

What is the Home Protection Plan

The Home Protection Plan is a strategy designed for homeowners, whether single or couples, usually living on their own, to put the home beyond the reach of contributing to care fees and to achieve one or two other benefits set out later. The strategy involves the transfer of the home to a trust. Under the trust, the settler/former owner) is also a beneficiary so that once the trust is created he, she, they can continue to live in the home for the rest of their life or lives and security of tenure for life or until the point where continued residence in the home is no longer required or appropriate.

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

The Background

Many elderly people are looking for ways of protecting their estate to pass on to their children and to avoid it being wiped out by care home fees, and at the same time make the process simpler and more manageable for their children.

Giving the home away to the children is sometimes seen as the solution (not recommended). There is also the misconception that if you give away the home at least 6 months before going into care, the local authority cannot touch it, but local authorities may look back over 3 years and "Deliberate deprivation" is a relevant concept and make things difficult..

Cash strapped local authorities are cracking down on people who they think are trying to avoid paying care fees and they are becoming increasingly skeptical about people saying gifts were made due to the natural love and affection for their children

The Solution

The solution is to ensure that the home is not personally owned on entry into care. The local authority's financial assessment can then legitimately be completed on the basis that the home is not a capital resource of the resident.

Features of the trust are:

The former owner has a guaranteed right of residence in the property for the remainder of her or her life. The Trustees cannot evict the former owner in any circumstances.

The former owner has the ability to direct the Trustees to sell the property and to buy an new property of the former owner's choice. The former owner can therefore move property or trade down. The trustees have no choice in this matter. Of course in the rare circumstances where the property might be more expensive, the trustees can only be required to buy the new property if the additional capital needed is provided by the former owner.

If the property is sold, for whatever reason, and a new property is not bought, usually on the former owner entering care, then the proceeds of the sale will be invested and the former owner will receive the interest or income on the invested capital.

On the death of the former owner (or second of two former owners), but not before, the property, or its proceeds of sale, passes to the chosen beneficiaries.

For whom is the Home Protection Plan suitable?

Both single people and couples. The plan is even stronger if entered into while both of a married couple are still alive (as the home would in any event be disregarded if one of the couple went into care).

Those for whom care fees are more significant issue than inheritance tax.

Those whose property is worth no more than the available nil rate bands (currently 2011/12 £325,000 for a single person and £650,000 for married couples). It is possible to include properties above the value, but this can only be done over a period of time and more than one trust would be needed.

Those in reasonable health

Those for whom entry into care is not in contemplation or on the horizon but is only a distant possibility, the usual possibility at the back of everyone's mind.

It is not suitable

For those who may require access to the capital value reflected in their home

Person or couples with a mortgage on the property.

Those with pensions or incomes which I will in any event cover the costs of care and therefore sheltering the home has no benefit, though bear in mind the potential rises in cost of care as against fixed incomes.

Those for whom care is a foreseeable possibility.

For more information and prices please contact Independent Will makers