



# “what can we do?”

In each issue of *Family Care*, we ask Public Trust's Janet Strong to answer your questions about legal and planning issues.

## Dear Janet,

My parents cared all of their lives for my sister, who has an intellectual disability and is now 55 years old. Dad died in the 1990s and Mum and my sister have lived together in the family home until recently, when Mum had a stroke. She now lives in a nearby rest home.

My sister is my only sibling and still lives in the home, but does need support. I have been providing this daily (I live a 10 minute drive away) but must admit I am getting tired. I still work full-time and want to keep doing so until I am in my mid 60s. My sister has a part-time job and needs assistance to organise her transport, keep the house and garden tidy, and coordinate medical appointments etc. She does have home help and receives some state funding.

I have the Powers of Attorney for both my Mum and my sister, but figuring out asset testing in this situation is rather messy. Can my sister continue living in the home now that Mum is in residential care? My parents have savings of about \$150,000 to use for my sister's ongoing support needs and the home is mortgage free, with the title in my Mum's name.

What do I need to know to ensure that both my Mum and my sister are well cared for, and that the money and property we have available for their care can stretch as far as possible? Thank you,  
**Marion, Mairangi Bay**

## Dear Marion,

Your situation is a fairly common one for carers with elderly parents and siblings who need some help. There are options which can help ensure your mother and sister get the care they need.

When it comes to paying for rest home and hospital care, the Government's Residential Care Subsidy is asset tested as a way of deciding who qualifies. As at 1 July 2009, the asset threshold is \$190,000 for a person with no partner. The value of your mother's savings for your sister's care, plus the value of her house, would mean that your mother would not be eligible for the full Subsidy.

The Ministry of Health (through Work and Income) also offers a Residential Care Loan Scheme, which may be useful in the future. This is an interest free loan that is repayable when the home is sold, or six months after the borrower passes away, whichever happens first. To qualify, the cash asset limit for a single person is \$15,000, or \$30,000 for a couple both in a rest home or hospital care. Your mother's savings mean she would not qualify for the loan until the time comes when there's \$15,000 or less remaining.

## How it works

This scheme enables the home to be retained subject to your mother continuing to pay the rates, insurance and maintenance on the home. The scheme makes special provision for people like your mother who have had a dependent child (adult or otherwise) sharing the home with them for a lengthy period prior to the move into rest home care. These special arrangements may include deferral (sometimes indefinitely) of the requirement to repay the loan, and in some situations agreement may be reached to provide a loan even when the cash assets have not been fully reduced to the \$15,000 level.

If your sister remains well and able to live

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independently with support, and your mother remains in long term private paying care, then it may be worth discussing the loan scheme with Work and Income once the cash assets are around \$50,000.

## Your mother's care

This will need to be paid from the assets she owns, which are the family home and the savings set aside for your sister. One option to ensure your mother is taken care of as needed, and your sister can remain in the house for as long as possible, is to use some of the \$150,000 savings to pay for your mother's care. Once the savings have reduced then the Residential Loan scheme can be utilised.

Another option, depending on the size and value of the property, is to consider the sale of your mother's house and downsizing. You may find there's enough to pay for her care and provide your sister with a place to live in the same area or nearby. But the replacement property could not be offered as security for a Residential Care Loan if this needed to be considered in future.

If your mother is still well enough, then I would also suggest that you talk to her about making sure her Will is up to date and structured in an appropriate way to help provide for your sister in the longer term. It's also important to make sure that she has appointed a back-up Attorney in case you are unable to continue in this role. If your mother doesn't have the capacity to make sure these plans are in place, and you feel what is in place may not be a desirable outcome given the changed circumstances, then you can go through the Family Court to request changes.

## Your sister's care

Your sister's care seems to rely on the money that's set aside, and your time to help around the house when the home help isn't there.

It would certainly be worthwhile asking for a review of her support needs. This can be arranged through her Doctor or directly with Taikura Trust, who provide assessments and support for under 65s in Auckland on behalf of the Ministry of Health.

Given your sister's health and support requirements, and that your mother is no longer able to reside at home, further assistance may be available (for example, coordinating medical appointments or extra help at home with house and gardens). Your sister may also qualify for a Disability Allowance through Work and Income to assist with some of these costs, and a Mobility Transport Card to assist with transport costs.

## Other options

There are other options to help with managing the financial and property matters you may be taking care of, such as getting a professional appointed as Property Attorney under an enduring power of attorney to help you. It doesn't mean you'll be removed from the decision-making on your sister's behalf – it just means that someone can help take some of the pressure off you. Anyone else appointed to help can be required to consult with you before any decisions are made. If

your sister wasn't coping at home and was at some point assessed as needing rest home care herself, if she is under the age of 65 she could qualify for Residential Support Funding, which is not asset tested.

When it comes to your sister's care in the future, your mother's estate planning could include setting up an inheritance trust for your sister. This could help ensure that your sister's share of your mother's estate is managed in the best way for your sister, and it means she may still be eligible for the Residential Care Subsidy when she is 65. The same may also be achieved through a protective trust within your mother's Will.



## What if something happens to you?

Taking care of yourself and planning your own future is just as important as your mother and sister's plans.

Having your own up to date Will and enduring powers of attorney in place means that you can set out what you want to happen if the unexpected happens to you, otherwise the Court may end up making decisions which may not be what you'd want. With your mother and sister unlikely to be able to step in, you can relax knowing exactly what would happen.

## Planning for the future

A long-term solution for people who think they may face a similar situation in years to come may be a family trust. Most people transferring assets into a family trust undertake a gifting process where they gift \$27,000 in assets per year. This is the maximum amount which can be gifted annually without paying Gift Duty. Larger gifts are subject to duty.

The rules for people applying for Residential Care Subsidy are not as generous. Gifting of up to \$5,000 per annum made in the five years preceding a Subsidy application is usually ignored from the asset testing perspective, and any additional gifting is clawed back and added to the cash asset base to determine whether the person qualifies for assistance or not.

I hope everything works out for the future. If you'd like to know more about the Residential Care Subsidy or Residential Care Loans for the future, call the Auckland District Health Board Residential Care Line on (0800) 725 463 or the Work and Income Residential Subsidy Unit on (0800) 999 727.

**For more on Wills, enduring powers of attorney, or trusts, you can call Public Trust on (0800) 371 471.**

*Janet*