



PROPERTY PROTECTION FOR JOINT OWNERS WHO HAVE TAKEN EQUITY RELEASE WHERE ONE PARTY HAS A DISQUALIFYING MEDICAL DIAGNOSIS AND STILL HAS MENTAL CAPACITY

If you have taken equity release (ER) on your property and are **sure** you do **not** need to release any more funds then you should be considering the following:

Under the terms of your ER agreement if one party dies and the survivor needs to go into care or, if both parties require admittance into residential care, the property must be sold and the ER provider paid back the debt that is owed to them at that stage. In most cases, the debt will be considerably less than the property value, which would then mean that once the property was sold and the debt fully repaid, the resulting equity would be paid directly to the account(s) of the person(s) in care. This payment would, as a result, then increase the amount that was subsequently able to be taken into consideration by the Local Authority for the payment of care fees.

It is therefore wise, to affect the strategy outlined below:

We sever the Tenancy of your property on the Land Registry to change you from Joint Tenants to Tenants in Common.

1 x Property Probate Preservation Trust for the non-diagnosed party and new Wills for both parties containing Nil Rate Band Trusts (and if leaving your property to a spouse and/or children) Residential Nil Rate Band Trusts.

The Trusts within this strategy will ensure that your assets will not add to your beneficiaries' estates for inheritance tax calculations and will not interfere with any benefits that they may be receiving due to the way the funds are appointed out of the Trusts and your estates and, this also protects against any beneficiaries losing half or all of their inheritance if they were to be married and subsequently divorce or die after inheriting because the Trusts within this strategy ensure that all assets within them have to pass down the bloodline only and not go to spouses (unless you specify otherwise).

So long as the non-diagnosed party has complied with the rules concerning deliberate deprivation of assets, the property will be 100% protected if the diagnosed party dies first and the survivor eventually goes into care, because their property Trust will have been legally and correctly put in place well in advance of their need for care, and changes the ownership of their share of the property from absolute to that of a Trustee, meaning that a Local Authority will be unable to take **any** part of the property into consideration when assessing their financial position (because if the diagnosed party dies first and leaves their half of the property to the non-diagnosed party, the diagnosed party, or their appointed attorneys via a registered Lasting Power of Attorney for Property and Finance, will have been able at that point to put the diagnosed party's half of the property into the Trust we are setting up here) preventing the racking up of huge care fee bills that would otherwise have to be paid from the final estate or through the sale of your home.¹

If both parties need to go into care before either has died, the share of the property belonging to the non-diagnosed party will be 100% protected with their new Property Trust, meaning only the share of the diagnosed party could be taken into consideration for care fees as opposed to the whole property being able to be considered, as is the case currently.

If the non-diagnosed party dies first, their half of the property is 100% secure in their Trust, so if the diagnosed party is already in care at that point or subsequently goes into care, then only the share of the non-diagnosed party can be taken into consideration when assessing care fees.

The new property Trust for the non-diagnosed party and the Will based property Trust for the diagnosed party, also protects your property, the surviving party and the chosen beneficiaries at the same time, because each partner is named as a Life Tenant in the other's relevant property Trust. This gives the survivor a right to live within the property without them actually owning it, meaning if, after the death of the first party, the survivor went into care or married/remarried/entered into a new civil partnership or went bankrupt, the deceased's half of the property would not belong to the survivor, and as such, would be secure for the chosen beneficiaries, protected as it would be going forwards against any claim by a Local Authority for a surviving partner's care fees, a divorce settlement, claim under a Will or by the official receiver. In turn, the surviving partner would also be afforded security and protection as they could not be forced out of the home by any beneficiaries of the first to die either as they would have a legal right to reside in the first to die's half of the property for as long as had been stipulated within the Trust wishes of the first to die.

In addition, when used in conjunction with Powers of Attorney, your chosen Attorneys for Property and Finance would also (should they wish to) be able to rent out the property, if the survivor goes into care, and, use the resulting rental income, to "top up" any financial award the survivor may be eligible for, ensuring the survivor would be able to receive a far better level of care than they would otherwise be able to get from that which the basic award would provide.

The new Property Trust has no ceiling on the value of the property allowed to be within it, enabling uncapped future growth in the value of your home without the risk of any potential future tax implications.

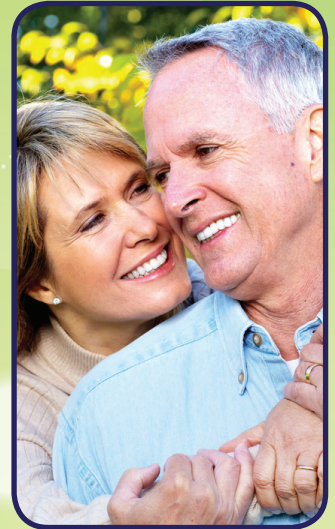
We will also provide you each with a new Will within which will be a Nil Rate Band Trust (and if you are currently married or are ultimately leaving your property to children), a Residential Nil Rate Band Trust, to receive your estate after your deaths, up to the Nil Rate Band (currently £325,000 per person) or Residential Nil Rate Band (currently £500,000 per person). Putting the residuary estate up to the Nil Rate Band and/or Residential Nil Rate Band into these Trusts is a far better gifting vehicle than purely giving the funds absolutely to the beneficiaries which could then be lost through the marriage or remarriage of the surviving partner, or if any of the following were to affect the children or other beneficiaries - divorce, bankruptcy, death passing the funds out of the bloodline, care fees or ultimate inheritance tax on the gift itself in due course by the beneficiary's own descendants/ beneficiaries of their Will. This method of gifting from the estate therefore ensures that beneficiaries are fully protected against all the above scenarios.

Interest in Possession Trusts for each you are also added within your Wills which are exactly the same as the Trusts above but for funds received from the residuary estates in excess of the Nil Rate Band or Residential Nil Rate Band allowance.

Extra copies of your Wills are included within this package to ensure that whatever happens to your own copies there is another signed and witnessed original legal copy of each Will that will be able to be used when the time comes.

All standard legal, Land Registry and conveyancing fees including the provision and completion of all standard associated official government registration documentation together with all relevant solicitors' fees are provided for you **FREE OF CHARGE** when taking out this package.

The Priority Client Cover listed below/on reverse must be taken in conjunction with this package at £9.99 per month.



£2495

+

£9.99 per month

for Annual Trust
Minutes Cover
(full details on reverse/
below)

¹Remember if you have reason to believe that you may go into care soon or if your sole reason for implementing this package is simply to avoid paying foreseeable care fees and you are not implementing it for any other reasons such as protecting your family against divorce, bankruptcy, marriage after death or generational inheritance tax then you could be accused of deliberate deprivation of assets.

Price valid until
31/12/24

Call now **FREE** on **0800 668 11 64**
to arrange your free telephone consultation



Annual Trust Minutes

with Priority Client Cover - £9.99 per month

- **The annual production and provision** of a bound compulsory Annual Trust Minutes document detailing if there have been any changes to the property or the settlor(s) health (the person(s) setting up the Trust(s)) or any relevant changes in circumstances of any of the Trustees
- **The automatic** inclusion within your documents of any future relevant legislation changes that are made, as and when they happen, by way of a free update to your documents (we will contact you first to confirm that you wish us to do this for you) meaning that your Trust(s) will never be able to be considered "old" or "not up to date" by any local Authority or Court
- **The submission on your behalf** of any documentation that may be required from time to time going forwards ensuring your full compliance with all HMRC regulations is guaranteed at all times
- **Free unlimited updates** to all of your documents if you move or whenever your circumstances or wishes change
- **Free storage** for up to 10 of your documents (including birth/marriage certificates etc)
- **50% off** the list price of any further products and services of our own that you wish to purchase
- **Priority EXPRESS production** of your documents within 48 hours (Mon to Fri)
- **Probate** on your estate conducted at **33% less** than our standard fee if your executors wish to use us for this work
- **94%** of all nominated executors within a Will do not actually conduct the work themselves but pass it to a solicitor to undertake for them
- On an average estate of £350k then, with this cover in place, your beneficiaries will be able to **save over £2000** in solicitor's probate fees when the time comes and the savings will be considerably more if the value of the estate is higher

www.thywill.co.uk

Where there's a Will there's a Way

