The Home Protection Plan

Although nobody likes to think about care homes when they are starting out in retirement, that is exactly the time when a little careful planning can prevent a lot of worry in the future.

At present, people needing residential care are means-tested and anyone with assets worth more than £23,250 receives no support from the local authority. It can come as a shock to discover that your home is included in this assessment and that as soon as your cash dries up, you will need to sell the family home to fund your care. This will reduce the value of your estate and could leave your beneficiaries with nothing. Fortunately, there are measures that you can take to protect your home for the next generation.

How does Local Authority Assessment Work?

If you need residential care, the local authority will assess your ability to pay. They will take into account the value of all of your assets, including your home. If you have assets above £23,250, you will be expected to fund all of your care.

Your home will only be excluded from the assessment:

- During the first 12 weeks of care;
- During temporary or respite care;
- If it is occupied by a husband, wife or unmarried partner;
- If it is occupied by a close relative over the age of 60 or under the age of 16; or
- If it is occupied by a relative under the age of 60 who is disabled.

Why can't I just gift my home to my children?

Gifting your home is fraught with risks. Your children could sell the house or use it to raise finance. There may also be pressure for you to enter care long before you need to. Even where there is no malicious intent, the house may become the subject of a child's divorce settlement or bankruptcy or become part of their estate if he or she dies before you.

What is 'deliberate deprivation'?

The local authority may decide that you own the property, or an interest in it, if it can show that you deprived yourself of the home to reduce the amount that you pay for care accommodation. In that case, you will still be considered to own the home and its value will be used in your assessment.

You can avoid this scenario if:

1. Enough time has elapsed since you put your house into trust. The time elapsed between putting the home in trust and entry into care should be of such a length that the local authority cannot realistically show deliberate deprivation.
2. You put your home into trust at a time when residential care is not foreseeable; it is a distant worry and you have as much likelihood of needing care as the next person.

What is the Home Protection Plan?

The Home Protection Plan is a strategy designed for homeowners, whether singles or couples, to put the home beyond the reach of contributing to care fees. The strategy involves the transfer of the home to a trust. Under the trust, the former owner has a guaranteed right of residence in the property so that once the trust is created he, she or they can continue to live in the home for the rest of their life/lives or for as long as is wished, on a guaranteed basis and cannot be evicted by the Trustees under any circumstances.

The trust is the new owner of the home and therefore the home should no longer count as a capital resource. Despite the fact that the trust now owns the home, the former houseowner(s) still have flexibility; as wells as rights of residence and security of tenure, there is the flexibility to move to a smaller (or cheaper) property and to retain all previous rights and security in the new home.

How does the trust work?

- You have a guaranteed right to live in the property for the rest of your life. The trustees, usually the children, cannot evict you under any circumstances.
- You can instruct your trustees to sell the property and to buy another one of your choosing. The trustees have no choice in the matter. If the new house is more expensive than the current one, you will need to provide the extra capital.
- If the property is sold and another is not bought if, for example, you go into care, the proceeds will be held in trust and you will be entitled to any interest earned.
- On the death of the former owner (or second of two former owners), but not before, the property, or its proceeds of sale, will pass to the nominated beneficiaries; at this stage the trust operates in a similar way to a will.
- The trust is equally appropriate for married couples, partners and single owners. Even though the home will be disregarded by the local authority if it is occupied by a spouse or partner, it still makes sense to set up a trust when both partners are alive as early planning is strongly recommended.
- Once the trust is set up, you will not be able to release any of your home's capital.

Are there other benefits?

The HPP offers the significant benefit that the home will no longer be subject to probate on death. The home can be sold or transferred by the trustees immediately after death with no probate formalities at all. Depending on the value of other assets in the estate, it may mean that probate can be avoided completely. This has the knock-on effect of reducing professional fees for the administration of the estate which are sometimes based on a fixed percentage on the value of the gross estate.

What are the tax implications?

The HPP is tax neutral for capital gains and inheritance tax:

- There is no capital gains tax to pay when the home is put into the trust or when it is sold by your trustees.
- The house continues to form part of your estate for inheritance tax purposes.

For whom is the Home Protection Plan suitable?

The Home Protection Plan is suitable for:

- Usually those from the mid 60s upwards
- Both single people and couples
- Those for whom care fees are a more significant issue than inheritance tax
- Those whose property is worth no more than the available Nil Rate Bands (currently £325,000 per person) and also free of mortgage and other loan arrangements
- Those in reasonable health
- Those for whom entry into care is not in contemplation or on the horizon but is only a distant possibility
- Those who do not require access to the capital value reflected in their home

CASE STUDY

Kenneth and Marion had lived in their home for almost 60 years and hoped to leave it to their three children. When Kenneth suffered a stroke, they opted to move into residential care. The couple's annual combined care bill totalled £50,000 and they were devastated to learn that they would have to sell the family home when their cash ran out.

Their house was sold for £180,000 and by the time Kenneth and Marion died, the new owner had taken advantage of a rising market and sold the house for £250,000. The couple's children received nothing and lost out on much more than the £180,000 that the house was sold for.

The children immediately took advice and although there was nothing they could do to recoup their parents' estate, they each decided that they would set up a Home Protection Plan on retirement.

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