

Now is the time ...

Take a moment to consider your future

**Brewer
Harding
& Rowe**

solicitors

FAMILY PROTECT

Legal Guidance on Wills, Lasting Powers
of Attorney, Trusts and Probate

Ask us about
**'BHR Family Protect
Fixed Fee'**

“It is always important to obtain specific legal advice on your individual circumstances”



Plan to support your family's future

Work, children, entertaining, domestic chores ... it's easy to put off thinking about the future when the list of things to do seems never ending. This guide is designed to help you evaluate, identify and carry out the solutions you need to protect and plan for the future of your loved ones.

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1 The importance of making a Will

There are many reasons why we should all make a Will. Perhaps the most important one, is “choice.”

- Choose who receives your estate.
- Choose who has the legal responsibility of sorting out your affairs.
- Second family? Make sure your family is properly looked after.
- Concerned about the effect of care home fees? Take steps to help protect your family wealth.

Two out of three people still die without making a valid Will

If you don't have a Will your assets are distributed in accordance with the “Intestacy Rules”. Many people assume that these rules will operate in the same way as if you had made your own Will. This is often not the case. For example, the rules make no provision for unmarried couples or step-children.

We will ...

- Arrange to see you quickly.
- Discuss and consider your circumstances and wishes.
- Charge a competitive fixed fee, which we agree with you at the outset.

2 Choosing Executors

“Executors” are the people who will be responsible for dealing with your estate when you die. It is an important and responsible role which you need to think about practically;

- You can choose a friend or relative to become an Executor or Attorney.
- Appoint Brewer Harding & Rowe to be an Executor.
- Consider carefully who you would trust to manage your affairs.

As Solicitors this is a role we are happy to undertake, often jointly with family members. Indeed, often appointing Brewer Harding & Rowe as your Executors can help keep costs to a minimum and speed up the administration process as most of the paperwork can be dealt with in the office.

What to consider ...

- How old will that person be when the time comes?
- Will that person be able to cope emotionally and technically?
- How will that person cope with the technical aspects?

Two out of three people still die without making a valid Will

3 Updating your Will

It's a good idea to review your Will every few years but particularly after any life-changing event.

When to update your Will

- When you move house.
- If you have children, step children or grandchildren.
- If you get married.
- If you get divorced.
- If someone named in your will dies.
- If the Executor is no longer suitable or dies.



FREE Will Storage

For peace of mind we provide safe and secure Will storage for all our clients

4 Why make a Power of Attorney?

Many people don't like to think about what would happen if they become physically or even mentally incapable of managing their affairs in the future. Making a Lasting Power of Attorney (LPA) while you are in good health lets you take control and choose who you'd like to manage your affairs or make important decisions for you, if the times comes.

An LPA allows an Attorney, the individual chosen by you, to be your legal representative. They will make decisions that directly and personally affect you. An LPA can include financial arrangements, healthcare, living arrangement, and even decisions like whether to sell your house.

What happens if you do not have a Lasting Power of Attorney

If you are unable to manage your affairs and do not have a Lasting Power of Attorney it may be necessary for someone to make an application to the Office of the Public Guardian to be appointed as your Deputy so that they can make these decisions for you.

This takes time and is far more costly not only in terms of the initial costs, but also the ongoing need for the Office of the Public Guardian's supervision. What's more, you may not be agreeable to the person making the application to manage your affairs.

Appointing an Attorney ...

- Take control with an LPA – a key step in protecting your assets in the future.
- You choose who you appoint to be your Attorney.
- You can state limitations, choose which decisions your Attorney will make for you.
- You may want to allow your Attorney to have full authority to make decisions for you.

5 Will Trusts

There are different types of Trust and it is important to consider their use in detail. Some types of Trust will only be suitable in certain circumstances. It is therefore particularly important to meet with you face to face to consider your future needs when advising on the creation of a Trust.

Using a Trust in your Will can be helpful in legitimately protecting capital not only from care home fees but also for future generations. Particularly where there are children from different relationships to consider.

There are many good reasons to set up a Trust ...

- A Trust can provide flexibility especially if you consider that children and grandchildren are at risk if they inherit too much too soon.
- Trusts can provide a degree of control, protection and flexibility.

6 Giving away assets in your lifetime

There can be genuine reasons why you may decide to transfer assets to the next generation but you do need to be careful and take advice before making these important decisions.

A lifetime gift?

In certain circumstances it can be a good idea to make lifetime gifts; either outright gifts to a family member or even creating certain types of Trust. There are various exemptions we can advise you on. However whether it is a good idea for you will depend upon your family circumstances and likely future needs.

There is a lot to consider and there are some options available, particularly through the creation of Trusts. We will meet and discuss your own circumstances so that you can make an informed decision as to what is best for you.

When thinking about assets ...

You may want to consider a Trust, which has some Inheritance Tax advantages too. Our Solicitors listen to you to help you consider your individual circumstances and potential future financial needs.

7 Gifting your family home

There are many reasons for considering making a gift of your family home, but there are also many reasons to be cautious. Be sure you give careful consideration to your situation before you make any decisions.

Inheritance Tax Implications

Gifting your home whilst living there rent-free will mean that you have made a “gift with reservation of benefit” and HMRC will still treat you as the owner for Inheritance Tax purposes. However, if you survive making that gift by 7 years and pay a full market rent while you live there the property will fall outside of your Estate when Inheritance Tax is calculated.

Don't forget Capital Gains Tax

Before gifting your property, you also need to think about other charges, such as Capital Gains Tax. If you give away your home and the recipient does not live with you then, potentially, they may pay Capital Gains Tax when the property is ultimately sold.

Loss of legal ownership

If you no longer own your property then you no longer have access to the capital from it. For example, you could not take out an Equity Release plan if required in the future. Similarly, the capital locked within your home may not be available to meet your future care needs if required.



Going into care

Understandably, many do not wish to pay for their care needs unnecessarily as they get older. However, when you are in a position to do so, then you, at least, have a greater degree of choice in terms of the care that you wish to pay for when compared to care that is funded by the local authority.

Local Authority care provision

If having made a gift of your home you then ask the local authority for financial assistance, they may well look at the reasons why you have made the gift. If they feel a major motivation behind the gift is to receive payment of your care fees, then they may well treat you as though you still owned your own property in any event. Contrary to urban myth there is no time limit after which the local authority would not consider this to be an issue. They are likely to consider what was “reasonably foreseeable” at the time the gift was made.

Change of circumstances of the recipient

If the person to whom you make a gift of your family home runs into financial or matrimonial difficulties, then they will have an asset which could be attacked in proceedings against them. You also need to think about the possibility of the recipient coming under pressure from others.

If the recipient were to sadly pass away before you, then ownership of your family home will pass under the terms of their Will or Intestacy.

Are there any benefits to gifting your family home?

Being relieved of the burden of property ownership can be appealing for some. In addition when you pass there may be no need to make an application for “probate” in order to deal with the transfer or sale of the property.

What about gifting it in a Trust?

You could make a gift into a Trust, although the risk of the local authority treating you as still owning the property are not removed. This risk remains the same irrespective as to whether you make a gift to an individual or into a Trust.

A word of warning ...

There are a number of unregulated companies that may sell you a Trust of the family home. They do this on the understanding that it is hard for local authorities to prove intent if you set up that Trust when you are fit and healthy. To an extent that is true but it is not without risk.

You also need to look out for a provider that is offering to act as a Trustee for the ongoing administration of the Trust which will attract further ongoing costs.



8 Why seek legal advice before dealing with a person's Estate?

Following the loss of a loved one, the legal process of dealing with someone's Estate isn't always straightforward. Although, conducting your own probate application can save you money, be aware if anything unexpected happens it could end up costing a lot more. Before you start it is important to speak with a solicitor to make sure that you are legally entitled to take certain steps.

There are many pitfalls when dealing with someone's Estate. Often people do not think about income and Inheritance Tax consequences and perhaps more practically, reduced levels of insurance with unoccupied property, as well as whether family members are able to start dealing with any personal effects etc.

Avoid potential pitfalls with our fixed fee probate

It is in the early stages of the administration of an Estate that most mistakes are made. Complicated finances and property ownership can catch the unwary out, which can result in personal liability.

It is particularly important to get legal advice if there is no Will, the Will is lost or there is more than one Will.

If you're not sure, get in touch – we work for fixed fees agreed at the outset.

9 The Society of Trust and Estate Practitioners

The Society of Trust and Estate Practitioners (STEP) is the worldwide professional association for practitioners dealing with family inheritance and succession planning, which promotes high professional standards and education for its members.

Most of our team are qualified members of STEP. Becoming a STEP Member is a benchmark many lawyers strive for. It is the top professional qualification for a Wills, Trusts and Probate Solicitor. Full qualification allows a practitioner to demonstrate their knowledge, passion and commitment towards their specialist line of work.

What is a TEP?

'TEP' stands for 'Trust and Estate Practitioner' and is the designation given to full members of STEP. As specialists in inheritance and succession planning, TEPs draft Wills and Trusts, administer Estates, act as Trustees.



10 Keeping things simple with Fixed Fees

All our fees include professional face to face advice, supervised signing, witnessing and professionally printed documents. Fees can be tailored with our bespoke service to include a Lifetime Family Trust, or you can pick one of the Fixed Fee options below.

1 A Simple Will

Includes a face to face meeting to discuss your requirements. Advice before Will preparation and secure Will storage.

2 A Will to include a 'Trust'

Useful for those that are in a second relationship and want to make provision for all families and protect from Inheritance Tax or nursing home fees.

3 Lasting Powers of Attorney (LPA)

We will advise and complete the LPA for you and also deal with the registration process with the Office of the Public Guardian if requested at time of completion of LPA.

Reduce the overall costs when you combine options

Combine 1 & 3 BHR Simple Protect

This service is designed for both individuals and couples who wish to make a simple Will and complete an LPA at the same time. Includes the registration process with the Office of the Public Guardian if requested.

SAVE +20%

Combine 2 & 3 BHR Family Protect

This is our complete service designed specifically for couples that wish to make LPAs and Wills involving the use of a Trust to help protect their assets from Inheritance Tax and nursing home fees. Includes the registration process with the Office of the Public Guardian if requested.

SAVE +25%

11 Meet the team

Our experts in the preparation of Wills, Lasting Powers of Attorney, Trusts and Estate planning



Stephen Dove

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Stephen heads up the Private Client Department and is a Partner of the firm, a qualified member of the Society of Trust and Estate Practitioners and a qualified mediator. In recent years Stephen has acted as Chairman or Trustee for many local charities.



Justin Wallace

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Justin is a Partner of the firm heading up the Probate & Trust Department, a qualified member of the Society of Trust and Estate Practitioners and is a former Chairman of the Bideford Round Table. Justin deals with all aspects of Estate administration, Trust creation and administration, Wills, Lasting Powers of Attorney and Deputyships.



Richard Allin

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Richard is a Partner of the firm and is soon to qualify as a member of the Society of Trust and Estate Practitioners. He obtained his Law Degree from the University of Oxford Brookes in 2006 and trained locally before qualifying as a Solicitor in 2009. Richard deals with the administration of Estates, preparation of Wills and Lasting Powers of Attorney.



Donna Randall

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Donna is a Chartered Legal Executive and is also a qualified member of the Society of Trust and Estate Practitioners with a qualification in Grief and Bereavement Counselling. Donna deals with the administration of Estates, preparation of Wills and Lasting Powers of Attorney.

Brewer Harding & Rowe

solicitors

Get in touch for specialist legal advice in the preparation of Wills, Lasting Powers of Attorney, Trusts and Estate Planning

We meet and listen to what you want before advising on how best to proceed and will always agree fees at the outset. What's more we employ people who are not only qualified in what they do, but also take a sensitive approach in understanding your needs.

“We are here to help and advise you”



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