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PRIVATE WEALTH MANAGEMENT

Residential Care and Nursing Homes – are you on your own?

Long-term care fees have the potential to be eye watering and can cause most other expenses encountered on life's rich journey pale into insignificance. Yes, school and university fees are high, but you might only pay them for three years or they can be avoided entirely. Saving for a pension isn't cheap but it is eased by generous tax reliefs and your money (and then some) is returned to you at the end of your working life. Care home bills on the other hand can eat up £50,000 a year for an indefinite period, rising relentlessly. There is no return on your investment or tax relief.

Many more of us will face a care fees problem in the future thanks to longer life expectancy, rising rates of dementia and changing family structures. Currently, just under 15 per cent of people aged 85-plus live in a care home, according to healthcare intelligence firm LaingBuisson, and this number is predicted to keep rising. Putting someone in a care home is rarely an easy decision. Often it comes out of the blue following a fall or bereavement of a spouse and for this reason, it is a good idea to have in place a power of attorney, and to discuss your relatives' finances well in advance. Doing all this after the event is complicated, costly and can take a long time to arrange.

Whether the move into care has been planned or happens suddenly, generally it presents a dilemma as to where to find thousands of pounds a month from a standing start. According to LaingBuisson, in 2016-17 typical care home fees ranged from £511 a week in the north-west of England to £741 a week in London. Add in an element of nursing care and the costs rise to £776 and £949. The average stay in a care home is a little over two-and-a-half years. However, if your relative has dementia but is otherwise in fairly good physical health he or she might live for many more years.

What about Local Authority help?

If your relative has assets or capital (not including their main home) worth more than £23,250, they won't qualify for any help from their local authority (LA) and will have to self-fund, although exceptions are made where care is required solely for medical reasons, for example because the person has had a stroke. In this case fees should be covered in full by the LA through the NHS Continuing Healthcare scheme and will not be means tested. However, not being able to look after oneself because of frailty or dementia won't entitle you to this free care.

If your relative has savings of less than £23,250 (not including the value of their home) but more than £14,250, they qualify for help and a proportion of their fees will be paid. The balance must be covered by your relative who will be expected to dip into savings every week/month until they fall to £14,250, at which point the LA should cover the full cost. In the meantime, the amount the LA will contribute depends on three factors:

1. The amount of capital or assets owned. This includes savings accounts and investments including Premium Bonds and National Savings products. Only half of joint savings accounts and jointly owned assets are included in this calculation. The closer to £23,250 your relative's savings are, the bigger their contribution.

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2. Their income. If your relative receives an income such as a state or private pension, they will be expected to contribute the bulk of it to reduce the share the council is paying. They will be allowed to keep back some small personal expenses allowance (PEA). If their income is shared with a spouse, only half of it will be counted. If income, less the PEA, is equal to or greater than the care home fees then they will become a self-funder via income.

3. Whether they own their own home and whether someone else lives in the property. If your relative owns their own home and lives there alone, the council or LA will want to know if the property is to be sold, in which case your relative would have to self-fund from the proceeds. If their home is not being sold, and people cannot be forced to do so, then the LA will offer a deferred payments agreement (DPA) – essentially a loan whereby it funds fees but secures them as a debt against the property. Interest will be charged on the debt built up. When the house is eventually sold the council/LA will be repaid. The debt can be reduced by letting the property and paying the rental income to the LA. Anyone with more than £23,250 of assets will not be offered a DPA as this is only available to those with capital below that threshold. However, any property owned will be disregarded entirely if someone else, usually a spouse, has been living there, continues to live there and it is their only home. In this situation, the LA will pay the fees based on the amount of assets and as if no property is owned. Your relative might not qualify for LA support at first, but when their capital falls below £23,250 funding can be applied for at that point. This might require a move to a less costly home, or for your relative or family members to agree to make top-ups as most councils limit the amount they will pay.

Where a DPA can be used, it is much better value than equity release (see below) as the interest rolled up and fees will be considerably less, but as with equity release there must be no outstanding mortgage on the property. Also, note that if your relative has less than £23,250 of assets, and whether they own property, they will be entitled to have the first 12 weeks of care home fees paid in full by the local authority. If your relatives' assets are below £14,250, all the care home fees should be paid by the LA. But, as above, personal income such as a pension less a small amount for personal expenses will be used to offset the cost to the council/LA and a legal charge will be secured against property owned if it's possible to do this. To apply for help with costs, you should first request a care needs assessment from your relative's LA, and then a financial assessment. Even if you are fully self-funding, you can get state help through the attendance allowance benefit. Attendance allowance is paid to over-65s who need help with normal daily activities (including being hard of hearing or having poor eyesight). It is not means tested and is currently paid at £55.65 a week if help is needed whether during the day or at night and £83.10 a week if help is required both in the day and at night. If your relative qualifies for the higher rate that's worth £4,321.20 a year.

Don't give away assets to avoid paying care fees. If your relative deliberately deprives him or herself of assets, they are likely to be assessed as though they still had them and therefore will still have to pay fees even if the person they have given them to doesn't want to give them back!

Assuming your relative does not qualify for state help, you face the tricky task of deciding what to do with their property, how to make the most of any available investments and income and the best ways to cover shortfalls. While you cannot magic money out of thin air you can change the way assets are used and restructure a portfolio to generate an income stream to help cover funding gaps. Your relative may also have to accept that they will have to spend their wealth on care rather than leaving it to children/charities, although it is sometimes possible to achieve both goals. Remember that if you have power of attorney for someone, you must act in their best interests, not in the interest of family members hoping to safeguard an inheritance.

Your first step will be to work out the shortfall between your relative's post-tax income and the care home fees, and what savings exist to plug this and how long it will last. This may take some time as you search through paperwork and online (you may need passwords) to check for details of bank/building society accounts. It's worth checking **https://www.mylostaccount.org.uk/service.htm** in case some accounts have been forgotten about because of a previous house move. Once you have established how much cash/liquid assets are available, and what state and private pensions are being paid to them, look at other assets starting with any property owned.

You should get an accurate valuation for both a sale and letting purposes. Property is usually a valuable asset and can be used in three different ways.

First, you can use an equity release mortgage to release part of the value of the home for spending on care fees (with the risk that the cash runs out) or reinvest it in investments or an annuity. Not everyone can use this option as the property must be in good condition, entirely mortgage-free and with at least one homeowner still living there. Strict limits apply to how much equity can be released. A home worth £800,000 could raise £280,000 if 35 per cent of the value is borrowed. You don't pay tax on the money released. If the remaining homeowner dies, the house would have to be sold and the debt repaid. It is a costly but useful option. In almost all cases, and unless life expectancy is very short, the power of the stock market to generate both an income and capital gains should be considered.

Secondly the property could be sold outright. Doing this will typically raise a large sum of capital, potentially more than enough to pay all the fees for a good number of years. Around 40 per cent of families choose to sell the relative's house. While this solves one problem, it also creates one: how to ensure the cash is protected from a bank collapse. Initially a lump sum of up to £1m of cash will be protected under the Financial Services Compensation Scheme's (FSCS) windfall cover for up to a year and after that it will need to be broken up into smaller chunks of £85,000 (the maximum covered by the FSCS) and spread across accounts not under the same banking umbrella. You could also consider selling to downsize, which would allow cash to be released while an investment in property is retained. If a smaller property isn't being purchased, most advisers would strongly recommend that some, or the bulk, of the capital is either invested in equities and/or used to purchase an Immediate Needs Annuity.

A third option is to let the property. This solution works in certain areas. In London and the south-east, yields on some properties can be enough to generate £32,000 a year before tax. Tax will almost certainly have to be paid on rental income and could even push your relative into a higher tax bracket. You might also have to start completing an annual tax return on behalf of your relative. Armed with some letting quotes from local agents, you should work out the post-tax profit before committing to this path. You can check personal allowances and tax bands here: **https://www.gov.uk/income-tax-rates**. The costs and risks of letting are high. If you use an agent, management fees will eat into the income generated. There is a real risk of rental voids and many thousands of pounds will probably have to be spent bringing the property up to date. Typically, you can expect a yield of 3 to 4 per cent of the value of the property. Remember that the capital gains tax situation will change too once the owner moves out with the shelter of Private Residence Relief lost after 18 months. This means that capital gains tax would be applied to gains made on the value after this.

How an Immediate Needs Annuity can help

It is no longer possible to buy insurance to pay for care (although your relative may have taken out such a policy when they could still be bought). Instead you can buy an Immediate Needs or Care Fees Annuity (INA) where, in exchange for a capital lump sum, the annuitant will receive a monthly payment for as long as they survive. The advantage of an INA is that it will continue to pay out no matter how long your relative lives. Your relative may be frail, but once they settle into the care home, their health and lifespan can improve significantly. Even better, if the annuity is paid directly to the care home it will be paid tax-free. Payments can be structured to increase in line with fee increase and deals can be agreed with the care home. The pay-outs are based on age and health and are fully underwritten. It's worth getting a quote before you decide whether to proceed or not. For example (10.17) in respect of a 74-year-old woman living with advanced Parkinson's disease in a residential care home. Her family needed to secure income to meet a shortfall of £47,328 a year. The purchase price of a care fees annuity with the most competitive provider, Partnership, was £315,245 with the annuity income escalating at 3 per cent a year to help keep pace with fee inflation at the care home. The downside to an INA is the potential loss of a large capital sum. If you buy an INA for £100,000 and your relative dies three months later, the monthly payments will stop and no capital is returned. However, the capital used to purchase an INA obviously is no longer included in your relative's estate and this means that a potential inheritance tax bill can be reduced or even eliminated thus saving on tax. You can also buy insurance from the provider so some capital would be returned should death occur within a short period of time. If you can defer the annuity payments for a couple of years, the payments will be significantly higher.

The stock market…

In almost all cases, and unless life expectancy is very short, the power of the stock market to generate both an income and capital gains should be considered certainly where a portfolio already exists, or a significant capital sum has been raised from a house sale. Despite the risks, equities can prevent the erosion of a capital sum through cash burn so that fees can continue to be paid however long the person lives, and to preserve something for family members. You can probably reasonably assume a total return of around 4 per cent gross. Someone with a pot of around £350,000 should generate £14,000 a year in gross total returns. Even with state and private pensions, and attendance allowance if it can be claimed, topping this up, it may not be enough, in which case you might need to raid other assets such as savings accounts or swap them for an INA.

If you are comfortable investing, remember that managing a portfolio to pay care home fees could mean following a different set of rules to the ones you use to run your own portfolio. Ordinarily someone building an investment portfolio could be expected to have a timeframe of 20 or more years, which gives them the scope to be adventurous and to allocate money to areas such as small-caps, interesting ideas and emerging markets. But when a portfolio is being managed for care fees, the time horizon shrinks and all unnecessary risk should be avoided although the bigger the portfolio the more risk can be taken. You can reduce the chance of risk by diversification or using an experienced Discretionary Fund Manager – like Andrews Gwynne and while yield will be vitally important in this exercise, you shouldn't simply flock to the highest yielding equities – these carry high risks. Selling some investments from time to time especially where gains have been made might be a better idea. You will need to keep some money in cash, but not too much because it can act as a drag on growth. If you decide to restructure an existing portfolio, bear in mind that capital gains tax (CGT) liabilities die with the shareholder so it might not be worth creating a large CGT bill. Funds can help dilute risk – there are plenty of equity income funds with a bias to defensives and a strong track record. Make sure that your relative uses all of their annual ISA allowances.

The use of an offshore Trust up to the Inheritance Tax Nil Rate Band should also be considered in specific circumstances, as such a move can help with inheritance tax planning and can also provide a tax-free environment for assets to grow. As long as certain criteria are met, annual withdrawals of up to 5% tax free can be taken. They can be costly and complex to set up and so are not suitable for many due to the high cost of care and the need to draw on capital.

After 2020

No one likes the idea that on top of the indignity of being unable to look after ourselves in old age, paying for care could cost us our homes and every asset we own, leaving nothing for our nearest and dearest. It's the unfairness of this double blow that drives people to argue that the financial burden should be shifted from individuals to the state.

But the government is stumped on this question largely because of the cost implications. The last major enquiry into care funding led to the Dilnot Commission proposals in 2011. These were that a cap should be put in place so that no one would have to pay more than £72,000 towards their care, and anyone with assets of less than £100,000 wouldn't have to make any contribution. Currently if you have assets of more than £23,250, you must pay all your costs. The proposals were approved but have been put on hold until 2020.

In the meantime, the issue was raised recently in the general election campaign with a Conservative proposal that people should pay all the cost of their own care until they were down to their last £100,000. This was fair, said the Tories, as it would prevent the rich from having their care paid for by younger, poorer taxpayers. But the policy went down badly and was scrapped. For now, the only 'agreed' plan is the Dilnot one, but don't get too excited about the idea that your care costs will be capped at £72,000. Even if the Dilnot plan does see the light of day, the cap of £72,000 only applies to the care portion of care home fees, but the largest part of care home fees are the residential costs, i.e. board and lodging, which means the relief will be limited.

For now (and in all likelihood in the future), you are on your own …

A property and financial affairs power of attorney (POA) is as important as a will. It might never be needed but if you can't produce one when your parent or other relative loses mental capacity, you won't be able to manage their affairs for them. They can be set up years in advance and stored away. The document does not have to be registered straightaway and can be changed at any time even if it has been registered (as long as the person making it still has mental capacity).

With the POA, which costs £82 to register, you will be able to write cheques on behalf of the person you are acting for and withdraw cash from their accounts, among other things. If the POA is only given when mental capacity has been lost, the attorney will need a doctor's letter stating that this is the case before banks etc. will give them access. You should think carefully about who you wish to have POA. It should be someone trusted – often it is a son or daughter. It's not uncommon, however, for family rifts to develop because of power being handed to one member of the family and one High Court judge has argued that abuse is always a risk and that the system needs to be changed.

It is essential to remember that the money/assets belong to the parent and must be used for their benefit above all else, but this doesn't mean an attorney cannot use the money in a different way to how the person they are acting for would have chosen". If you have two children, you can appoint them as joint attorneys. You must choose whether they are to be free to make all or certain financial decisions independently of each other ("jointly and severally"), or "jointly" where they will have to agree all decisions and to co-sign cheques. You can also name replacements in case your original choice(s) can no longer be your attorney.

www.gov.uk/government/organisations/office-of-the-public-guardian

Where a relative has lost mental capacity and no POA is in place, you will have to apply to the Court of Protection to be appointed as a 'deputy'. This gives the same powers as an attorney, but deputies are supervised by the courts and need to keep accounts and follow strict guidelines on spending. They must report back to the court every year. It's expensive and it takes time to apply in this way and you may not have access to your relative's money in the meantime to pay care home fees.