

## **Do you really want to lose your home to pay for long term care?**

The BBC Panorama and other recent media programmes have highlighted that the frail and elderly in this country are being forced to sell their homes in order to fund their long term care needs.

Statistics show that some 69,000 homes are sold every year to fund such care – which is equivalent to 200 each day.

If people take action while they can, there is a perfectly acceptable Will that can be written which can protect their home from Long Term Care costs

This is an increasingly important issue which is affecting a growing numbers of people, as the UK's population ages.

A BBC Panorama programme last year exposed evidence of the NHS charging some individuals for the costs of long term care, even when those patients' primary needs were nursing care and provided free by the NHS. The programme suggested that the NHS had misinformed patients or their families, who were then forced to sell their homes to pay for these care fees.

Some years ago, a test case – the Coughlan case – changed the law so that the NHS became responsible for paying the nursing care element of Long Term Care with the individual being responsible for the social cost element.

As such where someone has serious health issues and needs constant medical attention in care then the NHS should foot virtually all the bill, yet this is not always happening.

Following a failed legal challenge in the High Court by the NHS the Government issued new guidelines which were intended to rectify the situation.

These guidelines are often being overlooked and even after an assessment the NHS deems that virtually everybody - regardless of their health - needs to pay in full where they have the means and invariably, this includes selling their home.

There is a strategy that can be adopted to avoid this from having to happen.

In order to take advantage of this strategy the ownership of the home is changed from "Joint Tenants" to "Tenants in Common" and as such each person will separately own his/her 50 per cent share of the house.

In accordance with the terms of the Will on the first death, that person's share does not pass to the surviving spouse but to the children - or whoever - via a Trust which will also grant the surviving spouse a lifetime interest in the property.

Should the remaining spouse subsequently require Long Term Care they will only own half the house for the purposes of any assessment by the Local Authority, thereby guaranteeing to protect the half of the home that was placed in Trust following the first death.

When the assessment is conducted, the Local Authority must consider the open market value of that half of the house. The guidelines state that half a house has no value on the open market and therefore, the Local Authority should ignore the value of the home completely - since one half is in Trust and does not belong to the person needing care, and the other half is deemed to have no value.

This type of Will, called either a Protective Property Trust Will or a Life Interest Will, can protect people's homes from the demands of meeting Long Term Care costs.

**If you are interested in writing or re-writing your Will please contact John Toule Wills, 63 Johnson Place, Walsworth Road, Hitchin, Hertfordshire SG4 9FJ Tel 01462 455175 or 07970 008556 or by email [john@johntoulewills.co.uk](mailto:john@johntoulewills.co.uk) [www.johntoulewills.co.uk](http://www.johntoulewills.co.uk)**