

PROFESSIONAL NEWSLETTER – ISSUE 4

CARE HOME FEES - THE VALUE OF SPECIALIST ADVICE

Advising on long-term care, and in particular, asset protection and funding care, is a specialist discipline and should be the domain of solicitors who have the expertise and access to broader advice applicable to elder clients, and it is difficult to see how a solicitor can give rounded advice without incorporating advice on financial services. Unless the solicitor is directly authorised by the Financial Services Authority to give advice, the client will have to be referred to an independent financial planner. Long-term care is a specialist area of financial planning and solicitors should work with planners who are qualified in this field.

Solicitors acting as attorneys under an enduring/lasting powers of attorney or deputies under an order of the Court of Protection, who fail to take appropriate financial advice on funding long-term care at the appropriate time may find themselves on the wrong side of a negligence claim. The problem may also be compounded if a poorly drafted letter of retainer has been used during the advice process.

Risk can be minimised by adopting a basic practice policy; “share the indemnity”. Instruct a specialist IFA to work with you as soon as you receive instructions to ensure that all avenues have been explored when giving your advice.

Most people would prefer to stay in their own homes for as long as practically possible, and this can often be achieved by adapting the home and employing carers. However, the cost of adaptation and funding care can be prohibitive, particularly if there are limited grants and local authority funding available. The average cost of providing care at home is £14 per hour. A specialist IFA has the expertise in advising on grants and welfare benefits, and sourcing other funding, for example, through an equity release scheme to fund the adaptation of the property and paying for domiciliary care.

Generally people do not fully comprehend the cost of moving permanently into care and it being one of the largest financial burdens they will have to deal with. The average cost of accommodation in a care home is £464 a week (£24,128 a year), although this can rise to over £800 (£41,600) depending on the location and type of care home chosen. In these circumstances, the cost of residing in a care home for four years could be between £96,512 and £166,400.

A specialist planner will have detailed knowledge of the local authority’s charging regime, and would look at all available sources of funding including maximising income through welfare benefits and a change in an investment strategy, equity release, selling the family home and the possible purchase of dedicated care payment plans.

Difficulties can arise where there are problems in selling the family home due to its location, state of repair or market conditions at a time of slow sales and falling prices. During the past few years, niche companies have emerged enabling homeowners, or their attorney or deputy, to sell their home immediately or raise a loan against it to release capital to fund the cost of accommodation in a care home of their choice. At this stage in the planning it may also be possible to take out a care fees payment policy to cover the care costs for the client’s life with the remainder of the capital being immediately gifted to children or other beneficiaries without invoking the deprivation rules in Regulation 25 of the National Assistance (Assessment of Resources) Regulations

1992 should the client in the future apply to the local authority for financial assistance towards the cost of care.

Example

Edith is aged 86 and has been admitted permanently into a care home. She is in receipt of a state retirement pension and attendance allowance. Both Edith and her late husband had been married before and had children from their previous marriages. Her late husband made a will incorporating a nil-rate band discretionary trust with the aim of benefiting his children from a previous marriage. Edith's home is a run down former small holding, however, due to its size and location it has been valued at £820,000. The property is held as tenants in common and is registered at the Land Registry in the names of Edith and the executors to her late husband's Will. Edith has moved into a care home to be with one of her close friends. She is anxious that the property is sold quickly to avoid further difficulties arising with it being empty. She also wishes to make payment to her late husband's children as one of them is facing financial difficulties.

Edith's solicitor recommended a specialist planner who sourced a company that would buy the property from her immediately. One half of the proceeds of sale went into the discretionary trust with the trustees making payment out to Edith's late husband's children. With the remainder, Edith purchased a care fees payment policy to cover the cost of her care for the rest of her life and the remainder was given to her son and grandchildren.

The specialist companies offering this scheme will buy the property for a discounted price, typically 80-90% of the market value. Money may also be released as soon as contracts have been exchanged to meet immediate needs, rather than having to wait until the transaction has been completed.

Although the property is purchased at a discount and the client will no longer share in its future growth in value, the advantages include:

- Having access to funds within a short time (usually within 3-4 weeks).
- Arranging an immediate sale without the fear of the property value falling in uncertain economic times.
- No estate agents fees to pay (usually 1.5% +Vat).
- Not having to pay for a Home Information Pack (usually between £300-£500).
- Some companies will contribute towards legal costs (Typically £500)
- No more outgoings, including council tax, insurance premiums and utility bills, to pay.
- Not having the worry of leaving the property empty.

With other schemes, the provider will give bridging loan facilities secured against the property, to enable capital to be release until the property is sold. This facility is particularly useful to pay for care home fees on a monthly basis or as a lump sum to pay for a care fees payment plan.

Symponia

I am your local Symponia member - Symponia is a national network of independent financial advisers and planners with expertise in elder client issues, including investments, care fees planning, equity release and mitigating inheritance tax.

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Next newsletter: August 2009 - Government's Green Paper on Long Term Care
