



Great Britain has an ageing population. Despite this many people do not seek professional advice on what is probably one of the largest financial commitments they make – paying for long term care.

The means assessment

When a person moves into a care home they have a financial assessment, known as a “means test”. This was introduced by The National Assistance Act 1948. The test is carried out by the Local Authority (LA) as they are the body who are responsible for assessing a person’s capital for the payment of care home fees.

The financial limits for the means test are set down in the Charging for Residential Accommodation Guide (CRAG) which is updated annually. If you have capital of less than £14,250, the LA will make their maximum contribution. If you are in a private home and your capital falls below this limit, the maximum may not cover all of your fees and your family or another source may need to pay a top-up or alternatively you may be required to move into a different home.

If you have capital over £23,250 you are responsible for funding your own care.

If you have capital in between these two limits the financial assistance will be provided by the LA on a sliding scale, depending on the value of your capital. The Department for Work and Pensions (DWP) may also be able to assist.

Those who pay for their own care will spend at least £20,000 per annum in funding this.

What is classed as Capital?

Capital includes money, most types of investment and in some circumstances the value of your property. Your home is disregarded for the first 12-weeks of a permanent stay in a care home. The home will also be exempt indefinitely if it is occupied by:-

- a spouse or registered civil partner (former

or current);

- a relative who is either 60 or over; or
- a child under 16 who the resident is liable to maintain; or
- a relative who is incapacitated

The LA have a discretion to disregard the property in other circumstances and often a legal advisor is able to assist in persuading the Local Authority that they should use this discretion.

Joint bank accounts and other joint assets will be taken into consideration and the basic rule is that 50% of the asset is valued unless proof is available to dispute this.

Jointly owned property can be slightly more problematic and advice should be taken from a professional. The CRAG report deals with the valuation of a portion of a property as opposed to a whole and this is by no means straightforward.

For example, A and B own a property worth £150,000. A and B own 50% each. A goes into care and B does not fulfil any of the criteria to enable the house to be exempt as capital. The value of A’s half share, on paper, looks to be £75,000. However, the LA can only take account of the market value of the half share. 50% of the property is worth substantially less than £75,000 as there is little value for a half share without the other half. As a result, the value will be substantially less and, in some cases, may be zero.

Deprivation of assets

When making an assessment the LA will look closely at a person’s assets and what they have done with those assets in previous years. There is no time limit as to how many years a Local Authority can look back. They are, in essence, looking for evidence of whether or not the person being assessed has deliberately given away their assets in advance with the intention of avoiding care home fees. This is known as deliberate deprivation – you have deliberately taken action to deprive the Local Authority of being able to use your assets for the provision of care. If the LA find evidence

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of deliberate deprivation they will seek to redress the situation and will deem that the resident, for the purposes of their assessment, is still deemed to own the capital.

Can I do anything to plan for care home fees?

The simple answer is yes – the choices are a little more complex. It is important to note the key ideas raised in this section will not be beneficial for planning for Inheritance Tax.

Gifts in lifetime

Making gifts in lifetime is an option and there are numerous possibilities, depending on the nature of the gift. Specialist advice should be taken.

Gifts through wills

New wills may assist where a husband and wife do not leave all of the matrimonial home to each other. The wills could be redrafted to include an arrangement whereby the deceased spouse's share passes to trustees to then allow the surviving spouse to reside in the whole property for the rest of their life without paying any rent but being fully responsible for all outgoings. This arrangement can be flexible in allowing the survivor to move home and provisions can be put in place so that if the property is sold, the proceeds are then passed outright to the beneficiaries or, in the alternative, invested with an income paid to the survivor until they pass away.

This type of arrangement protects the deceased spouse's half share of the property for care home fees and preserves this for the ultimate beneficiaries. There are other options available such as setting up a trust relating to all of the assets of the deceased spouse through their will as opposed to just the matrimonial home.

How can Hegarty LLP assist?

We are able to talk you through the minefield and provide you with clear and precise options. We can assist with NHS Continuing Care and Registered Nursing Care Contribution documentation to guide you through the process. We can help with funding issues and provide practical advice in plain English. Furthermore, we can deal with trusts, wills, property transfers and discuss any other available options to you.

Why use Hegarty LLP?

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