

## Preparing for the future: Advice for Elderly Clients



**When you're preparing for the future, getting the right advice is vital. It's not just as simple as getting someone to write a Will, though. You need to be able to rely on expert advice to help you through the maze of complicated legal issues. The most important thing is that you and your family are protected and prepared for the future.**

We have put together a summary of some of the areas you might want to consider, as well as links to other need to know documents. We have full factsheets available upon request that expand on each area below.

- **Writing a Will** - A correctly drawn-up and regularly reviewed Will is an inexpensive way of putting you in control of the final destination of your estate and making sure you avoid difficulties for your relatives and friends after your death. It can include your wishes concerning funeral arrangements; ensure your possessions go to the people you want (rather than following the official legal 'Rules of Intestacy'); can help to prevent your spouse, civil partner or family having to sell their home to pay H M Revenue & Customs or other beneficiaries; ensure that "common law" partners are legally recognised as beneficiaries; contain details of trusts and care arrangements for children, should you die and; specify people who can be trusted to sort it out and put your wishes into practice.
- **Reviewing your Will** - If you have married or entered into civil partnership since making a Will, have gone through a divorce or dissolution of a civil partnership, have young children, have not updated it for a while or changed your solicitor, you may need to review your Will.
- **Executors duties** - The executors are responsible for carrying out your wishes, as expressed in your Will, after your death. They will collect in your assets, pay any liabilities and then distribute your estate. You may appoint as many as you wish and they can also be a beneficiary. It is administratively straight-forward to appoint two and no more than four. You'll need to check that they are happy to act.
- **Appointing a professional executor**- You might prefer to name professional executors to ensure that your family are not burdened with legal work when they are grieving or if your affairs

are complex. We are happy to act, either solely or with other named executors. Costs are charged on a time spent basis, together with a fee based on a small percentage of the value of the estate.

- **Lasting Powers of Attorney** - A Lasting Power of Attorney is a document by which you appoint someone to act on your behalf in case, in the future, you are unable to manage your own financial affairs. You may also appoint a person or persons to act on health, welfare and end of life decisions too. The alternative to making a Lasting Power of Attorney is for a person known as a Deputy to be appointed through an application to the Office of the Public Guardian. They charge a fee, dependent on the value of your estate and this is an expensive and time consuming exercise which you can avoid through making a Lasting Powers of Attorney.
- **Living Wills** - Also known as Advanced Directives, these are designed to make your wishes clear about your own medical care, should you for any reason be unable to communicate them in the future. You can always change your wishes and review this at any time but be aware... this is not about taking an active step to hasten one's death - euthanasia is illegal in this country. When making a Living Will you need to ensure it dovetails with any health and welfare Lasting Powers of Attorney you may also have made.
- **Giving away your home** - For a variety of reasons many people wish to transfer their home from their name into that of another. It is important that the implications of transferring your home are fully understood, so the advantages can be weighed against the disadvantages and you make the appropriate decision for you.
- **Inheritance Tax** - IHT is a charge on a person's capital wealth. It can be charged as a lifetime tax on capital but it is usually paid when someone dies. Not everyone pays it and there are allowances and exemptions. Careful planning, at this stage, could help you to mitigate this through the use of gifts and wealth management.
- **Life interest trusts** - A Life Interest Trust arises when a beneficiary is left a lifetime interest in relation to assets contained in an estate. This normally means that the beneficiary is entitled to receive income from the trust, for life, but they are not entitled to receive capital.

- **Ordinary Powers of Attorney** - This is a document in which the person creating the Power of Attorney gives one or more other people the legal authority to act on their behalf in relation to their financial affairs. Importantly, this does not mean that you can no longer act for yourself but it can be helpful for a set period of time, perhaps when you are going abroad or are unable to act for yourself for some other reason (perhaps following surgery or treatment). This can be general or limited to specific matters (for example business affairs).

- **Court of Protection Statutory Will** - If your relative lacks the necessary capacity to manage their financial affairs for themselves, they may also be unable to make gifts, update their Will or undertake tax planning. If this is the case the Court of Protection can approve these things on their behalf. We can help you to apply to the Court of Protection for this, as well as take you through each stage of the legal process.

- **Understanding the Probate process** - When someone dies you need to get the court's permission to deal with their estate before you can do anything.

This means that you are not allowed to collect up the assets, distribute them to beneficiaries or even pay off debts until you have gone through the probate process.

- **Dying without leaving a Will** - If someone dies without leaving a Will (which is known as 'dying intestate') then an already distressing time can become even more complicated. In this guide we explain the immediate situation, should this happen.

- **Disputing a Will** - When someone dies it is distressing enough without the added worry that a dispute over the Will or estate can bring. However, if you feel that you have been unfairly treated you might want to consider whether you can make a claim against the estate.

For more information on the Wills, Trusts, LPAs, Wealth Management and the Probate process please follow the link [wards.uk.com/wills-and-mental-capacity](http://wards.uk.com/wills-and-mental-capacity) or [wards.uk.com/elderly-clients](http://wards.uk.com/elderly-clients) or contact Jenny Pierce on 0117 9292811.