PSA (Financial Services) Ltd

Independent Financial Advisers

August 2020 Newsletter SPECIAL

Financial Care

Wills · Trusts · Pensions · Powers of Attorney · Probate · Equity Release & More

With contributions from:

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Okay, Grandma is going into care — Now what?

A couple of years ago, I was giving a talk at our local community centre to a group of around 150 citizens of Blaby, Leicestershire. The main thing these people had in common was that they were all retired with the majority being in their 70s and 80s.

During the presentation, I asked a question — “**Statistics tell us that between a quarter and a third of the people in this room will end up going into care. Who here thinks they will be the ones this happens to? Hands up if it is going to be you”.** Nobody put their hands up as they looked around the room. Then everybody started to laugh. The joke is that it’s going to be you, not me, that it happens to!

Clive Langley
Independent Financial Advisor

We are all in denial that we are getting older, however the fact remains that every year something like 100,000 elderly people decide that the time has come to move into residential care or maybe into some type of sheltered housing facility. The average stay in a care home is around 4 years, this means around 400,000 are in care at any one time with millions more at home being cared for by relatives.

What are the Costs of Care?

It is said that the most expensive thing you will ever do is grow old. **Care can cost at least £600 per week** with prices rising to maybe twice that for a really good quality care home or for somebody with a high level of need (an example of this is Dementia or Parkinson’s). Prices in the south of England are the highest with costs, in general, reducing the further north you go.

What are the Costs of Care? Continued below...

What are the Costs of Care? — Continued

The cost of placing Grandma or Grandpa in care can come as a tremendous shock to families of the elderly person. **Many people assume, wrongly, that the government will pay all the costs of care. Others assume that they will have to pay for everything.**

Elderly care, both at home and in a care home is covered by the 2014 Care Act which came into force in 2015. This is a very complicated piece of legislation that runs to over 200 pages and covers, among other things, who pays for care provision.

In short, if you have more than £23,250 in assets, you'll be expected to pay the full cost of care yourself.

Assets include your home (even if you have a mortgage on it), any savings in Banks, Building Societies, National Savings or cash. Interestingly, money held on deposit with Insurance Companies (for example, Legal and General, Aviva , Prudential) are excluded from the means tested assessment provided they are invested in contracts that have a small amount of insurance included in the contract. Such products include Investment Bonds which have been popular for many years in the UK.

To put it bluntly, many people who have worked all their lives may find that the house they have worked for all their lives, together with the savings accumulated over a lifetime, may well find they get to pass very little of their assets to family members when they die.

Will family members need to pay for the care?

You continue to pay towards your care until your savings fall below £14,250, at which time the local authority have an obligation to pay towards the care. When a person enters care, the local authority will carry out a care assessment to find out if the person needs to pay. They may also approach family members, so called "Third Party Top Up's", to try and persuade them to agree to pay for care. Please note, **you are under no obligation to pay for an elderly relative's care, even if that relative is your husband or wife.** Local authorities sometimes are very assertive when asking for a third-party top-up but you should under no circumstances sign any agreement to pay without getting professional advice first.

To talk more about the costs of care, contact Clive Langley at PSA (Financial Services) Ltd. on **07826748824** or by email at **clangley@psafinancial.co.uk**

What is Probate and do I need it?

Probate may be required when a loved one dies. **Probate is legal confirmation that you have authority to administer a deceased's person's property, money and possessions (their 'estate').** If the person left a Will, you apply for a grant of probate, and you are known as an executor. If the person didn't leave a Will you apply for letters of administration, and you are known as an administrator.

Executors and Administrators then use the grant of probate or letters of administration to gather all assets, pay any costs (such as property expenses, paying-off credit cards etc) and then distributing the remainder of the estate to beneficiaries. This is commonly known as 'estate administration'.

How long does it take?

It takes **approximately three months** to obtain probate, but it can take longer. This is because you need to calculate the size and value of an estate before you can apply for probate. For example, you'd need to know the value of any property, money held in bank and building society accounts, and personal possessions. Gathering and correctly valuing these items can be time-consuming and may require expert advice.

In some cases, depending on the size of an estate, Inheritance Tax may need to be paid. This must be done before probate is granted.

At Leicester Probate we provide **a specialist probate and estate administration service** allowing you peace of mind knowing that the assets of your loved-one have been handled in the most efficient way.

What is needed to obtain a grant of probate?

- The original Will (if there is one);
- An original death certificate;
- A legal declaration;
- Payment of a probate application fee;
- Inheritance Tax declaration form (and payment of Inheritance Tax, if applicable)

Find out more

www.gov.uk/applying-for-probate

www.moneyadviceservice.org.uk/en/articles/sorting-out-the-estate-when-there-is-a-will

www.moneyadviceservice.org.uk/en/articles/sorting-out-the-estate-when-there-isnt-a-will

What is a Will?

A Will is a written, legal document that expresses your desires and wishes to be followed when you die.

What are the key persons required for a Will?

- **Executors.** The executor's role is to administer your estate, in accordance with the wishes expressed in your Will. The executor's role begins as soon as you die. The executors may have to apply for a grant of probate.
- **Trustees.** If you set up a Trust in your Will, for example, for the benefit of a family member, then in your Will you will name your choice of Trustees. This is often the same people as the executors.
- **Beneficiaries.** This is the person or group of people who will benefit from the assets in your estate. You can give specific gifts in your Will, such as money, jewellery or property. You can also make general gifts, such as a gift of all or a percentage of your estate, to one or more people. You can also make gifts to charities.
- **Witnesses to your Will.** You must sign your Will in the presence of two witnesses, who must also sign the Will at the same time.

How long does a Will last?

A Will remains valid to the **date of your death**, unless it is revoked by you before you die. A Will can only be revoked in writing. If you make a new Will, it should include a written revocation of any earlier Wills.

Can I challenge the validity or interpretation of a Will?

Yes, the validity and interpretation of a Will can be challenged at Court. The most likely challenge could come from a family member who expected to receive a gift from you, but did not.

Do I have to make a Will?

No. There is no legal requirement to make a Will. However, if you do not make a Will, assets in your estate will pass to people according to the "Rules of Intestacy", which may be contrary to your wishes.

What is a Trust?

A Trust is a legal way of holding and protecting an asset for the benefit of another person without gifting it directly to them. Trusts are commonly created during an individual's lifetime (such as placing money into a trust bank account for a grandchild) or through a Will.

Trusts can have complicated language associated with them, including "settlor" (the person placing an asset into a trust), "interest in possession" (where the person making the trust retains some control over the trust assets) and "Trustees" (the people who administer the Trust, similar to executors in a Will).

Why would I make a Trust?

You may have assets you want to **gift to a friend or loved-one**, but gifting the asset directly to them immediately may not be appropriate. The person may be too young, may have physical or mental disability, or other circumstances, which mean receiving a gift from you is not suitable.

A Trust allows you to gift the asset to them, with rules and timings about when and how they may eventually receive the gift. Whilst the asset is held in Trust, the Trustees take charge of the asset and ensure its protection.

Trusts also have other side benefits including potential tax savings and avoidance of probate.

Can I change my mind after putting assets into Trust?

Yes, the power to "revoke" a Trust can be included at the time a Trust is created. You can also include powers to replace Trustees and Beneficiaries.

Is there anything else I should know about Trusts?

A significant factor to consider when making a Trust is tax! On creation and throughout the existence of a Trust, there may be **a variety of tax consequences** – both for the individual creating the Trust, and the Trustees. For this reason, specialist legal and tax advice should be sought before creating a Trust.

What is a Power of Attorney?

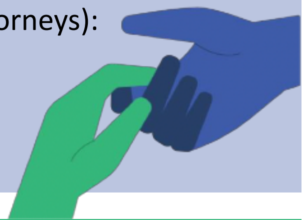
A Lasting Power of Attorney (known as a "Power of Attorney" or "LPA") is a legal document which allows you (the donor) to give authority to others (your attorneys) to act on your behalf.

Powers of Attorney are registered with the Office of the Public Guardian and, once registered come into effect, and continue even if or when you lose your mental capacity.

There are two distinct Powers of Attorney (each containing various areas you can grant/restrict the authority given to your attorneys):

1. Property and Financial Affairs

2. Health and Welfare



Do I need a Power of Attorney?

Some events in life leave us unable to take care of our own affairs. Physical or mental incapacity may mean you are temporarily or permanently unable to take care of important tasks relating to your property and financial affairs, or your health and welfare.

Creating a Power of Attorney must be done at a time when you have mental capacity and fully understand the consequences. A designated professional is required to counter-sign the Power of Attorney to confirm your mental capacity before the Power can be registered.

What if a relative doesn't have a Power of Attorney, can I still act on their behalf?

If there is no Power of Attorney and significant decisions need to be made, **an application can be made** to the Office of the Public Guardian to request the appointment of a trusted person to act as a "Deputy" on behalf of another.

This can be a long, detailed and expensive process – which often leads to very limited powers being granted to the Deputy, unlike a Power of Attorney which has very wide-ranging authority.

How can Leicester Probate help me?

At Leicester Probate we provide **specialist services in Wills, Trusts and Powers of Attorney & More.** We'll meet with you, either in your home or at our office, and discuss your circumstances, to ensure the Will, Trust or Power of Attorney is specific to your requirements.

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Find out more:

Wills

www.gov.uk/make-will

www.moneyadviceservice.org.uk/en/articles/why-you-should-make-a-will

Trusts

www.gov.uk/trusts-taxes

www.moneyadviceservice.org.uk/en/articles/setting-up-a-trust

Power of Attorney

www.gov.uk/power-of-attorney

www.moneyadviceservice.org.uk/en/articles/setting-up-a-power-of-attorney

What is Equity Release?

You have probably seen adverts on the TV recently on the subject of Equity Release. The adverts seem very attractive, so the question is, is this something I should consider as part of my retirement (and possible Care plan)?

Equity release is a type of mortgage, aimed at people aged over 55. The basic idea behind it is making money available to clients in retirement where any repayment of the loan is either delayed until after the client has died or has gone into care. The interest on the loan can either be rolled up into the loan or can be paid on an interest only basis.

Here is an example of how it works — Terry is aged 78 and is a widower. He owns a home worth £200,000 and has no mortgage on his home. His only daughter lives in Australia and there are no other family members close by who can help him. He is on a fixed income and finds that he now needs to buy in care to help him live independently. He decides to release £20,000 from the value of his home through equity release from a lender, the interest rate on the loan is 2.6% fixed for life and the interest will be rolled up. After 10 years, Terry dies and the loan gets repaid, the value of which has now risen to £30,000. His home is sold for £250,000, the net proceeds of the sale (£220,000) goes to his daughter.

These type of loans have a **guarantee that you can always remain in your home for the rest of your life** and they can be a good option for many people. However, as always you should seek professional advice from a suitably qualified adviser before taking out any loan.

The money from the loan can be used for any purpose. For example, you may wish to buy a holiday home, a motorhome or a vacation. It can also be used to pay off an existing mortgage and can be used for house purchase. Another advantage is that, unlike conventional mortgages, you do not have to prove income.

The downside is that it is a loan and **will need repaying at some point.** It will also affect the amount of inheritance you may leave to your beneficiaries. Your home may be at risk if you do not meet any loan repayments secured on the property.

The Deferred Payment System — How does it work?

The Deferred Payment Scheme is one way in which a person may be able to avoid having to sell their home in their lifetime in order to pay for their care. Effectively this a legal charge on the property in the same way as a mortgage is.

Under the scheme, a person can delay the point in time at which they pay for their care. The local authority will pay all or some of the costs on a person's behalf, and the person then repays the Council at a subsequent point in time.

The scheme is not available to everyone. In order to be eligible, a person must meet all 3 of the following criteria:

i) The applicant must have eligible needs that are being met in a care home. These are needs that the Council would meet in a care home setting were it not for a person's income or asset wealth;

ii) The applicant must have less than or equal to £23,250 in assets (for 2015/16), excluding the value of their home. This will be maintained in line with the upper capital limit;

iii) The applicant's home must be taken into account for the purposes of the financial means-test. Where a person's home is disregarded, for example where a spouse or dependent relative continues to live there, they will not be eligible to join the scheme.

What are the charges?

An administration charge is payable when a person applies to join the Deferred Payment Scheme. This is a one-off charge (a fee) to cover the cost to the Council of setting a person up on the scheme. This includes, for example, the cost of registering a charge with the Land Registry. The one-off administration charge is reviewed annually. The current charge is listed in the schedule of charges available on the Council website.

A person may choose to add this charge to the amount being deferred, and interest will be charged on this. Interest is charged on all amounts that are deferred, until the point at which they are repaid. The interest rate will be equal to the market gilts rate (the rate the government borrows money at) specified in the most recently published report by the Office of Budget responsibility (currently 1.65%), plus 0.15%. The rate of interest will normally change on a 6-monthly basis (in January and June each year). The current rate of interest is listed in the schedule of charges available on the Council website.

While this may be a good scheme for some, remember you are dealing with a local authority and these are not always the most "user friendly" people to deal with. The home will have to be sold once the person has died but it does have the advantage that the property can be rented out to produce an income which can defray the care costs in part. To set up a scheme, the applicant has to pay application, set up costs and valuation fees (£601), there is also an annual fee of £95 and a closure fee if £203 when the property is eventually sold. In addition, a new valuation is needed every 2 years costing £150.

For more details, contact Clive Langley at PSA Financial on **07826748824** or by email at **clangley@psafinancial.co.uk**

Pension Options — Pros and Cons

When considering retirement options, **choosing the right pension option for your circumstances is very important,** especially when it comes to potentially funding care. Set out below are some of the advantages and disadvantages of the options available.

Drawdown Advantages

+ Flexibility and choice
Allows you to retain control over your pension fund and how it is invested. It also lets you access your fund as and when you need to, varying your income to suit your requirements as they change over time.

A secure income can still be obtained at any point by using whatever remains of your pension fund (although fluctuating fund values and annuity rates mean this may not be as much as if you had bought one at outset).

+ Greater tax efficiency
Gives you control over the level of income you take from your pension fund each year. This means you have a better chance of limiting the tax you pay on your retirement income.

+ Passing on wealth
One of the most tax-efficient ways to pass wealth down through your family.

If you die before the age of 75, whatever remains of your pension assets can be passed to your beneficiaries free of tax.

If you die after age 75, your beneficiaries will be liable to income tax at their marginal rate on anything you might leave them.

Drawdown Disadvantages

— Unsustainability of income/ running out of money
If income is taken at an unsustainable level, even reducing the amount being drawn may not be enough to prevent your fund running out completely.

Drawdown income comes from a finite pension fund, and when that's gone it's gone, making it vital to plan carefully.

— Greater responsibility
Transfers the risks of delivering an income in retirement directly on to your shoulders. You must choose where and how your pension fund is invested, and how much to draw out each year. If you make the wrong choices your pension fund could shrink too fast and will run out too soon.

— Market fluctuations
Your fund remains invested in assets than can go both up and down in value.

Annuity Advantages

+ Guaranteed
Provides a set amount of income that will be paid every year, or every month come what may.

+ Income for Life
This income will continue to be paid as long as you live, whether you live till age 66 or 166.

+ Options
You can choose for your income to continue at the same or a reduced rate to your surviving spouse or partner on your death, or paid in full for a minimum period of time regardless of how long you live.

You can opt for your income to increase annually, meaning its buying power is protected from the effects of inflation.

All these options have a cost and will reduce the initial income amount.

Annuity Disadvantages

— Inflexible
Normally once you have chosen your options and your annuity is set up, you cannot change anything about it, even if your circumstances change.

— Illiquid
You cannot cash in your annuity – it will never acquire a value.

— Usually cease on death
Most annuities stop paying once you pass away, and don't leave any legacy for your family. Options can be selected to provide death benefits, but these will reduce the initial income available.

Both methods of taking retirement income involve making a number of different choices, and with a potentially bewildering number of options available, taking financial advice can help make sense of these, make informed decisions and provide a solution that is best for you.

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Accessing care 'needs' and 'financial' assessments from your Local Authority

The Care Act 2014 which came into force with effect from April 2015 provides the legal framework for how Local Authorities in England identify, meet and contribute towards the care needs (and costs) of adult social care. The act sets out the process that the assessment must follow and the minimum threshold of need that the local authority should support. **If a person needs help and support with everyday tasks (like cooking, washing, or dressing), their local authority has a legal duty to carry out a care 'needs' assessment to find out what and how much help they need.** At the same time, it gives the person the opportunity to explain what care and support they feel they need to make their life easier and to enable them to live as independently as possible.

Anyone can request an assessment regardless of their income and savings, or whatever their needs are. There is no charge for it. People who are caring for someone with needs are also entitled to their own carer's assessment. Local authorities have their own assessment procedures, but they follow national criteria to decide who is eligible for care and support. A local authority cannot legally provide nursing care (this is the responsibility of the NHS). However, a care needs assessment should involve local authorities and the NHS working together to identify if someone in need of care has health-care needs as well as or instead of social care needs.

What happens after a care 'needs' assessment?

Following a needs assessment, a financial assessment is then carried out to establish the extent to which a local authority will pay for some or all of an individual's eligible social care needs. If their income and capital are above a certain amount (£23,250 in England at the time of writing), they will have to meet the full cost of their own care and are considered 'self-funders'. Only when an eligible care need has been assessed can a financial assessment be used to determine any personal contribution, however in some cases it is possible to perform a 'light touch' financial assessment where it's clear someone's capital is above the £23,250 threshold. When the value of an individual's savings and capital assets is between £14,250 and £23,250, their income will be assessed at this point and for every £250 of savings and capital they possess above the £14,250 limit, they will be regarded as having £1 per week of additional 'notional' income. Once their eligible income and this notional income is combined, the local authority will be able to work out how much the person should contribute towards the cost of their care.

What is included in a financial assessment?

A Financial Assessment Officer from the local authority will assess an individual's:

- Income (other than any employed or self-employed earnings)
- Pensions
- Benefits (including Attendance Allowance or PIP)
- Savings and investments
- Property (including overseas property)
- Business assets

Personal possessions or any life insurance policies are excluded but benefits that the person is entitled to will typically be included.

If care is needed in order for the individual to stay in their own home, the means test won't include the value of the main or sole residential property. If, on the other hand, the person is moving permanently into a care home, the means test will usually include the value of their property, subject to any property disregards (for example, jointly owned property is disregarded from the financial assessment for as long as a partner remains living in it after someone has moved into residential care).

Getting the results of a financial assessment

The local authority will write to the individual or their legal representative about how much their care will cost and the amount they must pay towards this. The local authority must regularly reassess the person's finances, usually once a year.

Help is at Hand

Jacqueline Berry
Managing Director

My Care Consultant (MCC) operates a nationwide care navigation service for people in need of care, their families, professional and legal representatives to help them navigate their care journey, and they offer an entirely free, no obligation 15-minute telephone chat about your concerns. If your questions are straightforward, they'll be able to help you right away. If your situation is more complicated, they'll be able to give you some on the spot guidance and explain how their fee-based services can help people in your situation to receive the care they need and deserve.

To contact MCC to arrange your free, initial 15-minute telephone consultation,
email: ask@mycareconsultant.co.uk or
telephone: (0)20 3290 3110 and one of their friendly team will help.