

Wills, Trusts, Tax and Probate

Our Services

Slater and Gordon

At Slater & Gordon Lawyers, we have a team of specialists who are on hand to look after our client's individual needs. We work very closely with a number of professional organisations nationwide such as independent financial advisors, stockbrokers and actuaries to ensure that the best possible support is provided to our clients. We listen to our clients and use this insight and our legal experience to deliver the best possible results.

Trusts: Overview

A trust is a way of protecting and distributing wealth. There are a number of situations when using a trust can bring clear advantages. A trust can be included in your Will or created during your lifetime.

Every trust can be designed to suit your circumstances. It doesn't have to be complicated to create or to run but specialist advice is always recommended.

Most things can be held by a trust, including property and investments. The appointed trustees manage the trust fund using the powers they are given. The trustees must make sure that the trust fund is applied for those named as beneficiaries.

Protecting your property

If you own a property, or part of a property, you may be concerned about protecting the value of it for those who will eventually inherit your estate.

Alternatively, you may want to allow someone to live in your property after your death but make sure that the value of the property is ultimately passed to others (e.g. children).

In both cases, only a trust can help.

Compensation protection

If you are due to receive, or have recently received compensation, a trust may help you in a number of ways.

If you currently receive means-tested benefits (such as income support), your compensation award may reduce or even stop these benefits. Even if you are not currently receiving benefits, your ability to claim future benefits (such as free prescriptions, free school meals or future care home fees) could also be affected.

If you act quickly, a trust can help you keep the benefits you are entitled to.

For those who are more concerned about inheritance tax or making sure that the compensation award is well managed for the rest of your lifetime, a trust can provide peace of mind.

Inheritance tax planning

If your estate is likely to suffer inheritance tax on your death, it may be appropriate to reduce your estate value by making lifetime gifts. Instead of individuals receiving the gifts directly, a trust could collect them to allow you to control and manage the funds as a trustee.

Our service

Any trust requires professional advice, both for its creation and ongoing administration.

At Slater and Gordon, we understand that you will want to know the full range of options before making a decision. It is our responsibility to help you understand how a trust could benefit you or your family.

We provide a full range of trust services and offer transparent, fixed fees in most cases.

Court of Protection – Deputyship Orders: overview

If someone becomes incapable of looking after their own personal or financial matters, no one has automatic authority to deal with their affairs. In the absence of a valid Power of Attorney document, someone will need to apply to the Court of Protection seeking an Order appointing them as the vulnerable person's Deputy.

Who should apply?

The choice of Deputy is crucial. Being a Deputy is a responsible and demanding role. The application process is time consuming and often complicated. It is therefore important to select appropriate people.

There can be more than one Deputy appointed. It is critical to take specialist advice to determine who should apply.

The Deputy's role

An appointed Deputy is personally responsible for the protection and investment of the vulnerable person's funds. The ongoing administration of their affairs can become complex and will often require specific legal, financial and tax advice from appropriate professionals.

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Deputies must submit accounts to the Court, usually on an annual basis. The accounts must contain details of all transactions made on behalf of the vulnerable person. Further applications to the Court are often needed to deal with matters such as making a Will, making gifts of money or incurring significant expenditure.

Our service

Applying to the Court of Protection may be a daunting prospect for people unfamiliar with its procedures. Our specialist team of advisors can provide legal advice and practical support to families in this situation. We also offer a wide range of support for existing Deputies.

In certain circumstances, it is appropriate for professional Deputies to be appointed. We can be appointed in this capacity and take full responsibility for managing all property and financial affairs.

Estate administration:

Overview:

When someone passes away, there are a number of important tasks that need to be completed.

If the person died leaving a valid Will, then the named Executors take on this responsibility. In the absence of a valid Will, the person is said to have died “intestate” and the intestacy rules determine who can be appointed as the Administrators of the estate.

The role of executor or administrator can be an onerous one. The deceased’s estate may involve valuable or complex matters and an executor or administrator is personally liable for administering the estate correctly.

Every executor or administrator can instruct a solicitor of their choice to assist them with the estate administration and the legal fees are settled by the deceased’s estate.

First steps

In every case, the first task is to register the death. This requires paperwork issued by the medical practitioner who confirmed the date and time of death. An appointment should be made with the Registry of Births, Deaths and Marriages local to the deceased to complete this. After registration, the Death Certificate will be issued.

The paperwork issued by the medical practitioner will also include a form to be handed to the chosen funeral directors so that the body can be collected.

As soon as practicable, it is important to establish if the deceased left a valid Will.

Administering the estate

Detailed enquiries should be made at the beginning of every estate administration to establish the value of all assets and liabilities.

It is also important to establish if the deceased held assets jointly with any other person, as well as identifying any gifts the deceased made in the seven years before their death.

When sufficient information has been collected, the appropriate inheritance tax forms should be completed to establish whether any tax is due.

During the enquiry process, an executor or administrator should take practical steps to protect the deceased’s assets. Checking property insurance and placing valuable items into storage are two good examples of this. Failure to protect assets in this way could lead to a claim against the executor or administrator personally for any losses incurred.

The application for the Grant of Representation can proceed when inheritance tax matters have been dealt with appropriately. In the majority of cases, if the deceased left a Will, a Grant of Probate will normally be applied for. Without a Will, the application is usually for a Grant of Letters of Administration. Other Grants are available for more complex scenarios.

Once the Court has issued the appropriate grant, the executor or administrator must collect the assets and settle all liabilities. This will include resolving the deceased’s personal tax affairs.

When all liabilities have been settled, the estate is then distributed in accordance with the deceased’s Will or the intestacy rules.

It is the responsibility of the executor or administrator to resolve the estate’s income tax and capital gains tax position before finalising matters and producing a full estate administration account.

At the distribution stage, the executor or administrator should first check to establish if any of the beneficiaries plan to vary their entitlement by a Deed of Variation, as this may affect the Inheritance Tax calculation.

There are a number of options available to beneficiaries under a Will or the intestacy rules and it is recommended that professional advice is taken before the estate is finalised.

Taking professional advice

It is strongly recommended that every executor or administrator seeks initial advice to establish their role, duties and responsibilities. Such advice need not be expensive and any fees would be settled by the estate.

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At Slater and Gordon, we understand that some executors and administrators prefer to be involved more than others. We have developed a range of fee structures to suit your circumstances.

For a full estate administration service, we offer a fixed fee alternative to the traditional 'hourly-rate' model. We also offer other services to suit your needs, such as our Grant Only option.

Lasting Powers of Attorney overview:

A Lasting Power of Attorney (LPA) is a powerful legal document. Its purpose is for you to choose one or more people to act on your behalf should you begin to lose your ability to manage your personal affairs.

There are two types of Lasting Power of Attorney. One deals with your property and financial affairs, the other with health and welfare issues.

Enduring Powers of Attorney (EPA)

LPAs replaced Enduring Powers of Attorney ("EPA") in 2007 when the Mental Capacity Act 2005 came into force.

If you made a valid EPA before 1 October 2007, it remains effective. If you begin to lose your mental capacity to manage your own financial affairs, your Attorneys are under a duty to register the EPA with the Office of the Public Guardian (the "OPG").

Our specialist team of advisors can assist with the registration process and also provide practical advice to ensure that your attorneys understand their duties and obligations.



Property and Affairs LPA

This type of LPA provides your attorneys with authority to make decisions regarding your property and financial affairs. It can be created to suit your circumstances and can include, if desired, restrictions to the legal authority granted to your Attorneys.

Your LPA is legally effective as soon as it is registered with the OPG. While you remain mentally capable of making decisions, your attorneys can only act with your consent.

Health and Welfare LPA

This type of LPA provides your attorneys with authority to make decisions regarding personal issues, such as whether to give or refuse consent for medical treatment.

As with a Property and Affairs LPA, this type of LPA can be created to suit your circumstances and is legally effective as soon as it is registered with the OPG.

Registering the LPA

Both forms of LPA must be registered with the OPG before they can be used by your attorneys. The OPG currently charge a non-refundable fee of £110 per document.

Your attorneys

You can choose any number of attorneys to act on your behalf, provided they are aged 18 or over and have not been declared bankrupt at the time they sign the form. If you appoint more than one attorney, you will have to choose whether they must act together at all times, or whether they can act independently of each other.

Each LPA form allows for replacement attorneys to be nominated in the event that your lead Attorneys cannot act for any reason.

Your Attorneys Responsibility

Before making decisions on your behalf, each attorney must understand and follow the principles, duties and regulations contained within the Mental Capacity Act and associated legislation. They must always act in your best interest and take due account of your needs.

Wherever possible, your attorneys must take all practical steps to help you make a particular decision. They must also take account of your past actions and present wishes.

Your attorneys must keep your money and property separate from their own affairs and from those of other people. They must keep full and accurate accounts of all income and expenditure.

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Your certificate provider

Both forms of LPA require an independent third party to confirm that you have the necessary mental capacity to create the document. This certificate provider could be your solicitor, your doctor or a close friend that you have known for at least two years.

Formalities

Each LPA created to suit your circumstances will then require you, your certificate provider and your attorneys to sign before it can be sent to the OPG for registration.

It is important that all signatures are witnessed and are completed in the correct sequence. Otherwise, your LPA registration may be rejected by the OPG and would incur a further registration fee on re-submission.

Our service

Our specialist advisors can provide practical and legal guidance throughout the LPA creation and registration procedure. We can guide you through the entire process and help you focus on the important aspects to ensure that each document suits your specific requirements. We can also help you understand the role of LPAs in a comprehensive estate plan.

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Wills

overview:

A lifetime of careful planning can soon be undone by the lack of a properly prepared Will. Without a valid Will, the legal rules that concern your estate are over 85 years old and often fail the demands of modern family arrangements.

Every Will is personal to an individual. It is a legal document that has a number of specific requirements. There is no substitute for taking specialist advice so that your Will meets your needs.

Important considerations:

Executors

Your choice of executors is crucial. Being an executor is a responsible and demanding position and therefore it is important to select the appropriate people.

You can name up to four executors. These can be individuals or professionals such as your solicitor. Family disputes or complex financial arrangements are often best handled by an impartial specialist advisor.

Life milestones

Various events should prompt a review of your Will and financial arrangements. Marriage, divorce, the birth of a child or death of a parent will have significant consequences for you and your extended family.

Lifetime planning

A comprehensive estate plan can help protect your wealth for you and future generations. Your Will is a crucial part of this plan.

Our service

Our specialist team of advisors can help you select the most appropriate Will to suit your circumstances. We can also help you understand the benefits of a comprehensive estate plan.

Related Information:

For further information on the following please get in contact with Slater and Gordon:

- Trusts
- Court of Protection - Deputyship Orders
- Estate Administration
- Lasting Powers of Attorney
- Wills

Please feel free to discuss your own position and concerns. Contact your nearest office on:

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