Protection against CARE FEES

Couples who own property together have a golden opportunity to protect their assets against care fees if they use the right type of wills. Couples often make wills leaving everything to the survivor, but if the survivor ever needs care, their assets can soon be depleted. A straight-forward way to avoid this is as follows:

1. Divide the ownership of your home into two equal shares, (Tenants in Common), so you can each leave your half share to whoever you wish in your Wills.

2. Both make Wills giving your share of the house to a trust which allows the survivor to use it for life without owning it

The key is: A Flexible Protective Trust.
This trust gives a surviving partner the absolute right to stay in the property undisturbed for their lifetime; they can even sell it and move whenever they want. However, crucially, they don't **own** the share held in trust so it can't be included in any means-test for care fees. On their death the trust ends and the assets pass to the final beneficiaries: usually the children.

The "flexible" element gives the Trustees power to pay capital to the surviving partner if it's ever needed, so the surviving spouse should never feel trapped. A "Letter of Wishes" tells the trustees when they can and can't pay out capital.

The above arrangement protects 50% of your home from a care fee assessment simply because that half doesn't belong outright to the surviving partner. In practice this arrangement may protect the entire value of the property from care fees due to the rules on valuation – in short, one half a house may be valued at nil when the other half is in trust.

If you want to go further you can protect savings as well as your property by leaving your share of these to the trust. If managed carefully, these cash assets may even be used by the survivor to "top-up" care fees.

Other Benefits of a flexible protective trust

A. If your spouse remarries after your death it stops your money being spent by their new partner and disappearing out of the family.
B. If you have children from a previous relationship this type of trust provides a way to give them an inheritance, while ensuring your current partner is safe and secure.

AN OPPORTUNITY FOR COUPLES
This planning is only available to couples; it's too late if one half of a couple has passed away leaving everything to the survivor. It's a very simple and effective way to protect assets and one of the cheapest bits of estate planning you can do.

JARGON EXPLAINED:
There are two ways you can hold property jointly:

Joint Tenants
If one joint owner dies the property automatically passes to the survivor, no matter what the deceased put in their will.

Tenants in Common
With Tenants in Common each person owns a specific share of the property - usually half each. If one joint owner dies their share goes to whoever they specify in their Will.

Are there any downsides?

- It doesn't work if you both go into care at the same time,
- It's only protects half your assets.
- The wills need very careful drafting so it's crucial to get advice from a specialist in this field to avoid the pitfalls.