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Private Client Newsletter

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NHS paying care fees for very sick

In recent months, the NHS has introduced a new framework under which far more people entering care will receive help with their care fees from the health service. In some cases, full funding of care costs will be available.

The new framework brings together in one policy a rather haphazard approach that applied before. Any person who is dependent on some element of nursing care, as opposed to just personal care from family and friends, should now receive some NHS help. The minimum is around £100 per week.

The key to the funding is that a nurse carries out an assessment and, if it is agreed that there is a nursing element to the care, and so someone with nursing skills needs to be involved at least part of the time, then some funding will apply.

If there is a higher level of dependence, but there is still a mixture of nursing care and care by relatives and friends, then there is likely to be funding in part through social services, and in part from the NHS. This funding might be in the region of £300 or so a week.

If the level of dependency on nursing care, or on medical intervention, is much higher, then a panel will be asked to assess the patient and report to the local NHS trust. If the panel reports positively, then the NHS continuing care regime kicks in, and there might now be full funding, or at least help with around two-thirds of the cost of care.

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Flying Freeholds

Flying Freehold describes the situation when a property is a freehold house but has a room (or rooms) incorporated within the freehold title but are literally "flying" above the ground. For example where a bedroom extends over the alleyway between 2 terraced houses.

A creeping freehold is where a room belonging to one property extends over a room belonging to the adjoining property.

The deeds to the property with either the flying or creeping freehold, should contain and provide for rights of support, protection and maintenance provisions, rights of entry to effect repairs and a covenant to ensure both the current and future owners observe these rights and provisions.

Such rights and provisions are required to prevent a situation whereby the structure and stability of the flying or creeping part of the property could be adversely affected. For example if the adjoining owner demolished part of their property or removed a load bearing wall the required support could be affected or completely removed.

If the deeds do not contain the required rights there are 2 solutions; firstly a deed of covenant containing such rights and provisions between the 2 property owners can be drawn up and signed by all parties and/or secondly a title indemnity insurance policy can be taken out to provide cover for the associated risks.

NHS Paying care fees continued.....

The news is not all good, however. Many NHS trusts are slow to come forward with funding. Some do not offer the initial assessment you need without being pushed. Some panels are poorly equipped to assess your level of nursing needs, and get the assessment wrong.

We can help you or your loved ones receive the level of funding you are entitled to, and we can assist you if you find you have been short-changed or poorly served by the NHS.

We can also assist before the issue of care arises. If you want to protect your assets, there is much that we can offer to do for you to give you the protection you want. This might involve a change to your Wills, or other documentation depending on the circumstances. Please contact us if you would like more information.

Reviewing your Will

The advice from Ford & Warren's Wills & Probate solicitors is to review your Will at least every five years. If you are very elderly, or in poor health, it should be reviewed every year.

An individual should also review their Will when there is any change to their personal circumstances.

Perhaps you have or perhaps you are about to get married or form a civil partnership. Surprisingly few people are aware that marriage has the effect of cancelling your Will. You can avoid this if the Will was made specifically in contemplation of a marriage or civil partnership.

It may be that you wish to alter your executors or perhaps add to your chosen beneficiaries – maybe if you have had children or grandchildren. Equally so it may be that you wish to now leave someone out of your Will and ensure that they do not receive any money from your estate.

A divorce within your family or the death of someone who was previously included in your Will can also be events which may prompt changes to be made to your wishes.

Many such changes can be made quickly and at little cost. If you make them, it can, give you as the client peace of mind that your Will is up to date.

John Terry loves the media!

In April of last year, the media was given access to the family courts. Rule 10.28(3) of the Family Proceedings (Amendment) (No 2) Rules 2009 states that a duly accredited representative at news gatherings and reporting organisations actually have a right to be present at hearings. However, that should not be interpreted as giving the media Carte Blanche to report and publish.

The media can only be excluded from a family hearing if:

- it is in the interest of the child
- for the safety or protection of the person connected to the proceedings
- or if justice were to be prejudiced by the medias present

The mere fact that a party may be embarrassed is not sufficient.

It appears that the majority of information can be published. The media are not allowed to identify any child in proceedings. They cannot be given access to the court files or shown any of the papers within the case. They are however entitled to report what they have seen and heard in the court room. It is too early to see how this will impact on cases. Certainly John Terry would not wish for the media to be present at his trial if the matter went to Court. Tiger Woods would not welcome any further reporting upon his social activities. Conversely their partners may wish for the press to be present using the possibility that scurrilous information may be published. What price would their husbands pay to avoid further revelations?

It is not simply the celebrity divorces that these new regulations will affect. What about a well known local counsellor, a local businessman, a local solicitor or an accountant? A party to a divorce case may feel that there would be an advantage in inviting the press to attend. Very careful consideration however must be given before inviting a member of the press to attend at your hearing. You will have no control at all over what is published. Parties should carefully consider pre-nuptial and post-nuptial settlements including confidentiality clauses within the terms of the contract, and directing disputes to mediation rather than court.