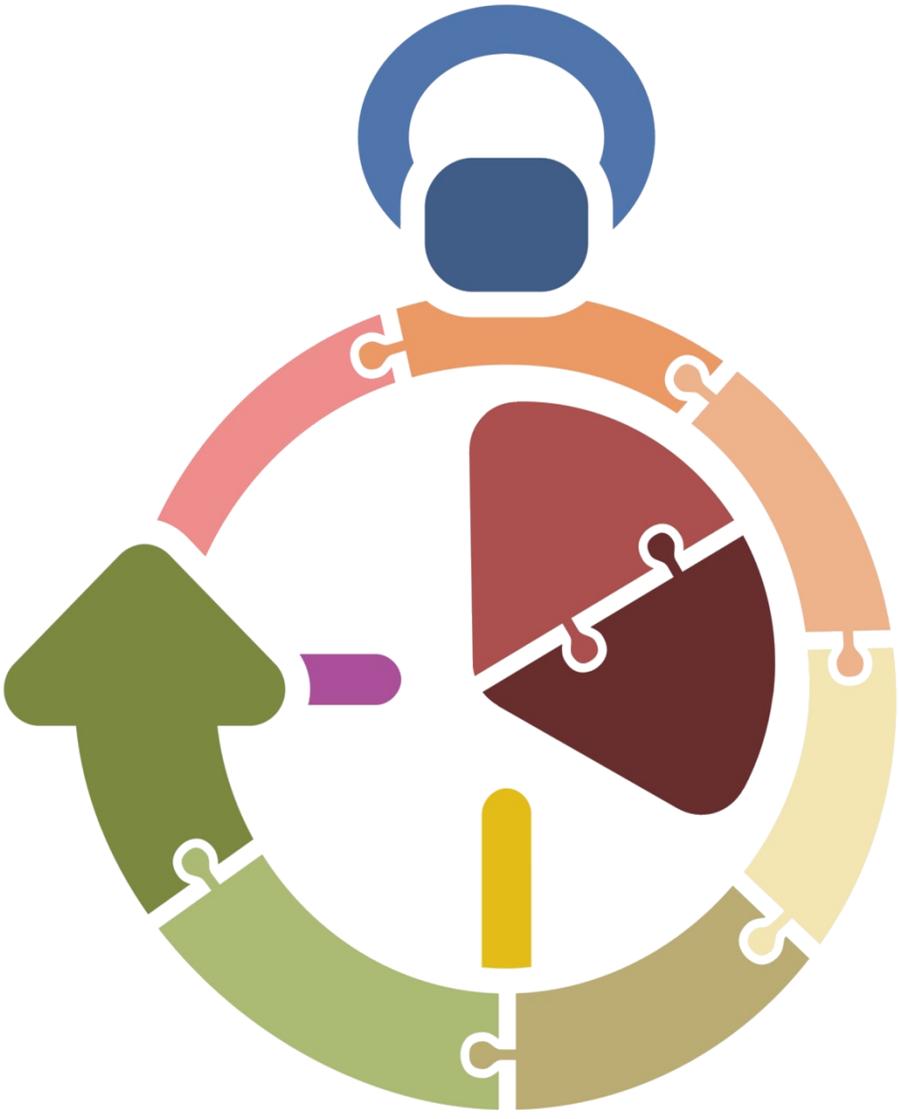


Later Life Care



The Chiltern Guide to Later Life Care

If you are currently faced with the prospect of finding care for yourself, a relative or a friend you are probably feeling emotionally drained right now.

The process of finding suitable care and sorting out the legislation, not to mention helping your loved one come to terms with the significant changes to their lifestyle can be extremely hard.

Add to this the emotive, and often confusing, financial situation and it is not surprising to learn that many people feel tired, stressed and worried at a time like this.

Chiltern Consultancy are a professional business that can provide advice to families facing the dilemma of funding private care fees but also well versed in the subject of care fees planning and able to demonstrate a genuine and caring approach at what is one of the most demanding times of family life.

Ensure you have the Legal Power to Act

If you and/or other members of your family want to look after the financial affairs of the person needing care, and the person is able to give their consent, the best and most effective way to do this is by means of a Lasting Power of Attorney (known as a Continuing Power of Attorney in Scotland).

This is a legal process whereby the person, acting as the donor (granter in Scotland), gives permission for one or more people to act and make decisions about their property

And financial affairs (becoming the attorneys) on their behalf, either immediately or at a specified time in the future.

This authority can be limited to one or two specific items or it can be all-encompassing, but the whole process can only be established if the donor/granter has full mental capacity at the time the power is granted. If a person does not have close family members to appoint, it is possible that a solicitor and/or family friend could be nominated instead.

It may be a wise decision for everyone regardless of age and health to establish a Lasting Power of Attorney as soon as possible.

There are two different types of Lasting (Continuing) Power of Attorney (LPA):

Property & Financial Affairs: This is similar to the old-style Enduring Power of Attorney (pre-dating 1st October 2007) and can be used both before and/or after loss of mental capacity (depending on the donor/granter's wishes).

But unlike the old system the LPA must be registered with the Office of the Public Guardian before it can be used (regardless of mental capacity).

Health & Welfare:

This includes making provisions for the giving or refusing of consent to medical treatment/intervention in circumstances where the donor/granter can no longer make such a decision.

It is important to note that the welfare LPA can only be used in circumstances where the donor lacks, or the attorney believes that the donor lacks, mental capacity.

Enduring Power of Attorney:

Up until 30th September 2007, it was possible for people to draw up an Enduring Power of Attorney. These documents are still perfectly legal, and it will be possible for named attorneys to use the powers within these existing documents.

An Enduring Power of Attorney doesn't enable the attorney to make substantive decisions about the donor's health and welfare.



Office of the Public Guardian

What if no Power of Attorney exists?

A lasting power of attorney can only be drawn up if the donor/granter has sufficient mental capacity, meaning that if the person needing care has already lost this ability and can no longer make reasoned decisions on their own, then they will need to make an application to the Court of Protection (Sheriff Court in Scotland) for the appointment of a Deputy.

A representative of the person (relative, close friend or solicitor) aged 18 or over will need to apply to become their Deputy (Guardian in Scotland), which involves an application, associated fee and a vetting process, resulting in the representative being legally responsible for the following:

- Finances
- Property, where they live and/or whether they need to go into care
- Healthcare, including medication and surgical consent
- Personal welfare, encompassing clothes, food and general well-being

The Deputy must be able to comply with five statutory principles laid out in the Mental Capacity Act 2005:

- A person must be assumed to have capacity unless it is medically established that they lack it
- A person is not to be treated as unable to make a decision unless all practical steps have been taken to assist without success
- A person is not to be treated as unable to make a decision merely because he makes an unwise one
- An act done or decision made under the act on behalf of a person who lacks capacity must only be done or made in their best interests
- Before the act is carried out or the decision is made, regard must be given to whether the purpose for which it is needed can be effectively achieved in a way that is less restrictive of the person's rights and freedom of action

Deputies are assessed to see what level of supervision they need by the Office of the Public Guardian and the level of support is reviewed regularly. Deputies should seek advice from financial advisers qualified in care fees planning when looking to fund care fees or investing capital to meet their ongoing needs.

Funding Care

If a person's capital and savings and/or income push them outside the means test thresholds they will generally be responsible for the funding of their own care fees until such time as their money falls below the appropriate threshold.

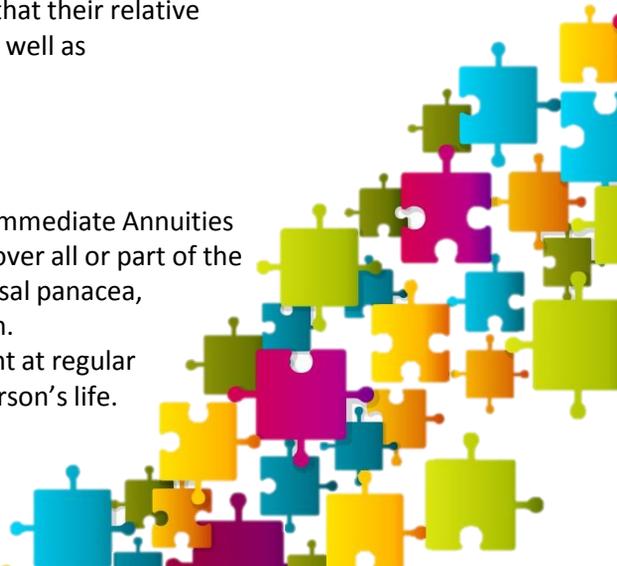
However, with careful planning it may be possible to structure their finances in such a way that care fees can be paid indefinitely, without worry about the future or what might happen if the money runs out. Most families wish to ensure that their relative can stay in the chosen care home for the rest of their lives as well as safeguarding as much of the existing capital as possible.

Immediate Care Plans

There are dedicated tax efficient financial policies available.

These are called Immediate Care Plans (also known as ICPs, Immediate Annuities or Care Fees Payment Plans), and are specially designed to cover all or part of the cost of a person's care fees, and, whilst they are not a universal panacea, they can, in the right circumstances, provide an ideal solution.

Once established, the plan will pay an agreed tax-free amount at regular intervals, directly to the care provider, for the rest of that person's life.



Benefits can increase over the years to help keep pace with care fee increases.

A lump sum is required to purchase such a plan and this is calculated individually on age and health. This type of policy should always be considered as part of the solution and included as an integral part of the overall financial plan for the elderly person concerned, especially as it can help to cap the cost of care and protect the elderly person from outliving their capital.

As mentioned they will not be right for everyone, but they should always be considered alongside all the other options for paying for care.

An Immediate Care Plan provides peace of mind and enables the person in care to have financial independence, dignity and choice of where they receive care.

Capital protection can also be included, to cover situations where the elderly person dies shortly after purchasing the plan. It is essential that advice is sought from qualified long term care advisers when looking at the funding of any care fees. It is extremely important that you seek out advisers who have the qualifications required by the Financial Conduct Authority (FCA) to give long term care advice and who are also experienced in dealing with elderly-care matters.

What about Property

Our homes are our castles, a traditional saying with a lot of heritage in the United Kingdom. Sadly, when care fees are needed, a person's property could well be included in the means test, but it isn't all bad news.

With a practical approach the money tied up in a house could go a long way to provide the ideal solution to the ongoing funding of care fees.

Can we give the property away?

In an attempt to protect the property, many families have considered or have actually taken steps to gift properties or other assets to try to remove the financial value from future means testing. As you would expect the Government is wise to this and the specific "deliberate deprivation" rules prevent the giving away of property which in turn, would necessitate the Local Authority contributing to the person's care costs.

Under current legislation, Local Authorities have the power to recover any sums gifted from the person to whom the asset was transferred, but this power can only be used if the gift occurred within six months of the donor requiring care, or if the person is already in care.

However, if the Local Authority suspects deliberate deprivation, it is important to note that there is no time limit to their investigations, with motivation being the key, i.e. "why was the property gifted away?" and "how old was the person when they made the gift?"

Any such gifting should only be done by using the services of a specialist solicitor, but a vital fact to consider is the implications such a transaction could have on the person doing the gifting; they may find themselves with restricted financial independence and choice of where they receive care in the future.

Should we rent the house out?

When a person moves into a care home there is often a property left empty. Families can feel emotional attachment to the former home and a popular thought is to rent it out rather than to sell, especially during periods of stagnating or reducing property prices. When choosing the best way forward consideration should always be made as to how the ongoing care fees would be met from the income generated. Bearing in mind that the rent will probably be subject to tax, the net generated income will bear little relation to the amount needed for care fees, nor will it increase at the same rate as the fees each year.



There is no guarantee that the home will be generating rental income throughout the lifetime of the person requiring care. There could be periods of time when tenants move on and further tenants need to be sought. The home will still need to be maintained and there may be other costs associated with renting out the property.

Should we sell it?

Selling a property could ensure that some or all of the proceeds could be used to purchase an Immediate Care Plan with the remainder invested safely for growth.

According to recent statistics over 40,000 homes are sold each year so that the owners can pay for their private care fees. That said, selling an empty property itself isn't usually the problem; the main issue tends to focus on what can be done with the proceeds to ensure that the money never runs out.

But also during a recession, one of the first things to suffer is the housing market, and despite Estate Agent promises many families have properties stuck on the market. This means that they are unable to release the money tied up in the property and are either relying on the Local Authority to provide the Deferred Payment Scheme or asking the care home to run up a debt. Some families, especially where the previous two options are not forthcoming, are funding the fees themselves.

Who should we ask to sell it?

If the decision has been made to move into a care home, it may be that selling the property to fund the associated care fees is the only option. Whilst it is a time fraught with emotion and memories, the decision to sell may be the right one. But, at such a difficult time, who should you trust to sell the property for you? Companies do exist that are dedicated to the needs of elderly homeowners moving into care. These specialist companies can provide a simple tailored service to fit your needs exactly, often realising money prior to the sale or purchasing the house.

Using Equity Release to pay for care?

If care is being received in the person's own home, the question about what to do with the house may sound academic, but it is just possible that using an Equity Release product could make all the difference to the longevity of the live-in care package.

Equity release is a term used to describe the various ways people can financially benefit from the value of their home. Equity release enables people to raise capital, income or a combination of the two while continuing to live in the property. Borrowers are free to use the monies however they wish, which in the past has included: home improvements, a much longed-for holiday, to help maintain or increase their standard of living in retirement, or to mitigate Inheritance Tax.

However, as more and more people face the need for care, equity release is becoming a popular and realistic way of enabling people to receive formal care in their own homes, delaying or preventing altogether the move into alternative accommodation.

Please note that this is a lifetime mortgage.

Check that this mortgage will meet your needs if you want to move or sell your home or you want your family to inherit it.

If you are in any doubt seek independent advice



Current legislation

If someone needs to move into a care home what Government support can they expect? If an individual has capital over the upper threshold level they will not qualify for financial assistance from the Local Authority until such a time as their capital falls below the stated amount.

Financial thresholds vary from country to country:

England	upper £23,250	lower £14,250
Scotland	upper £26,250	lower £16,250
Wales	upper £24,000	lower £24,000
Northern Ireland	upper £23,250	lower £14,250

Unfortunately, in the meantime, private care fees will have to be met from existing capital and income.

Most savings and assets are included in the means test, but some confusion has surrounded the subject of whether or not a person's home is included.

To help clarify the situation, a person's home is not included in the means test if:

- the spouse or partner still resides at the home.
- a relative aged 60 or over lives at the house.
- a disabled relative lives at the house.
- a dependent child under 18 lives at the house.
- the person is in the first twelve weeks of needing permanent care.
- the care is being provided on a temporary basis.

The 12-week Property Disregard

As mentioned above, a person's property is excluded from the means test for the first twelve weeks following admission to a care home and once a permanent contract is established.

This means that if their remaining capital falls inside the current threshold then the Local Authority should assist with the payment of the care fees.

It is worth noting that they will in most cases only pay up to their published limits, which could leave a person with a deficit and what is known as a 'top up' situation.

It will be up to the individual themselves to cover any difference in actual care fees and the Local Authority contribution during this 12-week period and after this period the difference may only be met by a third-party such as a relative or friend.

The money paid out by the Local Authority during the first twelve weeks is not repayable.

Deferred Payment Agreement

If, after the first twelve weeks the property has not been sold and/or the care recipient doesn't want to sell, then assuming it is the only capital asset, the Local Authority will continue to pay towards the care fees, under a 'deferred payment agreement'.

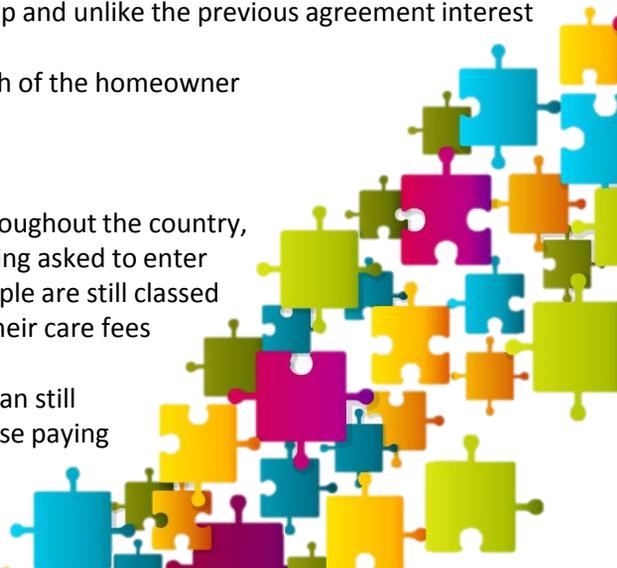
Councils can now make an administrative charge to set this up and unlike the previous agreement interest will be applied to the loan from the start.

The money owing will need to be paid back 1) upon the death of the homeowner or 2) the sale of the property whichever happens sooner.

Local Authority Agreements and Self Funders

Sometimes, for varying reasons and in different locations throughout the country, people who have capital above the stated thresholds, are being asked to enter into funding agreements with the Local Authority. These people are still classed as self funding residents, but may find that they are paying their care fees directly to the Local Authority and not the care home.

In this situation, the aforementioned Immediate Care Plans can still present an ideal solution. As with classic self funders (i.e. those paying the care home direct), it is still recommended and advisable to seek the services of a specialist adviser.



Top Ups

When people qualify for Local Authority funding, the vast majority of Local Authorities will only contribute up to their published weekly funding figures.

However, there are occasions when a person is being funded by the Local Authority (not as a self funder), but the preferred care home costs more than the Local Authority is able to contribute.

In these situations, close family members may be asked to pay additional sums to bring the combined weekly payments in line with the actual fee structure of the care home.

These payments are known as "top ups".

As each Local Authority has a duty of care to ensure that these additional disbursements are sustainable, an Immediate Care Plan could also provide a longer-term solution to a top up liability.

NHS & State Benefits

Most state benefits are means-tested, however, Attendance Allowance is a non-means tested, tax-free state benefit, payable to all individuals over the age of 65 who have needed care (defined as help with essential daily tasks, such as washing and dressing) for longer than six consecutive months, regardless of whether or not they are in a care home.

Attendance Allowance is available at two rates: a lower rate, for those who need help during the day or the night and a higher rate, for those needing care during both the day and night.

The current weekly figures are £55.10 lower rate and £82.30 for the higher rate.

Claim forms can be obtained from larger Post Offices, Citizens' Advice Bureau, Age Concern Shops, the Benefits Agency themselves or downloaded directly from direct.gov.uk.

Individuals needing care under the age of 65 will still qualify for an allowance, but this is paid in the form of Disability Living Allowance (full details can be supplied on request).

During the coming year this benefit is changing to become the Personal Independence Payment (PIP).

NHS funded Nursing Care?

Following the implementation of the Health & Social Care Act 2012, individuals assessed as needing nursing care in a home with nursing, are entitled to receive an additional nursing care allowance.

This allowance is non-means tested and tax-free, although how much is paid will depend on where you live.

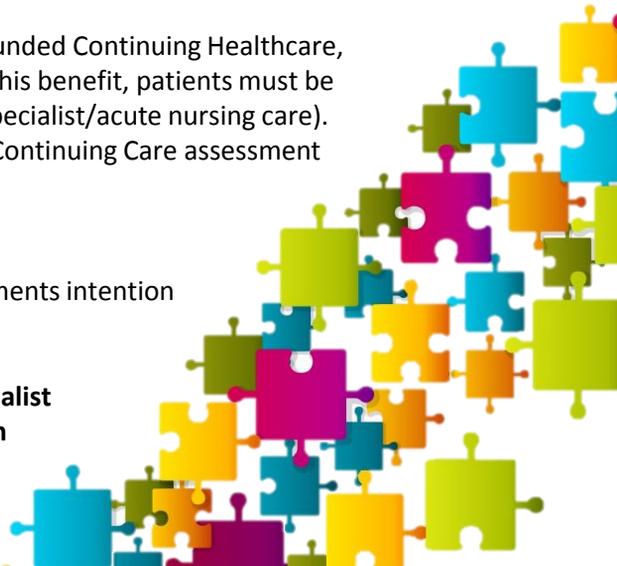
England	£112
Scotland	£78
Wales	£120.55 per week (2015-16 rates to be confirmed)
Northern Ireland	£100

In addition to the above a person may qualify for NHS fully-funded Continuing Healthcare, where the cost of care is paid by the NHS (but to qualify for this benefit, patients must be unstable and/or unpredictable and need constant 24-hour specialist/acute nursing care). The local Clinical Commissioning Group will carry out a NHS Continuing Care assessment on request.

Proposed New Legislation

The Summer budget on 8th July 2015 confirmed the governments intention to delay the implementation of the Care Act 2014 until 2020.

If you would like to discuss an ICP with Nick Kidby our specialist qualified adviser, with no obligation, please give us a call on 01494 451441



To arrange an informal, no obligation meeting at home,
your workplace or at our office in High Wycombe, please contact us

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PLEASE NOTE:

The information contained within this brochure is intended to provide
a general appreciation of the topic and it is not advice.