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your way



Summer 2018

How to Manage your Estate and Legal Affairs in Later Life

Although life after retirement is simpler in some ways, there are still several important legal issues that have to be managed. Keeping on top of these issues will protect your assets and give you and your relatives peace of mind.

Managing estates and ensuring that everything proceeds smoothly when you or your spouse dies is one of the most important aspects of later life legal planning. Will writing is just one part of this (although possibly the most fundamental).

If you were to have a serious medical condition or emergency, you probably have definite views about the types of treatment and care you would like to either receive or refuse. If you are conscious and in control of your mental faculties you can discuss your wishes with the medical team. But what if you aren't?

Unless you have advanced directives or a Living Will in place, medical staff and your relatives may be placed in a position of trying to predict, interpret or even negotiate over your wishes; for example, whether to receive life-sustaining treatment.

Closely linked to this is the need to consider [Lasting Powers of Attorney](#). These legal measures allow you to nominate people you trust who will act on your behalf with regard to your personal welfare or property and financial affairs.

Care Funding

Arranging asset ownership to minimise care fees is increasingly important. Care home fees can easily run to thousands of pounds each month and can soon eat such a large part of your estate. This is an area of later life planning that nobody should ignore.

The rules regarding state funding for care and how your assets and savings affect eligibility are complex. Getting expert advice is a good idea. At the very least you should have a plan for how your care would be funded should you need it. You can find out more by reading our [Care Home Funding](#) factsheet.

If you want to know more about all of the legal issues facing you in later life download our [factsheet](#). Or get in touch with us on **01934 623 501** and one of our specialist Private Client team will talk you through your options.





Top Tips

Setting up Lasting Powers of Attorney

A Lasting Power of Attorney (LPA) is a legal document that appoints one or more people (attorneys) to make decisions on your behalf should you lose the mental capacity to do so for yourself.

There are two types of LPA to deal with decisions related to your health and welfare, or your property and financial affairs. You can have either or both types.

Here are our top tips on setting up an LPA.

1 Choose which type(s) of LPA you need

A Health and Welfare LPA covers medical care, moving into a care home, life-sustaining treatment and your daily routine such as washing, dressing or eating. A Property and Financial Affairs LPA covers decisions about your money and property. This could include managing a bank account, paying bills, collecting benefits or a pension or selling your home

2 Don't wait until you think you need an LPA

The whole point is that you make decisions about who will look after your affairs while you are fully capable. None of us can predict when we might need someone else to act on our behalf and LPAs have to be set up while you still have mental capacity. When you make or update your will it is a good time to think about LPAs.

3 Choose your attorney(s) carefully

You are potentially vesting a lot of control so make very sure that you are confident that you choose attorneys who will act in the ways you would wish.

4 Decide how your attorneys can act

If you have more than one attorney, they can either act 'jointly and severally' or 'jointly.' If 'jointly' is selected each Attorney has to agree and your LPA will end if one attorney dies or loses mental capacity whereas joint and several allows one attorney to make a decision

5 LPAs must be registered

LPAs must be registered with the Office of the Public Guardian (OPG), which can take up to 10 weeks.

6 You can cancel or change your LPA

To end an LPA, you need to send the OPG the original LPA and a written statement called a 'deed of revocation.' If your spouse or civil partner is an attorney, the LPA will end if you divorce or separate.

[Click here](#) for more information, or for impartial, professional advice about setting up an LPA, contact the Private Client team at PowellsLaw on **01934 623 501**.

New Bundled Wills and LPAs service

Our specialist Private Client team can offer a number of bundled options when considering Wills and LPAs to give you peace of mind in knowing that you have everything in order at a price that suits you.

To contact the Private Client team, please call **01934 623 501**.





How You Can Move Home and Still Sleep Easy

You've found the home you want to buy, you have a buyer for your existing home, everyone's agreed prices. So, what could go wrong?

Actually, quite a bit. There are more than enough pitfalls to keep you awake at night.

I'm sure you've heard somebody say, 'never again!' after a difficult house move. Even with a short chain there are several players involved; and any number of people who could drag the whole process to a standstill.

Some estate agents are more proactive than others at chasing up the progress of a sale. Sometimes, somebody misses an important cost involved (such as Stamp Duty) and suddenly finds they don't have as much money for a purchase as they thought.

If somebody in the chain is moving out of rented accommodation the timing of everyone's move may be determined by their rental notice period. This is a frequent cause of unexpected delays.

Without somebody actively chasing, the buying and selling process can seem interminable.

And after completion, is that it?

If you don't choose the right conveyancer your problems may begin when you move in. Simmering disputes with neighbours, restrictions on the use of the property, access rights and consent, unauthorised alterations. These are just some of the issues that you could face but you shouldn't if the team handling your purchase does their job properly.

Your conveyancer will pick up any issues that would affect your ability to use and enjoy your new home before you exchange contracts.

Conveyancing isn't just a simple mechanical transaction (even though some websites would have you believe that it is). There are many human factors involved alongside the legal complexities. Because the process involves so many parties and has so much scope to be delayed (or even to fall through), choosing the right team to work on your behalf is critical if you want to sleep well at night.

The Property team at PowellsLaw brings experience, availability and determination to do the absolute best for our clients. Ultimately this makes the whole home moving process less stressful allowing you to focus on life in your new home. For information and advice, contact us today on **01934 623 501**.



Need a mortgage to buy a leasehold flat? Beware the ground rent trap...



Buyers of long leasehold flats are increasingly finding that they cannot get a mortgage where the lease contains an 'escalator' ground rent clause. There have been some reports in the press of such clauses which have the effect of doubling the ground rent periodically, often every 10 years or so. Although this can lead to ground rents increasing much faster than inflation, it has not been a particular problem because historically starting ground rents have been very low so the doubling effect has not been significant.

However, large developers and companies specialising in buying up ground rent entitlements see it as a lucrative source of income with the result that starting ground rents have increased significantly in some new leases, often in excess of £250 per year. This can result in staggering increases in the ground rent payable during the lifetime of the lease.

Unfortunately, an unforeseen side effect is that valuers acting for lenders are increasingly recommending refusal to lend where there is a high starting rent combined with an escalator clause.

There are a number of other technical legal issues arising from high ground rents so if you are looking to buy a flat with an escalator clause, or you own one with such a clause and are looking to sell, legal advice is essential. Contact the Property team at PowellsLaw today on **01934 623 501**.

Community update

Congratulations to our Trainee Solicitor

Stacey Godfrey for running the London marathon back in April this year, raising a total of **£1,394.12** for charity Addaction. Stacey completed the marathon in 5 hours 41 minutes and would like to extend her thanks to all those who sponsored her.



PowellsLaw were very pleased to support elite swimmers from Weston super Mare Swimming Club

at a number of national events this Summer. The Club had a number of swimmers qualifying for the British Summer Championships, the English National Summer Meet and the National Open Water Festival all held in Sheffield as well as the Welsh National Summer Meet held in Swansea. The Swimmers can now enjoy a well-earned rest over the Summer ready to start the next season in September.



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