

This is sheet 3 in this series, go to our website for the others

The LA have agreed to the DPA so what are Wilma’s options?

Essentially there are 2 choices, leave it standing empty or let it – so let’s look at these options.

Letting the property



The LA demands that any letting agreement is approved by them. The property might need to be modernised before letting – bear in mind that having qualified for the DPA the available capital will be below £23,250 so you might like to discuss with us how

a debt might be created in the estate if inheritance tax is likely to be an issue. Being a landlord has onerous responsibilities and tenants should be vetted. Speak to a reputable letting agent to see what they recommend about preparing the property for letting and what the rental income and management charges will be. Don’t forget there have been recent changes to the way rental income is taxed and there might be times when there is a gap between one tenant leaving and another starting – known as a rental void.

Let’s return to Wilma and look at how the sums might work by applying the rental income to the DPA calculation we did in information sheet 2.

The weekly cost of the care home is		£850.00 see note below
Less Teachers’ pension	£230.40	
Less state pension	£105.30	
Less higher rate attendance allowance	£82.30	
Less net rental income	£116.88	
Total income	£534.88	
Less the increased DIA	(£144.00)	
Total net income to offset charges	£390.88	(£390.88)
Amount added to Wilma DPA account		£459.12

Note – the Act says the legal extent of the LA to meet care home costs is limited to “core costs”, this is the cost of beds in a care home the LA block-book and pay for. This rate can be significantly less than what the same home would charge “self-funding” clients. Whether the LA will meet the self-funding rate will be completely at their discretion.

If we assume the rental income is £550 a month, this will be reduced by letting management charges of, say, 15% leaving £467.50, if Wilma wants to use all the £144 of the DIA to make sure she can meet her landlord responsibilities the net charge to the DPA is £459.12, compare this to the calculations made in sheet

The DPA is provided because cash and savings are less than £23,250 and this reduces what is available to prepare the property to let, to fund any running repairs and to cover rental voids (between tenants). If the LA will not meet the full care home costs there will be a greater shortfall. Additionally the rental income will be taxed. There have been recent changes in the way tax works on let properties. Of course these sums do not allow for any possible increases in the property value and it could be considered that preparing the property to let will make it easier to sell later but Wilma and her family could be forgiven for concluding that letting is not worth the effort! These considerations are often difficult to financially quantify!

Again we have considerable experience in these situations.

While we are talking about property

Before the Care Act good estate planning practice was to own the property as tenants in common (holding the property this way allows each spouse to own a share rather than joint tenants where ownership cannot be separated) and Wills provided discretionary trusts on death so that instead of the deceased’s share of the property passing to the survivor it was passed into the discretionary trust and away from the surviving spouse’s ownership. Consequently if the surviving spouse needed long term care the charges could not be applied to the full property value, If the LA is looking at securing their charge for the DPA it will almost certainly fail as they will be unable to apply a charge on that part of the property owned by the discretionary will trust!

How is the DPA ended?

The DPA can be ended in a number of ways

- The property could be sold and the DPA charge redeemed from the proceeds
- The DPA account could be settled by a family member or third party wanting to have access to the property or the sale proceeds
- Where the property is let you will need to rely on the terms of the letting agreement to recover and sell the property to clear the LA charge – these provisions will be part of the letting contract
- The DPA credit facility is used and the LA ask for the property to be sold to fund the care – don’t forget in the above situations the care charges will still need to be met!
- Death of client, the LA should be advised soonest as part of probate and this will start their process of settling the DPA account

Call Peter Ginger or Nicola Charman on 01296 392999 to arrange an initial no-obligation 30-minute consultation conducted at our expense.



In the next and last sheet we summarise and provide information where you can get further details