

November 2013

Residential Care Subsidies and Your Trust

A recent decision by the Court of Appeal has recently confirmed the Ministry of Social Development (MSD) policy on allowable gifting when assessing assets for Residential Care Subsidies.

Gifting allowances are currently:-

- A total of \$30,000 for the five years prior to an application, ie \$6,000
- Outside this five year period, the limit is \$27,000 per year.

It is important to note that these gifting allowances are per couple and not per person. This is not a change in the rules but the rules are being applied more stringently.

Any gifting made over these allowable limits will be added back to your assets when assessing eligibility for Residential Care Subsidies.

It is clear that the MSD requires us to look to our own resources before they will give us financial assistance. This is supported by the Social Security Act.

If the MSD determines that we are depriving ourselves of assets or income that we may have otherwise been entitled to, it is likely they will add those back into the assessable assets or income.

When completing a Means Assessment, 'assets' are broadly defined and include all assets capable of being realised.

All assets available to a couple or economic unit will be taken into consideration. Relationship Property Agreements are not taken into consideration.

Even if you are entitled to a subsidy, you may still be required to contribute to the cost of care. If, in the past, you received distributions from Trusts, or Trust income, the MSD will take this into consideration and question why these distributions have ceased. It will not be acceptable to stop receiving those distributions just to avoid contributing to your Residential Care costs.

The really clear message we are getting is that if you are seen to be depriving yourself of assets or income, these values may be added back for the purpose of determining your means.

In some instances a Residential Care Loan may be an option to consider, particularly where the assets are above current thresholds and there is limited cash available. These loans are interest free and repayable on the earlier of the applicant's death or the sale of the home.

For more information go to our website for the latest Residential Care Subsidy and Loan booklet. www.cooperaitken/services/trust

When considering gifting to your Trust or others, Residential Care Subsidies are only one consideration to take into account and advice should always be obtained, so contact Leanne Gordon 07 902 2842 to discuss your Trust gifting first.