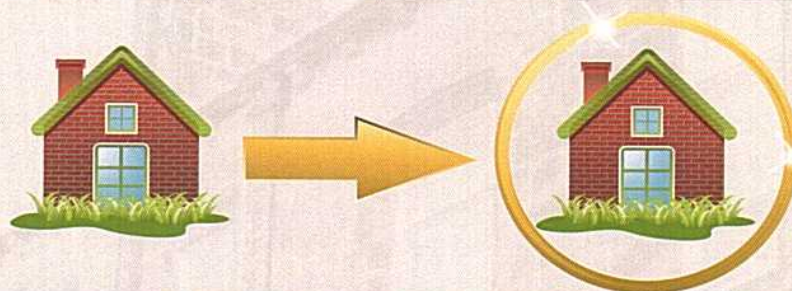


HOME PROTECTION TRUST



How this Trust can help you



Having worked hard all your life and successfully cleared your mortgage you may feel that advancing age and retirement should be a time when you can relax, safe in the knowledge that your children will benefit from your assets when you pass away.

It is the case that an ever-increasing number of us will live to an ever-greater age with the consequence that there is a genuine possibility we will need residential care at some point in our lives.



What would be the consequences of my spouse or me requiring residential care?



Your local authority must provide you with care, but if you own your property in your sole name or jointly with your spouse the local authority will endeavour to recoup the cost of your care (which costs on average £500-£1,000 per week) by assessing your means. The value of your home as a capital asset will be taken into consideration in assessing how much you should contribute towards your care.

In reality your home is unlikely to be sold to facilitate payment of care home fees whilst you (or indeed your spouse) are still living. The Local Authority instead will place a charge against your home so that once you have died it is entitled to recover its fees from the sale of your family home.

Put simply, it may be the case that your children (or other chosen beneficiaries) do not benefit from your lifetime of work if you (and/or your spouse) require residential care and the cost is recovered from the sale of your family home after your death.



What options are available to me?



- Do nothing. You may have sufficient capital and income from other sources to cover the cost of residential care.
- Transfer your family home to your children now. This is perhaps the least satisfactory course of action one can take because of the following:
 - a. You lose all control of your most substantial asset.
 - b. If you transfer your home into the name of your children and they find themselves in marital or financial difficulties, their share of the family home will be 'up for grabs' in settling a divorce payment or satisfying a liability to a Trustee in bankruptcy. The effect of this is that your home may need to be sold and you lose your security of tenure.
 - c. You are at the mercy of your children - they may even decide to move in!
- Transfer your major asset (your home) in to a Home Protection Trust. This is a highly recommended course of action if you wish to be certain that you will retain control of your home for you and your spouse for the rest of your lives whilst simultaneously protecting the value of your home for your children's inheritance.



How does a Home Protection Trust work?



You (and your spouse) transfer your home into the name of your family Trust. The Trust becomes the registered owner of the family home at the Land Registry.

The Trust is managed by the Trustees. You make yourselves the Trustees, so you retain complete control of the Trust and therefore of the contents of the Trust. (You may wish to appoint one or more beneficiaries as Trustees as well).

You (and your spouse) are provided under the Trust instrument with the following powers:

- As long as you (and your spouse) are alive you enjoy security of tenure in the family home. What this means is that **nobody** can require you to leave the family home for the rest of your lives.
- **If you decide** you would like to move home and perhaps downsize you have complete flexibility to sell the family home and purchase an alternative home to suit your needs. If this happened the Trust would simply own the new property instead.
- Once you (and your spouse) have died, the Trustees of the Trust (which could include your children) will run the Trust in accordance with your expression of wishes which accompanies the Trust document.



It may be the case that upon your death you simply wish the Trust to be wound up so that the Trustees of the Trust sell the family home and divide the capital monies between your children in equal shares.

Alternatively the family home could be rented and your children share the income this produces until they are of an age you wish them to benefit from the capital. The advantage of this flexibility is that, if at the time you die any of your children are having marital problems, the Trustees could consider withholding an appointment of capital until the divorce proceedings were completed so that the son/daughter-in-law doesn't have access to your child's inheritance.



The decision as to how you want the family home sale proceeds to be divided is totally flexible and depends upon your specific wishes and personal situation

Furthermore you have the additional security that if your spouse were to meet someone else after your death, your share of the family home couldn't inadvertently find its way into the hands of beneficiaries other than your children (or other chosen beneficiaries).

Additional Advantages of the Home Protection Trust

Care Home Fees

- The Local Authority will scrutinise transactions which it perceives may have deliberately deprived it of contributions to care. The crucial factor in reducing the prospect of a claim from the Local Authority will be to ensure that you consider transferring your family home in to a Home Protection Trust at a time when you are fit and well and are not even contemplating the possibility of residential care.
- Clearly, the earlier you transfer your home into Trust the less chance the local authority has in asserting you have deliberately deprived it of assets.

Costs

- The cost of transferring your home in to a Home Protection Trust is relatively small when compared with the saving on probate fees, inheritance claims from disgruntled family members and potential saving of assets for your children from the Local Authority.
- If all the assets are placed into the Trust there will be no need for a potentially expensive Grant of Probate to be obtained to allow your executors to administer your estate. The reason for this is that the family home is already outside your estate in the name of the Trust.
- The Trust can last for 125 years. The benefits are peace of mind and flexibility for you, coupled with control and access to the Trust Fund and ring-fencing of the assets for both you and the future generations of your family.





Frequently asked questions



- **Why should I bother?** You don't need to do anything, but if you do require residential care in the future there is a real risk that the value of your home will be used up on settling care fees after your death.
- **My family will look after me.** Sadly there are many medical conditions, such as dementia, which may necessitate full time care, and in the event of full time care being required for any reason, the best of family intentions may need to give way to the practical requirements to deal with a physical or mental condition.
- **Is it worth it?** Owing to the cost of care rising in recent months you may find that the initial outlay in transferring your home into a Home Protection Trust is equivalent to only a very short stay in residential care.
- **What if I don't need to go into care?** The Home Protection Trust is still worthwhile owing to the potential savings from not requiring your executors to apply for probate to deal with your family home. Furthermore you are able to control at what age and in what situation you want your children/grandchildren to benefit from the family home by specifying this in a letter of wishes. You also can protect the home from the clutches of a child's divorce settlement or Trustee in bankruptcy if any of your children are having personal problems at the time of your death.
- **Are there any ongoing fees?** No. The only fees incurred are in the creation of the Trust and the transfer of your property into the names of your Trustees.
- **When is the best time to set up the Trust?** As soon as possible. The Local Authority can retrospectively assess the circumstances in which the Trust was created. The longer the period of time between the creation of the Trust and you needing to go into care the less prospect of a successful probe by the Local Authority.
- **Can I change my mind?** Yes you can. If you decide you wish the assets to be appointed back into your sole name then you can do so.
- **Can I move house?** Yes you can. The transfer of the property would simply be dealt with by the Trustees of the Trust (which includes you).
- **What happens if I or my spouse die?** Nothing- your spouse is protected for the rest of his/her life and can remain in the family home.

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