

# Now is the time ...

Take a moment to consider your future

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

**Brewer  
Harding  
& Rowe**

solicitors

FAMILY PROTECT



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

“It is always important to obtain specific advice on your individual circumstances and we are here to help and advise you.”

## 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. When you read it you will know:

- How to ensure you have an up to date Will.
- The importance of a Lasting Power of Attorney.
- Steps you can take to help protect your family wealth.

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# 1 The importance of making a Will

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

- You choose who receives your estate and who has the legal responsibility of sorting out your affairs when the time comes.
- For those with second families, you get to make sure that your family is properly looked after.
- For those who are concerned about the effect of care home fees, you have the option of taking steps to help protect your family wealth.

Sadly two out of three people still die without making a valid Will. In these cases, the assets are distributed in accordance with the “Intestacy Rules”. These rules often do not reflect current circumstances. 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.

## QUALIFIED, PROFESSIONAL LEGAL ADVICE

A Will is a very important document and you should always see someone who is qualified to advise you. As Solicitors we are properly qualified and regulated in what we do. We are members of the Law Society Wills and Inheritance Quality Scheme. Most of our team are also qualified members of STEP (Society of Trust and Estate Practitioners). STEP is the recognised professional association for practitioners dealing with family inheritance and succession planning.

Our experienced team are available to advise on your options, and we will always agree fees at the outset.

## 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 Using Wills to protect family wealth

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 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.

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

Thinking about what would happen if you are unable to manage your affairs is uncomfortable.

But you need to consider how much worse the situation would be if you did not plan for that eventuality.

## Managing your affairs ...

- Choose a friend or relative to become an Executor or Attorney.
- Appoint Brewer Harding & Rowe to be an Executor at no extra cost.
- Consider carefully who you would trust to manage your affairs.

## 3 Executorships

“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; how old will that person be when the time comes? Will that person be able to cope emotionally? How will that person cope with the technical aspects of dealing with your estate and any Trusts you are setting up?

As Solicitors this is a role we are happy to undertake, often jointly with family members. We do not make an additional charge for taking on this role. 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.

## 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. However, there may come a time when someone else needs to manage your financial affairs or make important decisions for you.

By completing a Lasting Power of Attorney you can appoint whoever you wish to make financial or health care decisions for you should the need arise. If you do not have a Lasting Power of Attorney in place, 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 managing your affairs.

Appointing an Attorney is a key step in protecting your assets in the future. In some cases you may want to allow your Attorney to have full authority to make decisions for you. In other cases, you may want to restrict the way in which they can make decisions for you. These are all issues that need to be considered carefully and we have qualified experts who can help advise you.

## 5 Giving away assets in your lifetime

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.

We often get asked whether it is a good idea to transfer assets over to the next generation to avoid paying care home fees. Taking this step can be fraught with danger! If the sole intention of transferring any assets is to avoid paying care home fees in the future, then it is likely that the local authority will argue that this is a “deliberate deprivation of capital”. Regardless of time periods, the recipient may then be asked to pay for the care home costs to the extent of the value of the assets they have received.

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. If you did transfer your home to your children, you may need to think about what would happen if they were to run into financial or matrimonial difficulties or even if they were to die before you? There are also taxation implications for both yourself and your children.

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.



**Brewer  
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& Rowe**  
solicitors

**Family  
Protect**  
Fixed Fee

## 6 Consider BHR Family Protect

Completing a Will and a Lasting Power of Attorney is vital in protecting your family wealth and making sure your wishes are carried out. We are always happy to advise on all aspects of Wills and Lasting Powers of Attorney and will agree a fixed fee at the outset with you. If you combine the two, then our BHR Family Protect scheme will reduce the overall cost and perhaps more importantly, you know that you have taken the necessary steps to protect your family wealth for the next generation.

## 7 Equity Release

When considering equity release obtaining financial advice is only part of what you need to do; we will advise on all the legal implications you will need to consider.

These schemes are becoming popular again as we all live longer, face falling pension annuities and achieve lower returns on our savings. Indeed many of us are not able to save as much as we have in previous years.

If you are a home owner you could use equity release to boost your income or provide a lump sum to pay for things like home improvements. The two main advantages of these schemes are that you can remain in your property and also reduce your potential Inheritance Tax liability.

There are two types of Equity Release Scheme: **Home Reversions** and **Lifetime Mortgages**. The former involves you selling all or part of your property and retaining the right to continue living in the property. The latter is where you retain ownership of your property and take out a mortgage repayable when you die. The money released from the mortgage can be paid as a one off capital payment or used to buy an annuity to provide a regular income. A financial adviser can advise which type of scheme may be most suitable to you. As Solicitors, we can advise you on the legal and practical aspects of taking out an Equity Release Scheme.

### What are the risks?

We recommend you discuss the options with your family and always obtain independent professional advice before making any commitment.

- It may mean the loss of a means tested benefit.
- Your family may receive less from your estate when you die.
- If you want to cancel a scheme this may not always be possible.

Equity Release Schemes can be helpful but are not suitable for everyone. They are complex and there are lots of options available to you. A discussion with one of our specialist, qualified Solicitors should help you arrive at the right decision for you.

## 8

## Dealing with a person's estate after they die

Unless you've experienced bereavement before, you will probably be unsure just what you have to do. The legal process following the loss of a loved one can be an additional strain at a very difficult time. There are a number of practical steps that need to be taken.

Often Wills include details of funeral wishes and sometimes there are personal letters or documents stored with Wills either setting out those wishes in more detail or confirming the existence of a pre-paid funeral plan.

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, whether family members are able to start dealing with any personal effects etc.

### What to check?

It is in the early stages of the administration of an estate that most mistakes are made. It is important to seek advice as soon as possible.

- The deceased person's Will (if there is one).
- Speak with a Solicitor at the outset.
- If there is no Will it is particularly important to speak with a Solicitor to make sure that you are legally entitled to take certain steps.
- The funeral director is made aware of any funeral wishes.

The members of our Probate Team are qualified, experienced and sensitive. We can even be contacted out of hours with any urgent queries you may have.

Out of Hours: **01271 340888**

# Brewer Harding & Rowe

solicitors

## We meet and listen to what you want before advising on how best to proceed ...

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 recognise that many people are concerned about the unknown costs of instructing a Solicitor. That is why at Brewer Harding & Rowe, we offer a fixed fee service. This takes away the worry of hourly rates and escalating legal fees.

We have a fixed fee price guide that is readily available to all who are considering making a new Will or Lasting Power of Attorney.

If you are considering making a Lifetime Gift, entering into an Equity Release Scheme or need assistance in dealing with a deceased person's estate, then we will be more than happy to consider each case individually and provide details of our fixed fee at the outset.

## For solid legal advice

### Contact your local Brewer Harding & Rowe office

They say that time flies! None more so than for the Partners of Brewer Harding & Rowe Solicitors, who between them have clocked up over 300 years qualified legal experience!



Roderick Ball Partner/Member	Toby Barnes Partner/Member	Ian Budge Consultant	Michael Chittock Partner/Member	Greg Cloke Partner/Member	Stephen Dove Partner/Member	Nicola Emo Partner/Member	Nigel Treasaden Partner/Member	Geoff Triggs Partner/Member	Justin Wallace Partner/Member	Kevin Wigley Partner/Member	Andrew Woo Partner/Member
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