

The image is a screenshot of the Guardian website's property section. At the top, the Guardian logo is displayed in white on a blue background, with the tagline 'website of the year' underneath. Below the logo is a navigation bar with links for 'home', 'money', 'property', 'savings', 'pensions', 'borrowing', 'careers', 'UK', 'world', and a menu icon labeled 'all'. The main content area has a pink header with the text 'Property Ask the experts: homebuying'. The article title, 'Tenancy in common - solution to avoid selling my house for care home fees?', is written in white. Below the title, a sub-header in white text reads: 'I have been approached by a firm promoting this solution - it isn't widely publicised and sounds too good to be true'.

Q I have been approached by a firm promoting tenancy in common as a foolproof method of avoiding having to sell my property to pay for care home fees. They claim that changing the ownership of the property and making children beneficiaries in a will means the property will be protected should the parents have to go into care. Given the concerns on this subject expressed by many elderly people, the apparently simple solution of changing ownership to tenants in common isn't something that is widely publicised. I would appreciate it if you could confirm that the proposed solution is, in fact, straightforward and valid and tell me if you are aware of any pitfalls.

A The solution that a firm has proposed to you is a recognised way of avoiding paying care home fees and is relatively straightforward to set up. What you do is change your joint ownership of your home to tenants in common (if you don't already have this form of ownership) which means that you can leave your share of the home to anyone in your will. You then get a Will drawn up in which you create a "flexible life interest" for your spouse which means that if you die before him or her, your share of the property will be held in trust giving your husband or wife the right to live in the property for the rest of their life. It is common to make the children the trustees of this trust. The reason for all this legal work is that were your spouse to need to go into care after your death, only the value of their share of the property would be taken into account in the local authority means test used to assess the amount of care home fees that she would be liable for paying. And the value of your wife's share could be reduced to nil as it would be unlikely that anyone would want to buy it which would mean the entire value of the property could be excluded from the means test. (Wallis. V 2014).