

FUNDING LONG TERM CARE

When will I not need to pay for care?

If you have a primary health need, the cost of care should be paid for entirely by the NHS. In many cases this should be considered first and you should seek advice about it. Please ask us for our information sheet about this.

There are other situations where you do not have to pay for your care including: -

Intermediate care

If a placement in a care home has been arranged as part of a package of intermediate (or reablement care where you are having short-term therapy or treatment, either following a period in hospital, or to avoid you having to go into hospital), it will be free. Such care is time limited and not normally longer than six weeks.

Aftercare services

If you have previously been detained in hospital under Section 3 of the Mental Health Act 1983 (this would be for treatment), your residential care may be provided as aftercare under Section 117 of that Act.

Some War Pensioners

The Veterans Agency, formerly the War Pensions Agency, can pay towards the cost of a care home providing nursing for War Pensions in very specific circumstances. This is for people with a Higher Rate of War Pension.

When will I need to pay for care?

If your care needs are ancillary or incidental to the need for accommodation, you will need to fund the cost of your care if your capital is over the threshold. You may be entitled to help such as Attendance Allowance. In addition, the NHS may pay a contribution towards the nursing care provided by a registered nurse, where you receive care in a nursing home.

If you do not have sufficient resources and you are assessed as needing to be cared for in a care home, you will receive help from the social services department of your local authority. Please note that social services only pay up to a "standard" amount and often there is a shortfall and families may be asked to pay. This should be resisted whilst legal advice is taken.

Much of your income will go towards your fees. Certain income is disregarded including 50% of your occupational or personal pension providing you pass the other 50% to your spouse or civil partner, if they are not living in the same home. You must be left with a certain amount.

How will my property be assessed when calculating the cost of care?

Your property will be disregarded if:

- Your placement is temporary
- Your home is occupied by your spouse, a partner, former partner or civil partner (except an estranged or divorced partner, former partner or civil partner unless they are a lone parent)
- A relative or family member (from a specified list) who is: -
 - Aged 60 or over
 - Under 16 and a child whom you are liable to maintain
 - Incapacitated (someone in receipt of incapacity benefits or has needs which would qualify for such benefits)

Social services may disregard the value of the property if someone else not meeting the above description ('a third party') continues to live there. It may be reasonable, for example, to disregard a dwelling's value where it is the sole residence of someone who has given up their own home in order to care for the resident, or someone who is an elderly companion of the resident, particularly if they have given up their own home.

Other assets which can be disregarded include (but is not limited to):

- Personal possessions, unless purchased with intention of reducing one's capital in the assessment.
- Capital value of a life interest in land or trust fund.
- Capital value on an interest in a personal injury trust including compensation for vaccine damage and criminal injuries.

What about co-owned property?	What about co-owned savings?
<p>Perhaps you own a property with your children. In this case the value of your share may be nil because it is unlikely that anyone will be prepared to purchase your share on the open market.</p> <p>If this applies to you then you should obtain specific legal advice as this is a complex area.</p>	<p>Social services have no power to demand to see the finances of a spouse or partner of someone going into care.</p> <p>However, social services are entitled to see any accounts in joint names.</p>

Deliberate deprivation of capital or income

If you give away assets or otherwise dispose of them in order to put yourself in a more favourable position to get financial assistance with your care home fees, social services may be able to assess you as if you still have the assets.

What can I do to prepare for long term care?

Review your Wills	If you go into a care home, it may not be sensible for your spouse/partner to leave everything to you in their Will. Instead it may be appropriate for them to set up a Discretionary Trust, enabling you to receive capital and income as necessary, but ensuring that this is not taken into account in any means tested financial assessment.
Consider jointly owned savings	Did your spouse contribute more to the savings account than you? In those circumstances, it would be proper for you to put more into their account than yours.
Consider making gifts to your spouse or partner	This may be appropriate particularly if you are much older than your spouse or partner.
Review ownership of your house	<p>If you own it solely, should it now be put into joint names?</p> <p>If already jointly owned, you could consider changing the ownership structure so that if one co-owner dies the property does not automatically pass to a surviving co-owner, which may not be advisable if the survivor is already in a care home.</p>
Consider making Lasting Powers of Attorney	<p>These documents allow you to appoint people you trust to deal with your finances and property and/or your health and welfare in your lifetime.</p> <p>If you lose mental capacity and have NOT already put in place an Enduring or Lasting Power of Attorney, no one has the legal authority to deal with your affairs or make any decisions on your behalf. The only way anyone (including a spouse) can deal with your affairs is to make an application to the Court of Protection.</p> <p>This is a costly, time consuming and emotionally draining exercise for relatives which can be avoided with a properly drawn up Power of Attorney.</p>

Consider an Advance Decision (to refuse medical treatment)	In addition to making Lasting Powers of Attorney, you can make an Advance Decision (also known as a Living Will) to refuse consent to medical treatment. If you subsequently lose mental capacity and your condition deteriorates in line with the circumstances set out in your Advance Decision, then provided your Advance Decision was validly made, the medical profession must respect your advance refusal of treatment.
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How can GL Law help you?

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email hello@gl.law

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