



Wills in Surrey Protecting your Assets

PROTECTIVE PROPERTY WILL

Setting up a Protective Property Will allows clients to protect their property from the Community Care Act of 1990. Most married couples own their homes jointly which in effect means that on the death of one, the surviving partner, owns the house solely. This in turn means that should that person, having assets in excess of £23 thousand pounds. (as at March 2010) go into care, that person is liable for their care costs.

Having exhausted any "liquid" assets available from the estate, the Council would then look to recover its care costs, by forcing the sale of the family home.

Our Protective Property Will, alongside an Evacuation / Severance of Tenancy Document, allows for a percentage of the property, normally 50%, to be passed to the children. This in effect means that the surviving spouse only owns 50% of the property; and It has been proven in a Court of Law that, **legally half of a home has NO value.**

The surviving spouse is also granted lifetime occupancy of the family home within the Will and in this manner is protected and can never be forcibly removed by his/her children.

During 2009, 69 000 homes, 200 every day, were taken by Councils throughout the UK, to recover care costs. The total value was in excess of £1.8 billion pounds.

Example:

Mr & Mrs White bought their council house in 1992 for £10,500. It is now worth £175,000. Both are retired and live on a small pension with only a small savings account. Unfortunately Mr White was diagnosed with Dementia 2 years ago and recently his condition has deteriorated so much that he has had to go into care.

If Mrs. White now dies her share of the property automatically passes to Mr White under the "Survivorship" clause in the title deeds. This then means the whole house can be sold to pay for long term care fees. This is how most couples in the UK have had their Title Deeds drawn up by their Solicitor.

In order to protect their home, often their most valuable asset, we split the title deeds by means of a document called an "Evacuation of Special Destination" (Scotland) / "Severance of Tenancy" (England) and alter the wording in the Wills accordingly.

This means that when Mrs White dies her 50% of the house passes through her will to her choice of beneficiary, normally her children, leaving Mr White with ½ a house. This then begs the question "Could the council force the sale of ½ a house? Would you buy ½ a house?" of course not.

Legally half of a house has no value and is therefore not worth pursuing by the council.

Mr & Mrs White have potentially saved their house from disappearing to pay for long term care fees and made sure their children can inherit the family home by doing a Protective Property Will.

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