



# For Life

NEWS AND ADVICE FROM BIRKETT LONG

## Reclaiming care home fees



When an elderly relative needs care, difficult choices can result in an emotional time for everyone concerned.

The elderly person may be facing a loss of independence for the first time, while the rest of the family must select the right care home and help their loved one through the settling in period. On top of this, there is often a worry about funding. However, it is not always understood that private care fees can sometimes be covered by the NHS.

Over the years, people requiring residential care have been assessed for NHS funding by their local Primary Care Trust (PCT). If they don't meet the criteria, they have often had to pay privately.

Because different PCTs have applied different criteria, this has led to inconsistency and uncertainty but recent challenges to those decisions have increasingly meant that people have been successful in reclaiming care home fees.

Reclaims are not limited to people who are still in residential care. They can include reclaims by executors of estates where the person who was receiving the care has since died. The refunds can often be very significant. Claims for care fee refunds must be submitted to the Department of Health by 31 March 2013 for the period

between 1 April 2011 and 31 March 2012. Eligibility for a refund is assessed against four indicators – the nature, intensity, complexity and unpredictability of the individual's need. It does not matter what the condition is (or was), where the care was provided, or whether the person's care needs have increased since the original assessment.

Caroline Dowding has helped many people make a claim. As well as retrospective claims, she has also helped those who wish to challenge the result of an assessment. Claims can be made by the individual receiving the care or by another person who has the appropriate authority, such as their Power of Attorney. Claims can be submitted privately or through a legal firm; Birkett Long will only charge a fee if a refund is granted.



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# The continuing trend to extend

**The dilemma faced by many homeowners - whether to move or improve - is not a new one. In a climate of high property prices, a scarcity of willing lenders and the high costs of moving, improving your current home has got to be the better option. Certainly the relaxation of planning laws has meant an increase in those keen to extend their homes.**

Whilst extending is likely to be the cheaper option, this will most likely still mean investing a significant amount of money into your biggest asset. It is surprising how often people are prepared to allow expensive works to be carried out to their properties without having agreed anything in writing. Where possible you should avoid making verbal contracts and commit what you agree to writing. At the very least, set out exactly what work is required, how much it will cost and when payments are to be made.

It is also a good idea to agree a start and completion date for the works so that you are not living in a dusty building site for longer than is necessary. You may also wish to consider including some form of fixed damages where delays are unreasonable. If you want to adopt a more formal contract there are several available standard forms, one of which can be purchased from the

Joint Contracts Tribunal (JCT) or you can have one drafted by your solicitor.

Other matters to be mindful of before commencing building works are those covered by the Party Wall Act, particularly where the works being carried out are up to, or straddling, a shared boundary or where they involve cutting into a shared party wall. Failure to adhere to the legislation in this Act could result in your neighbour obtaining an injunction to prevent the works from continuing, which could be very costly. If you are in any doubt about whether your works fall within the Act, then it is a good idea to obtain advice from a surveyor specialising in party wall matters.

All building projects works will have an ongoing snagging list - generally items that require attention but will not cause delay to completion and are not usually considered to be defects. However, if at the end of the completed works you are still unhappy, you should prepare a detailed list of the defects, taking photographs where you can and dating them. These will be important evidence if needed.

If the defects are significant you should consider seeking professional advice from your solicitor, especially if the relationship with the builder is breaking down. Early



## Bare essentials

Legal facts you can't do without

### Show me the money!

In the current austere times, it is even more important than normal for companies and individuals to get their bills paid on time.

Good cash-flow is the lifeblood of all businesses. Our debt recovery team offers a fast and effective debt collection service to ensure that good cash-flow is maintained. The debt collection team at Birkett Long has found that sending a letter before claim often focuses the debtor's mind on paying up, which often means that no further action is necessary.

In some cases the debtor needs more prompting, and if so, the next step is to issue

proceedings in the County Court. When proceedings are issued, in addition to the debt, we add the court fee, fixed costs, collection charge and interest under The Late Payment of Commercial Debts (Interest) Act 1998, thereby maximising recovery for our clients.

If payment is still not received judgment may be entered. This will adversely affect the debtor's credit rating for 6 years unless full payment is made within 28 days of judgment being entered.

For more details of this service please contact Margaret Davey on 01206 217378 or [margaret.davey@birkettlong.co.uk](mailto:margaret.davey@birkettlong.co.uk)



advice can often save thousands of pounds. It may be necessary to instruct a building surveyor to inspect your property and prepare a list of defects together with remedial works required. Most building surveyors will be able to provide an estimate for remedial works so you will know how much it will cost to put right. Seeking professional advice is an extra cost that you are unlikely to have foreseen, but can be well worth incurring to make sure that you are clear as to what is wrong and what it will cost to put right.

If you are about to start building works or are near to completion and think you could benefit from talking to us, then please get in touch.



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## Meet the team

### Mike Cracknell

Mike Cracknell, one of our financial planning managers, has been awarded the prestigious chartered status by the Chartered Insurance Institute (CII) after meeting the rigorous criteria relating to professionalism and capability. With 29 years' experience in the finance industry, Mike specialises in wealth creation and preservation involving trusts, pensions, pre and post retirement planning, personal taxation and inheritance tax advice.

Mike said: "I am incredibly pleased to have been awarded Chartered Financial Planner status as it allows us to demonstrate to our clients that they

will receive only the finest independent advice."

In addition to his new accreditation, Mike has achieved Associate Membership of the Chartered Institute of Bankers (ACIB), Associate of the Personal Finance Society (APFS) and Associate Member of the Institute of Financial Planning (AIFP). He is also the Financial Services Compliance Officer for the firm.

All the financial advisers within our team are qualified to at least the minimum Retail Distribution Review standard of QCA Level 4.



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# under the spotlight

## Property fraudsters

When an elderly person leaves their home for any period of time, for example, to go into residential care or move in with a relative, it is important to take steps to protect their home from property fraud.

Property fraud normally occurs where there is no mortgage or the owner lives elsewhere. Fraudsters can attempt to acquire the ownership of the property, either by using forged documentation or by impersonating the owner. Where the property is left empty or the owner is absent or taken into nursing care, simple steps can help to prevent the property becoming a target for fraudsters.

### So how can you protect your property?

The first thing is to ensure that the title to your property is registered at the Land Registry. Approximately 20% of properties and land in England and Wales remain unregistered. Should you become an innocent victim of fraud but your property has been registered, you may be able to claim compensation.

Once Land Registration has taken place, you should ensure that the contact details for the owner shown on the title and held by the Land Registry are kept up to date. Registered Proprietors may have up to three different contact addresses shown on the title, one of which can be an email address.

For owners whose property is to be left empty permanently, or for a considerable period of time, the Land Registry has introduced an additional security measure. Such owners can now apply to the Land Registry, either directly or through your solicitor, to register a restriction on the title, free of charge. This restriction, known as a Form RQ restriction, ensures that the Land Registry will not register a sale or a mortgage unless the solicitor or conveyancer has certified that the person who has signed the deed is the registered owner. This should help to prevent the fraudster from using forged signatures. This simple and relatively inexpensive action will help you to prevent possible future fraud as well as give you peace of mind.

If you would like any further advice regarding registering your ownership at the Land Registry or would like such a restriction registered on your empty property, please contact our Residential Real Estate Team on 01206 217367.



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## Forthcoming events

Coming up in 2013:

- **Reclaiming care fees - 12 March**  
**If you are paying care home fees you may be entitled to reclaim them.**
- **Long term care seminar - Summer 2013**

**For more information on any of our events please visit**  
**[www.birkettlong.co.uk/events](http://www.birkettlong.co.uk/events) or email**  
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