



Grosvenor Beaumont

Grosvenor Beaumont Financial Planning Limited

Estate Planning Services

in association with

Goodwills Wills, Trusts and Associated Legal Services



Your guide to Estate Planning

Facts about Wills

Every individual over the age of 18 should have a Will, whether rich or poor, male or female, single, married or with a Civil Partner.

Here are just a few good reasons why;

Without a Will:

- We think our spouse/civil partner will automatically receive all of our estate, but they won't!
- If you are single (i.e. not married or you do not have a civil partner), under the laws of intestacy (dying without a Will) your partner will not receive anything from your estate.

'Over 70% of the population have not got a valid Will'

- Guardianship of minor children is uncertain if the parents die without a Will that appoints guardians – Would you want your children to become a Ward of Court!
- Children may inherit substantial sums of money at a time when they are not mature enough to manage such sums. A Will can control the release of money to your children.

Longest Will - Mrs Frederica Cook - 95,940 words, bound in four volumes

- A family can suffer acute financial hardship because of delays in the administration of an estate.
- Many family heirlooms are lost because no one can decide who can have them, so they are sold.
- Millions of pounds of inheritance tax are unnecessarily paid each year due to a lack of planning which can be dealt with in the Will of the deceased.

Shortest English Will - 'All for Mother' in which his mother was his wife, not his mother. It was contested and later admitted for probate in 1906

- Charities, friends and distant relatives will not benefit without a Will.
- Thousands of home owners lose the equity they own in their home if they need long term care and such equity is used to pay for such care, with pre-planning this could have been avoided.

Oldest Will – found on Wall of Tomb of Kings – dated back to 2600 BC!

- Family wealth will not be protected from spendthrift beneficiaries or beneficiaries with anti-social habits such as alcohol or drug abuse.
- Funds left for disabled beneficiaries will often be used to pay for the care of such persons and prevent them from claiming certain state benefits – and who will manage their funds.

Lasting Power of Attorney

What is an LPA?

Whilst you have your mental capacity and are physically able you handle your own financial affairs, when you die your Executor will handle them.

In the mean time if through accident, illness or eventually old age you should lose your capacity then there's a gap where no one has the automatic legal right to handle your affairs on your behalf.

There are two types of LPA; one for Property & Affairs and another for Health & Welfare.

Who should be my Attorney(s)?

You may appoint anyone who is over 18 and is not bankrupt and has 'mental capacity' as your attorney(s).

They must be people whom you trust, and we always recommend that you choose two attorneys i.e. your spouse and one other.

You can also appoint 'reserve attorneys'.

When Should I Execute an LPA?

Do it as soon as possible. We do not know what life has in store for us, a Will and an LPA give us the peace of mind that no matter what happens to us we have appointed people to act.

As a point, our advice is that all critical illness insurance policies should be accompanied by an LPA just in case any future critical illness prevents us from administering the claim for the policy proceeds.

How do I arrange for an LPA?

As a part of our service we recommend our clients execute an LPA at the time they draft a Will.

If you already have a Will and wish to effect an LPA we will be happy to assist you.



Advanced Directives

We all have a right to choose the health care treatment we receive. For this reason we need to provide our consent for the majority of decisions involving our health.

So what happens if we are in a position where we cannot communicate, but if we could communicate we would probably express a desire to withdraw certain medical treatment and life supporting facilities?

The circumstances we are describing are those where through accident or illness we are being artificially kept alive by the medical profession, with no hope of our survival.

The withdrawal of such treatment would result in our death, and in the opinion of the medical practitioners we have no chance of recovery.

If presented with these circumstances we maybe certain that we would ask for such treatment to be withdrawn.

But if we cannot communicate how do we inform those around us of our wishes?



Advanced Medical Directive

An Advanced Directive, often called a Living Will or Advanced Medical Directive, is a pre-prepared statement made by an individual during their lifetime expressing their wish to withdraw medical treatment if they are in a similar condition as described above, with no hope of their survival.

However, the Advanced Directive would express a wish to receive medical treatment, such as pain relieving drugs, even though such drugs may have an adverse effect of shortening your life even further.

The Advanced Directive is a thoughtful gesture made by a person who considers the position and involvement of their family should this situation arise.

The Advance Directive is seen as the patient's decision to withdraw treatment thereby assisting family and doctors in the consultation process.

We can arrange to draft your Advanced Directive for you. To do so we require your details, those of your doctor and your next of kin. We produce three copies of the Advanced Directive for you to sign.

One copy should be kept by you, one copy should be passed to your next of kin and one copy should be handed to your doctor's surgery to be kept with your medical notes. This process means that all parties are aware of your requirements.

Document Storage

Is My Will Safe?

Having taken the important step of producing a valid Will, you may be wondering where you should keep this important document, and how it will be found by your Executors when needed.

Unlike some countries, the UK does not offer an official Will register for recording the existence of residents Wills. Wills, Powers of Attorney, and associated documents need to be kept safe.

If at the date of your death your original Will cannot be found then there is a presumption of law that you destroyed the Will prior to your death!

"Don't put your Will at risk"



Your Will should never be kept at home. Exposing your Will to the possibility of fire, theft, intermeddling or destruction by fair means or foul could prove disastrous.

So Where Should I keep My Will?

In answer to our client's questions Goodwills Ltd have provided a wholly effective solution to the safe storage of your Will. Through their storage facility at Goodwills Sentinel, they store thousands of their clients Wills and associated documents under secure fire proof conditions which are fully insured against disaster.

How Can I Make Changes to my Will?

Goodwills Sentinel offer not only safe document storage but also a private and confidential Will update service which allows you to change your Will at any time.

This Will update service means that at your death your Will should reflect your current circumstances, the benefit to you is that your Will is not years out of date as is often the case.

How Will My Executors Know Where My Will Is?

Upon receipt of your signed Will, Goodwills Sentinel will send you a Certificate of Safe Storage displaying your details and a unique storage reference number. They ask that you to give this Certificate to your Executors or to provide them with a copy. This will ensure that your Executors are aware of the location of your Will and how to obtain it upon your death.

For your security, we will not release your Will to your Executor unless we have proof of your death through the provision of your death certificate.

Asset Preservation Trust

Thousands of families are disinherited every year.

The main reasons: Remarriage, Divorce, Bankruptcy or Long Term Care.

REMARRIAGE - THE PROBLEM...

Mr. & Mrs. Brown have assets worth £750,000; their main asset is their home which is worth £500,000 and they also have £250,000 in various investments.

They have made wills that leave everything to each other and then their estate is to pass to their children. Mr. Brown dies and Mrs. Brown inherits his share of the house and the investments.

Later on, Mrs. Brown remarries; Mrs. Brown's will is therefore revoked and if she should then die first, much of her estate will pass to her new husband and not to her children. When her new husband dies, his estate will pass to his own family and not to Mr. & Mrs. Brown's children.

Clearly, this is not fair and certainly not what Mr. & Mrs. Brown would have wanted.

DIVORCE OF BENFICIARIES - THE PROBLEM...

We all hope that our children will make good marriages but with around 40% of marriages ending in divorce, it is important to at least consider the possibility. When your children eventually inherit your estate, any future divorce settlement would take that settlement into account; your hard earned assets could become the property of an ex-spouse, clearly not what either you or your children would want to happen.

BANKRUPTCY OF BENFICIARIES - THE PROBLEM...

If your children suffered bankruptcy, their inheritance could be considered by the court as an asset to be included in any settlement with their creditors effectively ending the cascade of your wealth through to future generations.

LONG TERM CARE FEES - THE PROBLEM...

Since the introduction of the Community Care Act 1990, thousands of estates have been wrecked by the imposition of paying Long Term Care fees. Around 480,000 people are resident in nursing and residential care homes; less than 20% of these are cared for by the Local Authorities, families are paying the cost either directly or through the loss of their inheritance. It is currently estimated that around 70,000 homes are sold each year to fund Long Term Care fees. If the survivor has to go into long term care, the local authority will assess the value of their assets to determine whether they will have to bear the cost, which could be as high as £800 per week. The children will see their inheritance disappearing week by week and they may inherit as little as £22,000 and the memory of just how hard their parents had worked to own their own home and accumulate their wealth.

THE SOLUTION – ASSET PRESERVATION TRUST...

By drafting an Asset Preservation Trust in your Will, when the first dies, their assets are held in a protective trust. The trustees are likely to be the surviving spouse and adult children or a trusted family member; this means that you and your family retain total control. The trust gives the surviving spouse an absolute right to live in the home and also, a life interest in all other assets; this means that they have an irrefutable right to the income produced and if they do require capital, the trustees can make cash advancements.

If the surviving spouse remarries, the assets held in trust can never become part of their estate but will remain in the trust to pass to the children when the survivor dies.

Upon the second death, all of the family's assets pass to a 'discretionary trust' with the children as the discretionary beneficiaries. This means that if they should divorce, their ex-spouse will have no claim to the inheritance as it is held in the discretionary trust with no beneficiary having an absolute right to the assets of the trust.

Similarly, in the event of bankruptcy, creditors will have no claim against the assets of the trust as the assets of the trust are not owned by the bankrupted individual.

In the event that one of the beneficiaries is considered as a 'vulnerable person', the trustees shall hold 'their share' in trust to ensure that their inheritance is not squandered or used to cause them any harm.

If the surviving spouse goes into Long Term Care, the local authority cannot take into account any assets there are held in trust; they can only take into account income and assets outside of the trust. The local authority is likely to disregard the value of the property altogether but in any event, you can be certain that at least half of your estate is protected for your children to inherit. The surviving spouse may sell the house and move to another property without any problem; in effect nothing changes.

INHERITANCE TAX PLANNING...

After the first death, the survivor may decide that the income they are receiving is in excess of their needs; they may surrender their life interest in any part of the trust assets (Potentially Exempt Transfers) and this will be free from Inheritance Tax as long as the surviving spouse lives for 7 years after the gift is made. Please seek our advice for gifts in excess of the Nil Rate Band current at the time.

Your children's estates are likely to have a liability to Inheritance Tax when assets pass to their children. By including an Asset Preservation Trust in your Will, your children do not need to take the inheritance into their own estates but rather 'borrow' it from the trust. This means that when their estates pay it back to the Trust, there will be no Inheritance Tax due. The Asset Preservation Trust may run for up to 80 years after the first death. There may be a Periodic Charge every 10 years (assets in excess of the Nil Rate Band) which is equivalent to about 6% and there may be a liability to tax on income generated or capital gain.

HOW WE SET UP THE TRUST...

If your home is owed jointly, (as most are), we will register a 'severance of tenancy' with the Land Registry so that each of you owns half of the property. If you own capital assets jointly, we will draft a deed declaring the assets to be owned individually; none of this actually affects you.

Only when the first dies does the trust come into effect; you don't need to take any action, the trust offers all the protection for the surviving spouse and your beneficiaries. Upon the first death, the deceased's assets are placed into the trust, this offers the protection from remarriage and long term care fees. Upon the second death, the trustees may end the trust and settle the assets upon the beneficiaries (your children) or they may continue the trust for up to 80 years from the first death, this will ensure the protection of the assets from divorce, bankruptcy and vulnerable beneficiaries and minimise future Inheritance Tax Liabilities.

Summary of the Main Benefits of the Asset Preservation Trust:

- Assets are protected from Remarriage*
- Assets are protected from Divorce of Beneficiary*
- Assets are protected from Creditors*
- Assets are protected from Vulnerable Beneficiaries*
- Assets are protected from Long Term Care fees*
- Assets are preserved for Future Generations*
- Enables IHT planning for Future Generations*
- Spouse can be granted Cash Advancements*
- Spouse can make Potentially Exempt Transfer to avoid IHT*

Goodwills Asset Preservation Trust is a vital element of Estate Planning for couples who own their home or have significant assets.

The Asset Preservation Trust must be put in place prior to the first death.

Goodwills can draft the Asset Preservation Trust into your Wills and ensure that your wealth and property will cascade down the generations of your family.

This information is based upon our understanding of revenue practice at the time of issue.

Long Term Care



According to government figures we are generally living longer, but not all of us will live out our old age in good health; many of us will need some level of long term care.

Long term care doesn't come cheap. The average weekly cost for residential care in the UK is in excess of £380 and for private nursing care it is in excess of £550.

While some state help is available, unless you need specialist care supplied by the NHS, funding is provided by your local authority and subject to means testing.

If you have capital over £21,000 you won't receive any local authority funding.

Your Home



In many cases, an elderly person's main asset is the home they live in. Local authorities will insist that where no spouse, elderly relative or dependent individual lives with the person requiring care, the house forms part of the financial assessment to determine the liability for the payment of care fees.

After an initial period of 12 weeks the elderly person will have to use the value of their home in some form to pay for their Care Fees, with no support from the Local Authority.

Protecting Your Home

Many schemes, including giving your house away to your children, are dangerous and, depending on the circumstances, unlikely to work.

One way of protecting your house from being used for care costs, and ensuring it passes to your children is to make use of our Protective Property Trust (PPT).



In brief our scheme works for couples who own their house jointly. We ensure that the property ownership is 'tenants in common' meaning that you own a specific share of the house, usually a half share.

We then draft clauses within your Will to place your share of the house in 'trust' thereby giving your partner the right to live there for life.

Upon your partners death your share of the house will pass to your children or any other person whom you have selected.

The PPT allows the surviving partner to move house if they wish to and does not restrict their lifestyle.

Should the survivor remarry then you can be sure that your share of the house will pass to your beneficiaries and not to the survivor's new spouse.

Importantly, if the surviving partner attracts any debts or commitments such as payment for their long term care, you can be sure that your share of the house is protected for your beneficiaries and cannot be used to settle such debts.

The half share of the house that belongs to the elderly person in care is unlikely to be considered to have any great market value, if so the whole house will not be subject to the means testing and not used to fund Care Fees.

In Summary

Protecting your home for your loved ones is achievable.

To find out more about our Protective Property Trust please contact us and we will be happy to forward you more information and to answer any questions you may have.

Family Trusts

Over the past two or three decades the average family wealth has increased dramatically, this is mainly due to rising house prices but also due to good advice given to the public on savings and investments.



This family wealth cascading through the generations can present its problems, for example; an increasing inheritance tax liability, gifting to spend thrift beneficiaries, gifting to beneficiaries with anti social habits such as alcohol or drugs, gifting to young and immature beneficiaries who will squander such funds, or protecting your family wealth for your children and not those of your new partner or spouse.

We may need to ensure that we have made financial provision for vulnerable beneficiaries such as disabled persons, but we may have concerned that in making such provision our family wealth will be used by local authorities to pay for the beneficiaries care.



For these and many other reasons, Goodwills Ltd. have developed a host of specialist trusts thereby providing solutions for your problems.

Many of these trusts are discretionary in nature thereby giving your trustees the power to make the financial decisions that you would have made had you survived.

Such trusts have protective properties that will prevent assets being wasted by beneficiaries but will provide for them throughout their life.

A brief explanation of each trust is listed below. For further information on how Goodwills Ltd can assist you in protecting your Family Wealth please contact us immediately.

- [Family Trust](#)
- [Family Trust - Inheritance Tax](#)
- [Children's Protective Trust](#)
- [Property Trust](#)
- [Disabled Beneficiary Trust](#)

Family Trust

The Family Trust is a discretionary trust that holds your entire estate upon your death. It is controlled by the trustees whom you appoint in your Will for the benefit of the persons you choose. The potential beneficiaries of the trust do not have an automatic right to any of the trust assets they have a mere hope that the trustees will give them income or capital from the trust. This trust is ideal if a beneficiary has an anti social habit or is likely to be a spend thrift, the trustees can regulate and even prevent funds passing to such a beneficiary. The trustees will be guided in their decisions by a letter of wishes prepared by you stating your intentions for the trust.

Family Trust - Inheritance Tax

The Family Trust can be used for inheritance tax mitigation through the generations. The Family Trust can exist for up to 80 years from your death. Due to its discretionary nature the assets within the Family Trust do not form part of the beneficiaries estates so therefore cannot be taxed up their death.

Example:

Mrs B has an estate worth £250,000. She dies and leaves it all to her son Jerry who already had an estate worth £200,000, which is now worth £450,000 (£200,000 + £250,000).

Jerry now has an inheritance tax liability on his death of £60,000 (£450,000-£300,000 nil rate band = £150,000x40% = £60,000).

If Mrs B had via her Will created a Family Trust in favour of Jerry and his family, then provided it was administered correctly there would be no inheritance tax to pay on Jerry's death.

Children's Protective Trust

The Children's Protective Trust is provided for clients with young children who upon their death wish to provide the children with the financial support they will need, but also wish to protect them from wasting funds from the estate.

The trust holds your entire estate upon your death and is discretionary in nature. The beneficiaries are your children and the trust will end when the youngest child has attained the age of 25. The trustees can advance income or capital to your children at any time, but they may withhold such payments if they think it will be wasted by the children or place the children in a position of harm. The trustees will be guided in their decisions by a letter of wishes prepared by you stating your intentions for the trust.

Remember, age and maturity don't go hand in hand!!!

Property Trust

If you own freehold or leasehold property you may wish to leave such property to your children when you die, but you may also wish to provide a home for your spouse, partner or loved one. If you give the property to your partner can you trust that they will leave it to your children when they eventually die? What happens if they remarry or write a Will giving the property to someone else?

Our property trust is drafted in your Will and upon your death it permits your partner to live in the property until they die. You can dictate that the trust will end sooner, e.g. if your partner should marry. When the trust ends the property will pass to your children as you originally intended.

Our property trust ensures that your house, or your share of the house if you own it jointly with your partner, passes to your children but provides a home for your partner in the meantime.

Disabled Beneficiary Trust

When clients have a beneficiary who is mentally or physically disabled there is often a dilemma as to how much to leave to them and who will handle the funds. This can be complicated further by other potential beneficiaries having competing interests.

We must advise clients that they should leave adequate financial provision for a disabled beneficiary or have their estate suffer a potential claim made under the provisions of the Inheritance (Provision for Family and Dependents) Act 1975. The result of such a claim could be the court awarding payment to be made to the beneficiary (often under the protection of the Court of Protection) for their benefit.

Another concern faced by clients is that if they leave funds directly to the disabled beneficiary, such funds will be used to pay for the cost of the persons care, and/or deny the beneficiary certain DHSS benefits.

To solve such issues Goodwills Ltd has trusts designed to protect your family wealth from being used to pay for the cost of care, but which will allow payments of income and/or capital to be made for the benefit of the disabled person. These payments may improve the person's lifestyle in whatever way the trustees think fit.

Our trusts make use of the tax advantages provided by the Inland Revenue to trustees of trusts for Vulnerable Persons.