are sold every year to pay for care and quite often it is the family home which is the main asset. The average cost of nursing care is £500 per week (£26,000 per annum). If you need care and have assets worth more than £21,000 you will be expected to pay your fees until such time as your capital falls below £21,000, after which the Local Authority would then contribute. Once capital drops below £12,750 they will

then pay your fees in full, but you will have to use your income towards those fees. Therefore, people requiring care have to look to their assets for funding and more often than not this is the family home.

Local Authorities have the power to find out whether you have deprived yourself of capital to avoid paying care fees. If they find that this was the intention they can (within six months from the date care began) claim any money they have paid back from the person receiving the care or from the person to whom the property was transferred. If it is that there is somebody else living in the property, either the spouse or a relative over the age of sixty years or who is incapacitated then the house can not be sold, but the Local Authority will place a charge on it and recover funds on sale.

mfg Solicitors LLP have been drawing up life interest trusts under these circumstances since the introduction of these draconian powers almost twenty years ago. In their simplest form they involve the transfer of your property to your chosen Trustees upon trusts providing you with the right to reside in that property (or subsequent properties) for the rest of your life. The property can only be sold with your consent and the proceeds can either be reinvested into another property or alternatively invested to produce an income if it were that you had to go into residential care. The capital would always remain fully protected. On your death the property would then pass to the beneficiaries who you appoint under the trust.

There are certain tax considerations that need to be taken into account. If you are a single person the scheme will work if the value of your property does not exceed £312,000. In the case of couples the figure is £624,000. There are certain formalities that need to be dealt with so far as H.M. Revenue and Customs are concerned which mfg will deal as part of the matter.

mfg have drawn up hundreds of these trusts and in many instances a client has had to go into a nursing home but not had any problems with the Local Authority trying to claim that the client had been "asset stripping". Onus is placed on the Local Authority to prove that the client has ridded themselves of the assets, but there are very many reasons why the trust would have been set up in the first place.

For more details, or to arrange an appointment
please contact mfg Solicitors LLP Trusts Department on
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