

# What you need to know about...

## LONG TERM CARE

This leaflet examines the recent changes to the rules regarding state provision for long term care. In this issue we have examined the law in England & Wales.

### **Who should be concerned about long term care?**

Basically, anyone who may become too ill to remain self-sufficient in their own home should be concerned about providing for long term care, either in their home or in a nursing home.

### **Who is responsible for providing this care?**

Where an individual does not have the financial means to pay for their own care, their Local Authorities has the responsibility for providing this care.

### **What does the state automatically cover?**

The NHS will only automatically pay for nursing care. This is defined as input by a registered nurse into providing, planning, delegating and supervising care. This does not include all other care costs such as charges for food, accommodation and personal care (such as washing and cooking undertaken by healthcare assistants).

### **Means testing by the Local Authority**

For all other care needs the Local Authority arranges care. The Authority has a duty under the Care and Residential Accommodation Guidelines (CRAG) to assess the individual's ability to pay care fees, and where appropriate requires that an individual makes a contribution towards the cost of their care. Unfortunately, practice in interpreting these guidelines varies between Local Authorities, so individuals should consult their particular Authority to determine policy.

### **Capital**

If an individual has assets of more than £21,000 they must use their capital to pay for care. If they have assets less than £12,750 they will not have to make any contribution towards their care from their capital. If they have assets between these figures they will be assessed as having extra income of £1 for every £250 of capital between these two figures. The Local Authority will reduce its contribution accordingly.

### **What is capital?**

This includes savings, investments, businesses, and property held either in the UK or abroad. Where assets are jointly held, 50% of the value will be taken into account, regardless of the actual split.

## Income

Income is taken into account towards the cost of an individual's care regardless of the capital they have. This includes income from pensions, investments, and state benefits. They can retain £19.60 per week towards personal items. Some income is disregarded, such as the mobility component of Disability Living Allowance and income from savings. 50% of an individual's private pension can go to their spouse. A partner's income cannot be taken into account.

## The family home

This will be regarded as capital unless it is occupied by a partner, a relative over age 60, an incapacitated relative under age 60, or a child under 16 who the claimant is liable to maintain. If no other eligible person lives in the property the Local Authority will take the value of the home into account when making their assessment. However, they cannot force the family home to be sold. The Local Authority can agree to create a legal charge over the property known as a 'deferred payments agreement.' Thus, they will recover the fees owed to them when the house is sold, or on death.

## Excluded assets

Under the regulations, Investment bonds which contain life assurance are excluded from the capital calculation. However, any income from the bonds may be taken into account.

## Deliberate deprivation

A person cannot knowingly give away, sell or purchase excluded assets so as to avoid care fees. If a Local Authority believes this is the case, they may assess the claimant as if they have full control of the assets even if they no longer have any legal rights over the assets. The most important factor is the intention behind the transaction, not the period of time since it took place.

Under the guidelines it is unreasonable to deem that deliberate deprivation has taken place if the disposal took place when the claimant was 'fit and healthy and could not have foreseen the need for a move into residential accommodation.' If the transfer took place in the 6 months prior to the date when the claimant went into care the Local Authority has the right to reclaim the fees from the person to whom the claimant transferred the assets. After 6 months they do not have this power, but will treat the claimant as notionally having the capital and will attempt to recover the fees in this way.



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