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- > Wills, Trusts and Probate
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**Planning and Preparing
for Later Life**

Planning and Preparing for Later Life

No one can predict what the future has in store, so planning for circumstances both foreseeable and unforeseeable becomes critical as you start to approach retirement and want to provide security for yourself and your family and create peace of mind for all.

At Machins Solicitors LLP, our specialist teams are expertly placed to provide help and guidance on the steps you may need to consider to ensure that your wishes for the future wishes are achievable and assured.

Here are some of the key areas of advice you may need to consider as you start to plan ahead.



Making or updating a will

Research consistently finds that over half of UK adults do not have a will. Making or updating your will is crucial to ensure that when you die your assets pass to those you choose. If you die without a will, the way your money, property and possessions are distributed may not be what you would have wished. The Intestacy Rules dictate how your assets are divided and your partner (if not your spouse or civil partner) will have no entitlement to any part of your estate. In these circumstances a will is a vital tool to ensure your wishes are expressed and you make the provision for those you wish to benefit.

Making a will is an ideal opportunity to consider the potential impact of Inheritance tax and to take steps to reduce any liability.

Your will is also a suitable vehicle to plan the protection of your estate against the liability of the survivor for care fees if they cease to be able to live independently.

These measures of protection should not be left to chance and require thought and planning.

A professionally drawn will is much less likely to be successfully challenged by disappointed relatives or be the subject of dispute because the terms are unclear or contradictory.

Lasting Powers of Attorney

Lasting Powers of Attorney (LPA) can be a major part of securing your future. An LPA is a legal document that lets you choose someone you trust (an 'attorney') to act on your behalf and make decisions for you, if you are unable to do so yourself due to mental incapacity. The attorney can also act for you where physical incapacity restricts you, for example if you become immobile, or lose sight or hearing.

There are two types of LPA – one looking after finance and property and the second looking after health and welfare matters.

A property and financial LPA grants your attorney the authority to manage financial matters including banking, property, investments and paying bills.

A health and welfare LPA allows your attorney to make decisions regarding health and personal welfare matters including end of life care in circumstances where the you are unable to make or communicate a decision.

A solicitor will help you through the various stages to ensure that the LPA is tailored to your circumstances and needs and that the advice you receive is truly independent.

Trusts

A trust is a legal arrangement in which one party (a 'settlor') gives another party (the 'trustee') the right to hold title to their property, money, investments or other assets subject to specific terms and obligations. There are various types of trusts including; lifetime trusts, will trusts and life interest trusts so it's important to understand which is the best type of trust for you.

Reasons for setting up a trust can include protection against future care fees, wealth planning, providing for children/partners from different relationships, ongoing tax planning or tax-efficient funding of private education for grandchildren. Once established, a trust is under the control of the trustees who manage the trust.

The rules around trusts can be complex and it's important to understand and seek advice.

Court of Protection and Deputyships

The Court of Protection (COP) is a specialist court for matters relating to people who lack the mental capacity to make decisions about health, welfare, financial affairs or property. If a person lacks mental capacity to make decisions about these issues, the COP can appoint a 'deputy' to make decision on that person's behalf. This process is unnecessary if there is a Lasting Power of Attorney in place, but is the only way to take control of someone's affairs if they no longer have the mental capacity to make Lasting Powers of Attorney.

Our specialist team understands what's involved in being a deputy and can help with your application to the Court of Protection. In some cases a solicitor will be appointed as a deputy and we are able to accept this responsibility in appropriate cases.

Gifting money to children

Making gifts during your lifetime can be a useful tax planning tool. If you make a gift and then survive for seven years, the gift is not included in your estate for Inheritance Tax purposes when you die. In this way, you can pass your assets to your family or friends without incurring an Inheritance Tax liability on those gifts.

When a person dies and their estate is valued to calculate whether Inheritance Tax is due, any gifts that the deceased person made in the seven years immediately prior to their death are also taken into account. The value of these gifts will use up part of the nil-rate band and will reduce the tax-free amount that is available on death.

Consideration has to be given as to who pays any tax on the gifts if the death is within the seven-year period.

Pensions and death in service benefits

This is a key area of potential saving and provision. Pensions, death in service benefits, life insurance and life policies have been used as a way of planning for Inheritance Tax saving after death. The recent proposed changes are expected to bring unused pensions in to the Inheritance Tax regime, having previously been exempt, disrupting established tax saving strategies.

There are different types of pensions, policies and other benefits, each with its own rules.

Estate planning over the last 10 years has been based upon pensions being outside the taxable estate and free of Inheritance Tax. This concession is expected to end in April 2027.

It may be appropriate to hold life insurance policies in trust to put them outside your estate. Specialist advice in this area is vital to a comprehensive tax-planning strategy. Our team can direct you to a qualified adviser for specialist advice if needed or for further personal review, as appropriate.

At Machins Solicitors, we pride ourselves on being sympathetic and reassuring and will work with you at each stage and enable you to find a resolution as efficiently and cost-effectively as possible. Our policy of transparency means that you will be advised of the likely costs before we commence work on your behalf.

Some of our team are members of the Society of Trust and Estate Practitioners and Solicitors for the Elderly and are recognised as being able to give practical, expert advice. We can provide access to a network of independent financial advisors, accountants and other professionals.

Find out more

For more information please contact our Private Client Team who will be happy to assist you or visit our website www.machins.co.uk.

