

## THINKING OF GIVING AWAY YOUR HOUSE?

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### THINKING OF GIVING AWAY YOUR HOUSE?

Many people are looking to their future old age and the possible use of their assets should they need residential care. Although several of the points made in this leaflet will be applicable to all transfers of valuable assets, the possible transfer of a house to children is used as an illustration.

**Did you know only a very few people (about 5%) need residential care in their later years.**



#### What happens if I need residential care?

If care is needed, the local authority will assess the extent of that need (e.g. residential, nursing or mental health care) and will then consider if you are eligible for assistance with care fees. If you have in excess of £23,000 capital you will receive no financial assistance unless you are entitled to NHS funding. You may become entitled to a contribution from the authority once your capital falls below this £23,000. If you have less than £14,000 the authority will meet the basic fee charge in full. It is important to remember that any assistance with fees will also depend on your level of income.



#### How are calculations of capital made?

Your house is an asset with value, in much the same way as funds in a bank or building society, valuable jewelry, or stocks and shares. If your property (or bank account) is jointly owned, only your share is taken into account. The authority simply adds up the total value of all your assets when assessing your capital. They will not include your house if you share it with your spouse or another elderly/disabled relative

If you share it with anyone else the authority may decide to ignore its value, or may put a charge (like a mortgage) on the property while they are contributing towards your fees. This loan will be repaid to the authority at a later date.



#### Will the authority take my house?

No - the house, until sold, remains yours. Even if the property is sold to release funds for your care, the sale proceeds can be invested by you in your own account, providing extra income for your care.



#### Do I have to sell my house?

No - but if there is no-one else living there you are unlikely to want to leave it empty to deteriorate in condition. Depending on

your circumstances, you may prefer to rent it to a tenant. Remember, the income from invested sale proceeds together with other income (building society interest, state and employment pensions, share dividends etc.) may go a long way towards meeting the full cost of your care.



### **Can I give my house to my children?**

Yes, although there are many things to consider before you decide to do this:

- ◇ A gift is irrevocable - you cannot change your mind later
- ◇ Your children may be asked to pay the full cost of your care fees
- ◇ Your choice of residential accommodation may be restricted to the minimum local authority standards, e.g. a shared room rather than a private room
- ◇ If one of your children becomes bankrupt, dies or is divorced you may be asked to leave 'your' home
- ◇ Your children can sell or mortgage 'your' home
- ◇ Who will carry out repairs if you do not own the property?
- ◇ You cannot move without your children's consent
- ◇ You may find you have given your house away and reduced your capital, but still have a level of income which excludes you from assistance with care fees

- ◇ However amicable the situation now, changes in family circumstances may result in disagreements later
- ◇ If you are not proposing to give the property to all of your children, will there be difficulties later within the family?
- ◇ If the only reason for the gift is to avoid paying potential care fees, the Authorities can ignore the gift and still claim from you

**'Your' house does not belong to you any more**



### **Are there any tax implications?**

Relatively few people need to consider giving away assets in order to reduce Inheritance Tax on death. If this is a consideration remember that if you continue to live in the property there will be no reduction in tax. Capital Gains Tax (CGT) is paid whenever an asset is sold at a profit although your own house is exempt. If you have given your house to your children this exemption is lost and there may be a tax liability when it is sold.

**Your home = Assets  
Assets = Choice**



### **What are the advantages in keeping my house?**

The main advantage is CHOICE. You will generally have worked throughout your life to get to the financial position you are in now, and can use your asset for your own benefit:

- ◇ An owner/occupier may be eligible for local authority grants e.g. for a downstairs bathroom.
- ◇ You can sell your present property and move to alternative accommodation (a smaller property, bungalow, warden aided accommodation etc.)
- ◇ You may never need residential care but may manage in your own home with the aid of community care nurses, day centres, meals on wheels, home help etc.

If you do chose to give your house away, you should ideally seek legal advice from a solicitor who is not already acting for your son/daughter. We would recommend that you talk to your solicitor on your own, even if your son/daughter accompanies you to the office, although we do appreciate that some clients would prefer to have a relative present.

*If you would like further information, please do not hesitate to contact Mrs D K Ryan, Mrs C M P Watson or Mrs K M Smith on Newark (01636) 703333.*