

FRASER  FRASER  
SINCE 1969

GENEALOGISTS AND INTERNATIONAL  
PROBATE RESEARCHERS



Stonegate

Family. Wealth. Protection.

# Webinar with Fraser and Fraser

*Presented by*

**Hannah Rodgers**

Solicitor, Stonegate Legal Limited

*Hosted by*

**Stuart Haydock**

Business Development Manager, Fraser and Fraser

## Fraser and Fraser

---

### Our Services

- Location of Missing Beneficiaries
- Missing Beneficiary Insurance
- **Free** Family Tree Check
- Risk-free Administrator Search Service
- Overseas Bankruptcy Searches
- Medallion Signature Guarantee
- Flexible Fee Options (including time spent and fixed fee)





FRASER  FRASER  
SINCE 1969



Stonegate

Family. Wealth. Protection.

# Care funding: Supporting clients through a broken system

11 September 2024

Hannah Rodgers

Solicitor, Stonegate Legal Limited





## About Us

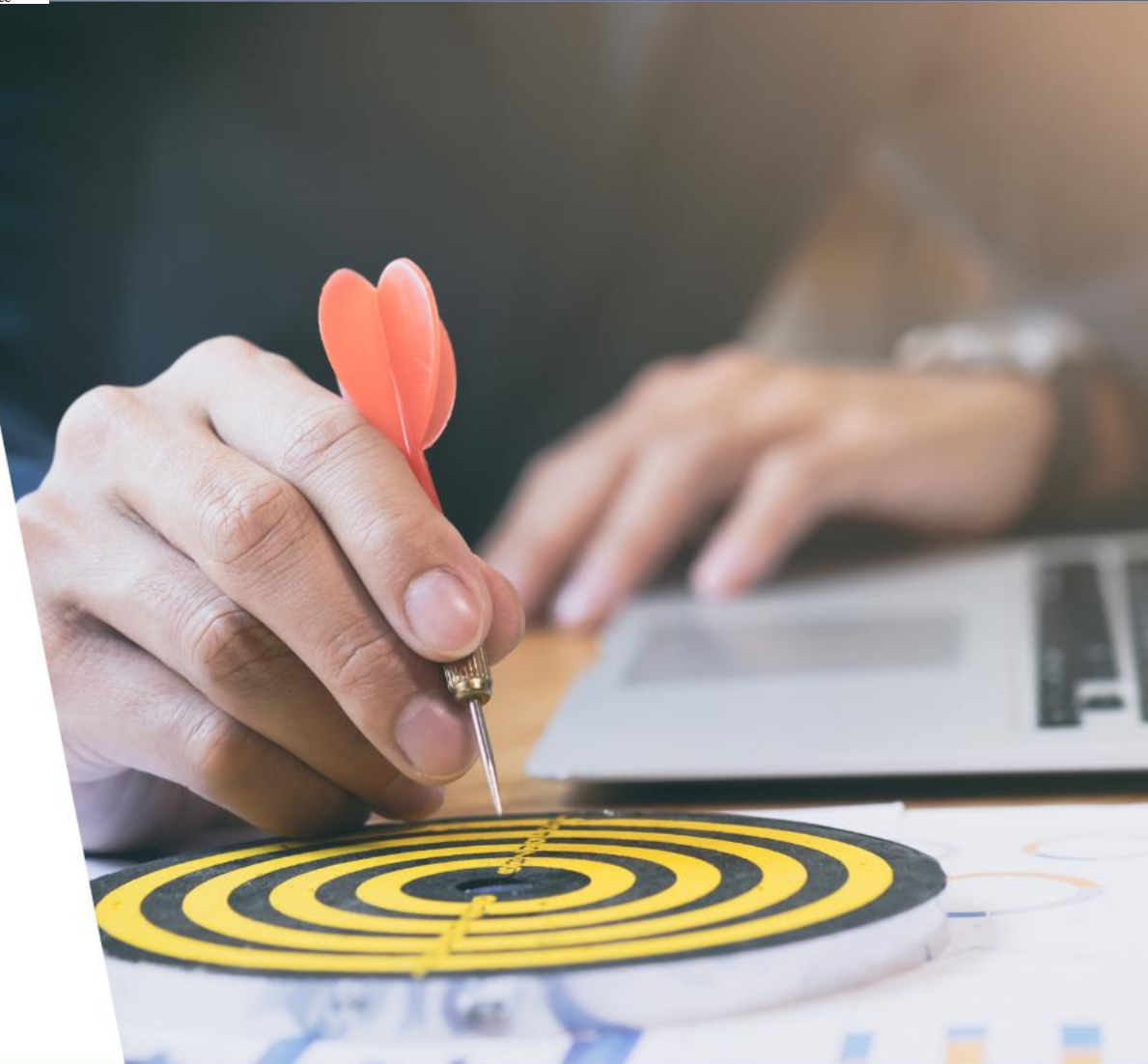
---

- Full service private client law firm
- Specialists in complex and contentious Court of Protection proceedings
- Providers of
  - Professional fiduciary services
  - Mediation
  - Expert witness reports
  - Trust & deputyship audit reports
- Member of the OPG's panel of professional deputies
- Member of the OPG's panel of professional guardians

## Aim

---

- Why is this subject relevant
- Understand the two-tier care funding system in England
- Explore some common issues
- Explore some practical implications



## Care funding crisis

### Solution?

---

- £86,000 postponed from October 2023 until October 2025, shelved on 31 July 2024
- Cap applied to care only
- Dependent upon the Local Authority's "Framework" rate



# Solution

## Too good to be true?

Example, no care home available for less than £800 per week.

- Local Authority sets weekly “independent personal budget” at £650 per week. £650 is made up as follows:
  - £420 p/w capital contribution towards care cap
  - £230 p/w general living costs
- Takes 3.9 years to reach £86,000 care cap
- So, by the time you reach the cap, you’ve actually spent
  - £420 x 52 weeks = £21,840 x 3.9 years = £85,176
  - £230 x 52 weeks = £11,960 x 3.9 years = £46,644
  - £150 x 52 weeks = £7,800 x 3.9 years = £30,420

**Total - £162,240**

- [Adult social care charging reform: further details - GOV.UK \(www.gov.uk\)](http://www.gov.uk)



## Two tier system

Non means tested funding:

- NHS Continuing Healthcare Funding (“CHC”)
- s117 aftercare funding under MHA 1983





## Two tier system

---

Means tested funding:

Capital	Who pays?
>£23,250	Individual
>£14,250 - £23,250	Individual & Local Authority (max £36)
Below £14,250	Individual & Local Authority

## Common issues

### Relevant authorities

- Care Act 2014
  - The Care and Support (Charging and Assessment of Resources) Regulations 2014
  - Care and Support Statutory Guidance (CSSG)
  - Local Authority Circular – LAC(DHSC)(2023)1

Previously:

- National Assistance Act 1948
  - Charging for Residential Accommodation Guide (CRAG)
- Health and Social Services and Social Security Adjudications Act 1983 (HASSASSA)
  - Fairer Charging Policies for Home Care and other non-residential Social Services (2013)

## Common issues

### Missed opportunities

- The financial assessment
  - Disregarded capital & income
  - Disability related expenditure
  - Property related expenditure
  - Personal expenses allowance
  - Minimum income guarantee
  - Savings credit disregard





## Common issues

### Missed opportunities

---

- Potentially overlooked alternatives
  - DWP benefits
  - Disabled facilities grants
  - Council tax benefit
  - Housing benefit

## Practical implications

### Debt

---

- Financial abuse vs deprivation
- Who is the debt with?
- *Aster Healthcare v Shafi* [2014] EWCA Civ 1350
- Methods for resolving?

## Practical implications

### Protecting valuable assets

- Property
  - *Palfrey* and the 10% discount post Care Act 2014
- Loss of protected status of an asset / income
  - Unjust enrichment
- Methods for resolving?





## Practical implications

### Why does it matter?

- Risk management if acting as / for a fiduciary
- Benefit to the individual





## How can we help?

---

- Signposting
- Deputyship file reviews
- General advice for professional and lay fiduciaries
- Mediation and litigation support in contentious COP
- OPG investigation support
- Court of Protection applications and hearings

---

# Questions?





# Stonegate

Family. Wealth. Protection.



## Hannah Rodgers

Stonegate Legal Limited

[hrodgers@stonegatelaw.com](mailto:hrodgers@stonegatelaw.com)

0113 468 9008

## Stuart Haydock

Fraser and Fraser

[stuarthaydock@fraserandfraser.co.uk](mailto:stuarthaydock@fraserandfraser.co.uk)

020 7832 1400

FRASER  FRASER  
SINCE 1969  
GENEALOGISTS AND INTERNATIONAL  
PROBATE RESEARCHERS