

## WHAT IS A PROPERTY WILL TRUST?

How can I stop my property from being used to fund my care?



## PROTECTING THE FAMILY HOME

Many people face the prospect of having to sell their family home to pay for the cost of care if they need to move into a care home. Under the current system, anyone who requires care must pay all the fees out of their own funds unless they qualify for state support. This could mean that you will not be able to leave your property to your children, as you always intended. This system has been criticised for seemingly penalising those who have saved for their old age.

Making an outright gift of the family home to your children now is, for many reasons, almost always against our advice. Consider, for example, how the security which you currently enjoy could be under threat if you have given your home to your children and they perhaps get into financial difficulty, become involved in divorce proceedings or die before you. Also, what would happen if you simply fell out with them?

Even if none of these things occur, if you go into care and have given away your home, local authorities can, and often do, investigate the circumstances surrounding a gift of property in this way. If a local authority is satisfied that your property was given away primarily to avoid paying care home fees, they may include the value of it as part of the assessment that is carried out when calculating the fees you will be required to pay. Challenging this decision is difficult, stressful and usually expensive. It doesn't matter how long ago a gift of property was made, there is no time limit that

prevents the local authorities from arguing there was a link between a gift and the intention to avoid paying care home fees.

A better idea for anyone with property is to plan in advance and have a well drafted Will which puts shares in the family home into trust. With a Property Will trust, you can ensure that, on your death, your share of the family home will be secure for your partner for their lifetime, but will ultimately pass to your chosen beneficiaries, such as your children. This arrangement is sufficiently flexible to allow your partner to move to a new property if they wish, perhaps to downsize. If they do require residential care after you are gone, it is only their share which will be included in the funding assessment.

As well as having appropriate Wills in place, you also need to own your property jointly, as **tenants in common**. This is the type of joint ownership which allows you to direct what happens to your share in your Will and is required for your Property Will Trust to have the desired effect. Quite often, a couple will own their property jointly as **joint tenants**, which simply means that the share of a property owned by a person who dies, automatically passes to the surviving joint owner. Changing your joint ownership is a straightforward process if necessary.

A Property Will trust can also be useful in the context of second marriages, step-children and where there may be concerns that your partner could remarry after your death. You are able to appoint your partner and your children as the Trustees of your Will if you wish or you can appoint professional Trustees such as ourselves if you prefer the independence and experience we can offer.

**Please call us to arrange an appointment to discuss how this arrangement can benefit you and your family.**



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