***FAIR DEAL SCHEME-EXPLAINER***

*I live alone in the family home. My husband is in a nursing home. I was going to sell the house and move into retirement centre.*

*I never thought of Fair Deal, which we use. I started reading about selling and tax implications. Am I right in thinking I would be mad to sell? He has been in the nursing home for 2½* *years.*

*Are there tax implications after he dies if I wait until then to sell the house,* *or is Fair Deal finished after his death re tax implications? I am alone but really appreciate your advice.*

You are right to consider the implications of selling the family home if your husband is availing of Fair Deal.

Mrs XY

However, that does not necessarily mean you are “mad to sell”. You also have to consider your own priorities in terms of your desire to move into a retirement centre – and how that will be financed.

Fair Deal – which is the funding arrangement for most people in nursing homes in Ireland – sets the cost of care at 80 per cent of income plus 7.5 per cent of the value of assets annually for a single person regardless of the actual cost of the nursing home.

The Government funds the balance. In term of assets, a limit is placed on the family home: the 7.5 per cent contribution applies only for the first three years of care.

For a couple, like yourselves, the contributions are halved: 40 per cent of income and 3.75 per cent contribution from assets, including the family home.

A nursing home loan covers the money owing on the house, and the house will not generally be sold until the nursing home resident and their spouse or partner dies.

The really important thing here, as far as you are concerned, is that three-year cap on charges against the value of the family home. As of now, your husband is 2½ years into care. That means that, from the middle of this year, he will have a charge of 11.25 per cent against the value of the home.

He will never owe any more than that on the family home unless it is sold.

But if it is sold, the HSE will correctly continue to charge 3.75 per cent against the sale price every year for the balance of his time in the nursing home.

The question of course is for how long this will continue, and the answer, for most of us, is that we don’t know. The average stay in a long-term nursing home is around the three years, but a substantial number of people will live for longer – others for less than that average.

So there is no upper limit to the annual charge of 3.75 per cent of savings and investments.

This is important because you have to figure out how to afford to move into a retirement centre as you would like to do.

**Ringfenced**

It would be one thing if you could buy the accommodation in the centre as it would then, as far as I understand it, be ringfenced from inclusion in any nursing home bill. But most retirement centres rent or lease their units. That means you will need a steady income, or savings, to continue to afford the payments.

If your husband’s care is eating into all savings – including those from the sale of the family home – that could eventually become an issue.

But before we dismiss the idea, it does have to be remembered that his charge is 3.75 per cent per annum. He would need to be living in the nursing home for a long time to even start eating into your half of the money from the sale of the property.

So the numbers may still work for you.

You also ask about the impact if you decide to wait until he dies and then sell the family home.

There are two things to be aware of here. First, once he dies, no further charge accumulates against his property. So, if the family home is unsold until he dies, the cap on what the HSE can take is 11.25 per cent.

The second thing to note is that, while usually a nursing home loan will not be called in against a family home until the surviving partner has died, if the property is sold and the full sum not used to invest in another home, it is likely the HSE will want their money after the sale.

It begs the question then as to what you will do if and when the house is sold an how you will fund your own accommodation needs bearing in mind that if the house is sold the Fair Deal is no longer available to you.

Which is not a good reason not to do it; just be aware that the bill will likely fall due at that time. But it will be capped at the 11.25 per cent level.

One of the big reasons people get exercised about Fair Deal is the charge on the family home and concerns about the cost of care eating into inheritance.

I have little tolerance in this area. A couple’s assets are theirs – for their use to make their lives as comfortable as possible and meet their bills when they no longer have earning capacity.

It is great that there is a cap on a family home and that it does leave something behind for other family members, but your priority should be on organising your life the way you want to.

Selling the family home will open its value up to nursing home charges, but if it also allows you to live in a retirement centre as you would like to do, then that is a perfectly valid decision.

***Please note that the above scenario is set out for illustrative purposes only and should not be relied upon as the giving of advice in the professional solicitor and client meaning of that term. It is there to raise issues and inform but not to advise. If you require legal advice then your own situation will have to be carefully considered by your trusted legal advisor and if you would like our assistance then we would be happy to assist.***



**Kevin O’Higgins Solicitors,**

Main Street,

Blackrock,

Co. Dublin,

Ireland

Contact: Kevin O’Higgins

Tel: + 353 1 284 2420

Email: [kevin@ohigginssolicitors.ie](mailto:kevin@ohigginssolicitors.ie)