



HELP! MY PARENTS NEED CARE

Ashley Bidmead, an associate in Viberts' private client team, explains the support available when a relative is no longer able to look after themselves

A CERTAIN generation is currently finding itself sandwiched between still caring for children and grandchildren, while its elderly parents are also starting to need care.

This can raise many questions, as very few of us understand how funding works for health and what benefits you can get from Customer and Local Services (previously Social Security). We are often asked: 'Who decides when someone needs care? And how is it paid for?'

Our Private Client Department regularly advises family members in this situation.

WHO WILL MAKE THE DECISIONS?

This is a matter of capacity law and, in Jersey, a person is deemed to be able to make their own decisions unless it is proven that they cannot. Often when a person moves into a care home they have good capacity, and it might just be that their mobility is letting them down and this is the reason why care is required. Accordingly, if a person has capacity, they have the right to make such decisions themselves and those assisting them should follow their wishes.

If there is a question of capacity, a capacity test will need to be undertaken. This is a two-stage test. The test firstly looks as whether the person has 'an impairment or disturbance in the functioning of their mind or brain'. Simply put, this means does the person have an illness (ie dementia) that affects their thinking ability on a particular decision?

If they do, then the second stage is to consider whether they are able to understand the factors to consider in making the decision, retain any relevant information in relation to it, weigh up the relevant factors and communicate their decision. If they can do all of these

things, then they are likely to have the capacity to make a particular decision. If they are unable to do any or all of those things, then they are unlikely to have the capacity to make the decision in question.

If a person does not have capacity, then it must be established whether the person has given a Lasting Power of Attorney for health and welfare matters (and/or financial matters) to anyone who would be able to make the decision on their behalf.

If there is no attorney appointed, then an application for a delegation could be made with the assistance of the person's GP, and the court would appoint a delegate. The delegate would then be responsible for looking after the property and affairs of the person and would pay for any care organised by (usually) a social worker or the family.

WHAT TO DO IF CARE IS REQUIRED

A person is free to make whatever care arrangements they choose privately with an agency or care home. There are, however, benefits to following a more formal process.

When a person requires care, it is often the case that a social worker is appointed to assess the person's needs and they will help to arrange a care package. The benefit of proceeding in this way is that it ensures that the person will be registered for the Long-Term Care benefit and that the care will be funded with the appropriate matching level.

FUNDING

Care can be expensive, so how is it paid for? The main funding comes from the LTC benefit administered by Customer and Local Services.

There are two elements to the benefit, one (care costs) is means-tested and

the other (non-care costs of being in a nursing home) is not. The key figure in terms of assets is £419,000.

If a person has more than this amount, then they will only qualify for assistance after they have paid the first £60,160 of nursing fees (or £90,240 as a couple). They will then receive the benefit towards their care, which will cover approximately half of the costs of being in a care home. There is no upper limit for this part of the benefit in terms of assets or income. The person will be expected to fund all other care costs.

If the person's assets are under this amount, then they will qualify for the care costs immediately and will receive means-tested support towards the non-care costs.

There is also the option of the LTC fund putting a charge against a person's house to pay care-home fees so that the property does not need to be sold. However, simply put, there will be a mortgage raised against the house payable to LTC which will have to be settled at some point in the future.

A further benefit that may be available is the Home Carers' Allowance. This is a benefit available to a person who is caring for a family member over a certain number of hours per week and meets certain other criteria. If you have to give up or reduce your work to care for someone, then this is worth looking into.

The LTC benefit is a great help to many families in Jersey. It can be applied for by everyone (who meets the residency criteria) by calling Customer and Local Services on 01534 444444.

Viberts' private client team deals with all elderly client and care issues. Should you require assistance, please call us on 01534 632263, email privateclient@viberts.com or visit our website at viberts.com/private-client.

