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Taking good **care**

**How to plan and
organise care**
for the future



Planning for care can seem daunting. However, there are options available to help fund the cost and protect your loved one's estate from paying these costs.

Funding the cost of care

There is support available for funding care costs. If your assets are worth less than £23,250, the local authority will assist you with meeting your care needs. However, if your assets are worth more than this, you will need to meet the costs yourself.

Home or away

If you or your loved one is eligible for financial assistance towards care, you can apply to your local authority. After receiving your application, they will work out what your needs are, and carry out a financial assessment. They will also need to take into account whether you will be living in your own property or a residential home.

Calculating the costs

If you move into a care home and the cost is greater than the local authority is willing to pay, it's possible you or your loved one will have to top up the care fees with private funding.

Nursing support

If your care needs involve nursing, you may be eligible for Continuing Healthcare, which is free and provided by the NHS rather than the local authority. If you think you may be eligible for Continuing Healthcare, speak to your doctor or social worker who can refer you to your Clinical Commissioning Group.



“Any steps taken to protect an estate from care costs must be carefully considered as there are strict rules surrounding the deliberate deprivation of assets. However, ensuring that your Will is up to date and has been reviewed taking into account current and future care costs is a good idea.”

Amy Wallhead, Senior Associate
JG Poole & Co

Protecting your estate from care costs

There are ways to protect some of your estate for your loved ones through your Will, although you cannot avoid paying care costs completely. For example, rather than leaving all of your assets to your spouse, you may wish to consider giving them a right of residence to live in your home for the rest of their life. This way, if your spouse survives you and needs to move into residential care, they can only spend their money and not yours in providing that care.

If your husband or wife is moving into care and you are still living in your home, the home will be disregarded in any financial assessment by the local authority as long as you continue to live there.

Deprivation of assets

While there are ways to protect your estate, you should be aware of deprivation of assets. This is where someone gives away money or property to avoid paying for care. If the local authority thinks this has been done, they may contact the recipient of the gift, or overturn the gift. Ultimately, they can refuse to pay for care.

When the local authority is assessing whether assets have been deliberately reduced, they will consider whether you knew you would be needing care at the time, and if avoiding care costs was the reason for giving assets away.

The value of your assets does not matter to be eligible for Continuing Healthcare – you just need to have the need for nursing.

There are a number of methods of reducing your assets that could be seen as deliberate deprivation, including:

- Giving away a lump sum.
- Transferring the deeds of your property to someone else.
- Suddenly changing your spending habits.



What are the additional considerations for dementia care?

“A diagnosis of dementia does not automatically mean that the person is entitled to Continuing Healthcare which is provided by the NHS. To find out if you or your loved one is eligible and how to apply for it you will need to speak to your doctor or social worker.”

Jasdeep Dhillon, Senior Legacy Administrator
Alzheimer's Research UK



If your loved one is going into care, it is advisable to get specialist advice from a solicitor to ensure that finances are being treated correctly and the person is in receipt of all benefits and care funding to which they are entitled.”

Amy Wallhead, Senior Associate

JG Poole & Co

Next steps...

You can use this page to keep track of the services you have investigated and take it along to your solicitor when you are discussing your future wishes.

To start your search for potential home care services and residential options, first check which local authority the care will come under. You can do this by entering your postcode on this site: **gov.uk/find-local-council**

My local authority is:

.....
.....

Residential care:

Name: Average cost:

Name: Average cost:

Home care:

Name: Average cost:

Name: Average cost:

And you can search for a care home with the Care Quality Commission here:

cqc.org.uk/what-we-do/services-we-regulate/find-care-home

Name: Contact:

Name: Contact:

Name: Contact:

This booklet is for information only. Always seek legal advice for any questions or concerns surrounding these issues.



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As easy as 1, 2, 3...

Inheritance Tax:
your simple guide





Inheritance Tax (IHT) is paid from the estate of someone who has passed away, if their estate is above a certain threshold.

Variations & tax reliefs

There are some circumstances where an estate might be exempt from Inheritance Tax (IHT), or where the threshold or rate of tax changes.

There is usually no IHT to pay if:

-  Your estate is worth less than £325,000.
-  You leave your entire estate to a spouse or civil partner.
-  You leave your entire estate to charity.

The amount of IHT can vary:

-  If you're married or in a civil partnership, and your estate is worth less than £325,000, the unused tax-free allowance can be passed to your partner. For example, if a husband dies with an estate worth £300,000, this can be added to his wife's tax-free allowance, and when she passes away, IHT won't be paid on the first £625,000 of her estate.
-  If you pass your main residence to your children or grandchildren (including adopted, fostered or step-children), you will have an additional Residence Nil Rate Band of £175,000, bringing the total tax-free allowance to £500,000.
-  If you leave 10% or more of your estate to charity, IHT is reduced from 40% to 36% on the remainder of the estate.



“ If you’re worried about Inheritance Tax on your estate, remember that if you leave 10% or more to charity your estate will qualify for a reduced tax rate of 36%.”

Lynn Wicks, Partner
Ashtons Legal

Lifetime gifts

Generally, if a gift is made to a person seven years or more before you pass away, IHT will not need to be paid on that gift.

However, in some circumstances, gifts you make in your lifetime remain part of your estate and are therefore eligible for IHT.

There are some types of gift that are always IHT free:

- Gifts between spouses.
- Gifts to charity.
- Gifts worth less than £250.
- Gifts to help with living costs for an ex-spouse, elderly dependant or a child under 18 in full-time education.
- Wedding gifts can be free of IHT as long as they meet certain conditions. They must have been given before the wedding and the wedding must go ahead. Then depending on the bride or groom’s relationship to you, you are able to give up to a certain value IHT free:
 - Given to a child, worth up to £5,000.
 - Given to a grandchild or great-grandchild, worth up to £2,500.
 - Given to another relative or friend, worth up to £1,000.

We all have a £3,000 gift allowance per year, which means you can give up to £3,000 worth of assets or cash without having to pay IHT – even if you pass away within seven years.

What is a Deed of Variation and how does it help with IHT?

“Some executors choose to make a Deed of Variation if 10% is not left to charity, in order for the lower rate of Inheritance Tax to be paid. A Deed of Variation allows the beneficiaries to alter the distribution of the Will, and may also be used to give money to someone who was not in the original Will, such as a grandchild that has been born since the Will was written.

If you have charities you’d like to benefit from your estate should a Deed of Variation be created, you could leave a Letter of Wishes with the Will to let your executors know. However, it’s important to note a Letter of Wishes is not legally binding, so your executors are not obligated to carry out the wishes within it.”



Jasdeep Dhillon, Senior Legacy Administrator
Alzheimer's Research UK

Next steps...

If you know the rough value of your assets and liabilities, you can use an online Inheritance Tax calculator. This will help you decide if you would like to investigate ways to reduce your IHT bill. Just go online and search for 'Inheritance Tax calculator.'

Estimated value of estate

Potential value of Inheritance Tax owed

And this site will help you work out the amount you'd need to leave to charity to qualify for the reduced tax rate: **gov.uk/inheritance-tax-reduced-rate-calculator**

Potential charitable gift

Charities I would like to consider supporting

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In your best interests

Lasting Powers of Attorney:
your questions answered



A Lasting Power of Attorney (LPA) is a legal document that allows you to appoint one or more people you trust to make decisions on your behalf. Having one in place can give you peace of mind knowing that someone you trust will take care of your affairs, if you need support in the future.

Types of LPA

There are two types of Lasting Power of Attorney (LPA), and you can choose to have both or just one:



Property & Financial Affairs

This allows your attorney to make decisions about property and finances. This might include paying bills or organising the sale of your house. You are able to put restrictions on their powers if you wish.



Health & Welfare

This allows your attorney to make decisions about your welfare, such as consent around medical treatment. With this type of LPA, your attorney can only make decisions on your behalf if you lack the mental capacity to make them yourself.

Who can be your attorney?

Your attorney(s) should be someone you trust over the age of 18 and not have been declared bankrupt.

You can choose multiple attorneys if you wish, and you can make restrictions on what they can do. You can also decide whether they act together (jointly) or independently (severally).

If they act jointly, they must agree on all decisions and all sign any relevant documents. You can also decide that they should work jointly on certain decisions, such as selling your house, but individually on others, such as day-to-day decisions.

If your attorneys are appointed to act jointly and one passes away or becomes permanently unable to act, the LPA becomes invalid.

The Mental Capacity Act

Attorneys must follow the Mental Capacity Act when making decisions on your behalf, which means:

- They must act in your best interests.
- They must consider your wishes, past and present.
- They cannot take advantage of you to benefit themselves.
- They must keep your money separate from their own.



How to make an LPA

You don't need to use a solicitor to make an LPA. However it is a complex document to complete and any errors can mean it is invalid. You can complete the form yourself and ask a solicitor to check it or you can have the solicitor complete it for you. If you would rather not see a solicitor, you can make an LPA online or download the forms at gov.uk/power-of-attorney/make-lasting-power

Your LPA must be registered with the Office of the Public Guardian before it can be used.

It's recommended you register it as soon as it's been made so it's ready if the need arises.

Your LPA must be signed by you, your attorneys, a witness and a certificate provider.

The role of the certificate provider is to confirm your identity, that you have the mental capacity to make the decisions recorded in the document, that you understand the consequences of your decisions and instructions, and that you made those decisions by your own free will. The certificate provider must be someone who has known you for at least two years, such as a friend or neighbour, a medical professional or solicitor. Your attorneys cannot witness your signature.

What happens if there isn't an LPA in place?

Having an LPA makes matters much easier for your loved ones if you lose capacity in the future. Without an LPA, the procedure is more complicated and can be more expensive. A loved one will need to apply to the Court of Protection for a deputy to be appointed, which can take a long time to process. Your spouse, partner or next of kin is not automatically able to make decisions on your behalf without an LPA in place. Find out more at gov.uk/courts-tribunals/court-of-protection

Enduring Powers of Attorney (EPA) were the system before LPAs were introduced. If you have one, it is still valid and can be used, but you can no longer create a new one.



What if someone is diagnosed with dementia and doesn't have an LPA?

“As with making a Will, Lasting Powers of Attorney can be created as long as someone has mental capacity – a solicitor will be able to help to judge this. However, if the person with dementia does not have the mental capacity to make an LPA, an application to the Court of Protection can be made, preferably as soon as possible after the diagnosis, in order to appoint a deputy.”

Jasdeep Dhillon, Senior Legacy Administrator
Alzheimer's Research UK



An LPA is like an insurance policy. You hope it will never have to be relied upon but it's good to have in place, just in case. When properly drafted, with trustworthy attorneys appointed, you can rest easy knowing that if it is needed, your wishes can be carried out."

Amy Chater, Senior Associate
Freeths LLP

Your LPA checklist

1. Decide who you would like to appoint as attorney(s), and if there's more than one, whether they should act jointly or independently. Remember, you can choose up to four, and at least two is recommended.
2. Choose which type you'd like to create: Property & Financial Affairs or Health & Welfare, or whether you need both. Think about if there are any restrictions you'd like to place on the attorney(s).

Attorney 1: Joint or Independent

Type:

Attorney 2: Joint or Independent

Type:

Attorney 3: Joint or Independent

Type:

Attorney 4: Joint or Independent

Type:

3. Arrange an appointment with a solicitor.

Contact details for my solicitor

Date of appointment

Or, if you would rather not go through a solicitor, visit [gov.uk/power-of-attorney/make-lasting-power](https://www.gov.uk/power-of-attorney/make-lasting-power) to create one online or download the forms.

4. Ensure the forms are signed by you, a witness and a certificate provider.

Witness name

Certificate provider

5. Register your LPA with the Office of the Public Guardian. This process can take up to 10 weeks, but it's worth doing as soon as the LPA is complete to ensure that if it is needed it is ready to be used. Until it is registered, your attorney(s) cannot act on your behalf.

6. Store the forms in a safe place, and let your attorney(s) know where this is.

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www.alzheimersresearchuk.org

Registered charity numbers: 1077089 & SC042474



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A share of the **future**

Your no-fuss guide to
writing a Will



A Will is one of the most important documents to have. It's legally binding and ensures that your loved ones are taken care of and your wishes are honoured. Having a valid, up-to-date Will makes it easier for family and friends to take care of your estate, knowing that they are acting according to your wishes.

Types of gifts in Wills

There are several ways you can leave gifts to family, friends and charities in your Will:

Your Will should always be stored in a safe place, and your executors should be aware of where it is. Many solicitors offer a storage service, but they may charge an annual fee.

It's a good idea to review your Will every five years and particularly after any major life event, such as the birth of a child or purchasing a house. Marriage invalidates a Will, so you will need to make a new one if you marry or re-marry.

Residuary



This is a share or percentage of the remainder of your estate once expenses like debts, liabilities and Inheritance Tax have been paid, and other specified gifts have been distributed. For example, you could give 1%, 10% or even 100% of the residue to a named person or charity.

Pecuniary



A cash amount specified by you. For example, £500, £1,000, £10,000. It's important to remember that the value of any cash gifts may be affected by inflation.

Specific



A particular item that you wish to leave to someone, such as jewellery or a car.

Conditional



This is a clause you could include to allow for unforeseen circumstances. For example, you may choose to leave part of your estate to a charity in the event that the intended beneficiary passes away before you do.

You can also set up trusts – for example if you want to leave assets to someone who is unable to manage their own affairs. Setting up trusts can be complex, so it's strongly recommended you speak to a solicitor in order to do this.



What happens if I don't have a Will?

Without a Will, your estate will be divided up according to the rules of intestacy. There are a number of factors that will affect who would inherit – here are some guidelines on the rules of intestacy:



If you are married with no children or grandchildren your spouse will inherit the whole estate. If you are separated but not yet divorced, your spouse will still inherit.



If you have children and a surviving spouse and the estate is worth more than £270,000 your spouse will inherit all personal belongings, the first £270,000 and then half of the remaining estate. Your children will receive equal shares of the second half of the estate.



If you have children, and no surviving spouse your children will receive equal shares of the whole estate, no matter how much it is worth.



If you have grandchildren they will only inherit if their parent (your child) has predeceased you. In this case, they would inherit their parent's share of the estate.



If you have no surviving spouse or children other relatives such as parents, siblings, aunts, uncles, nieces and nephews may inherit, depending on exactly which relatives survive you.

Without a Will, these people will have no automatic right to inherit from your estate:

- Unmarried partners, or partners not in a civil partnership.
- Relations by marriage, such as stepchildren, nieces and nephews related biologically to your spouse.
- Friends.

The law around intestacy is different in Scotland than England and Wales. There are different rules for property, personal belongings, and finances.

Is it possible for someone to make or update their Will after a diagnosis of dementia?

“Yes, but they must have testamentary capacity. Under the rules of the Mental Capacity Act, this means they must understand the effects of making a Will, the extent of their estate and the implications of including or excluding certain people. Solicitors are trained and experienced in recognising whether someone has testamentary capacity. They'll usually make notes on why they believe someone has this capacity, and may also recommend asking a doctor to be a witness, to help defend against the Will being challenged on the basis of capacity.”



Jasdeep Dhillon, Senior Legacy Administrator
Alzheimer's Research UK

Key steps to writing your Will

Make a list of your assets

For example:

- Property
- Bank accounts
- Life insurance
- Pension funds
- Investments
- Sentimental items, such as jewellery

Make a list of your debts

For example:

- A mortgage, or other loan
- Credit card balance
- Bank overdraft

Consider how you would like your estate to be divided

Are there any specific gifts you'd like to make to certain people or charities?
What will happen to the residue once all expenses have been paid?

Choose your executors

You can choose up to four executors, but it's recommended that you have at least two in case one is unable to act for any reason. They should be people you trust, and who are competent with paperwork as their role will involve confirming or drawing up your list of assets and liabilities, and final estate accounts before distributing gifts to beneficiaries. They may choose to appoint solicitors to act on their behalf.

Decide how you will write your Will

Solicitors are specially trained to help with the Will writing process and are able to answer all your questions as well as help to ensure your Will reflects your true wishes.

You can find a list of solicitors who have experience in helping those affected by dementia on our website, here: [alzheimersresearchuk.org/solicitors](https://www.alzheimersresearchuk.org/solicitors)

My solicitor is

Contact details

Ensure your Will is valid

The Will must be signed by two independent witnesses. They cannot be a beneficiary in the Will or married to a beneficiary.

This booklet is for information only. Always seek legal advice for any questions or concerns surrounding these issues.