

Our expertise,  
your way



PowellsLaw 

Later Life Planning  
Winter 2020



## No Will? Here's Why You Need to Speak to Somebody Urgently

**Here's a true story. Tony (not his real name) was a widower with two daughters. He had always intended to leave them his house when he died and had made a will to that effect.**

He then got married later in life and the house was owned jointly by him and his wife. When he died the daughters were shocked to find that the house automatically went to his new wife. In effect, it was as though he had never made a will.

This is an extreme (but not uncommon) case that highlights why everybody needs an up-to-date will. Without it, the law, not you, decides how your estate will be divided. Your hard-earned wealth may end up in the hands of people you wouldn't have wanted to have it.

A will doesn't just document your wishes when it comes to your wealth, it can also affect who will look after your children. With a will you also get to choose who will be the executor and be responsible for winding up your affairs.

### Probate Can Be Painful

There are many other reasons why having a will is important. Without one, your relatives may be faced with a lengthy probate process to settle your estate. This is the last thing your family needs when they are trying to deal with bereavement. It can also lead to financial difficulties as getting access to bank accounts and savings will be more complicated.

The other thing you probably want to make sure of is that as much of your wealth as possible passes to your chosen beneficiaries rather than the taxman. The way your will is written can make a big difference to the amount of Inheritance Tax deducted from your estate. Having a legally valid will also allow you to make gifts and charitable donations from your estate.

Now you've decided that you need to make or update your will, what now? There are low cost and DIY options that can be suitable for very straightforward estates. However, these also come with the risk that they may be invalid (perhaps through something as simple as the way they are witnessed). They may also not achieve what you intended because of the way they were worded – legal language is precise for a reason.

You've probably tried to do your best for your family all of your life. To make sure that continues you need a will. PowellsLaw can help you understand your options. We offer a bespoke will writing service and can also review previously written wills to ensure they are valid and advise you on what will happen in practice when that will is executed.





# Top Tips

## Setting up a Trust

Trusts can be an effective way to reduce your tax liabilities and control what happens to your assets after you die. Many people are not sure how to set up a trust and it's a subject we often get asked about. So to help, here are our top tips on setting up a trust. If you have any questions, the team at Powellslaw will be happy to advise you.

### Can Anybody Draw up a Trust?

In order to be effective, the trust needs to be precisely worded. The **Money Advice Service** recommends asking a solicitor to draw up the trust to avoid mistakes that turn out to be costly.

### Who Can Be a Trustee?

Trustees can be anyone you choose. Often, they are family members or close friends. Remember, you are handing them significant power and responsibility. Think very carefully before you decide and always check that your intended trustees are happy to take on the responsibility.

### Does a Trustee Have to Be Somebody You Know Personally?

Sometimes people appoint a company such as a bank or firm of solicitors. There will be a cost associated with this option, but it can avoid mistakes later on and may be a good alternative if friends and family members don't feel comfortable with the responsibility.

### How Much Does It Cost?

The cost for setting up a trust varies depending on the complexity but the fallout arising from trusts that were not set up correctly can be considerable. More and more people are opting for the reassurance of using a solicitor and knowing that everything has been done correctly. If you are setting up a trust for a vulnerable or disabled person, some charities will offer financial support.

If you have any questions or concerns about trusts, wills or estate planning, our team of specialists is ready to help. Contact us on **01934 623 501** or send your enquiry via our [Contact page](#).





# Everything You Need to Know **About Trusts**

(If You Want to Ask the Right Questions)

A trust is a legal arrangement where you give cash, property or investments to someone else so they can look after them for the benefit of a third person. Trusts are frequently used to reduce liability for Inheritance Tax and to control what happens to assets after somebody dies.

There are two important roles in any trust – the trustee and the beneficiary. The trustee is legally appointed to manage the trust and the assets in accordance with your wishes. The beneficiary is the person who benefits from the assets.

## What Types of Trusts are There?

There are two main categories of trust: will trusts and lifetime trusts. As the names suggest, will trusts are written into your will and become active after you die, while lifetime trusts come into force while you are alive. There are several types of trust, which we'll come to shortly.

### Lifetime Trusts

A lifetime Trust is usually enacted for property or asset protection. Typically, they are used to transfer ownership of your home so that it isn't counted as part of your estate while allowing you to continue to live in it.

The tax arrangements for lifetime trusts can be highly complex and it's probably not helpful to describe all of the possible implications here. This is definitely an area where you need expert advice. One word of caution: we don't recommend using this mechanism to avoid liability for care home fees. Your local authority will probably classify this as deliberate withholding of assets and charge you or your estate for the cost of your care regardless.

## Types of Trusts

Here is a summary of the main types of trust.

**Bare trusts** give everything to the beneficiary immediately as long as they're over 18.

**Interest in possession trusts** allow the beneficiary to draw income from the trust straight away. They don't have a right to the cash, property or investments that generate the income and income is taxable. This is a popular trust structure in the will of a person who remarries after divorce but has children from the first marriage.

**Discretionary trusts** give the trustees absolute power to decide how the assets in the trust are distributed. For example, you could use this type of trust for your grandchildren and leave it to the trustees to decide how to divide the income and capital. The trustees could be the parents of the grandchildren and can also make investment decisions.

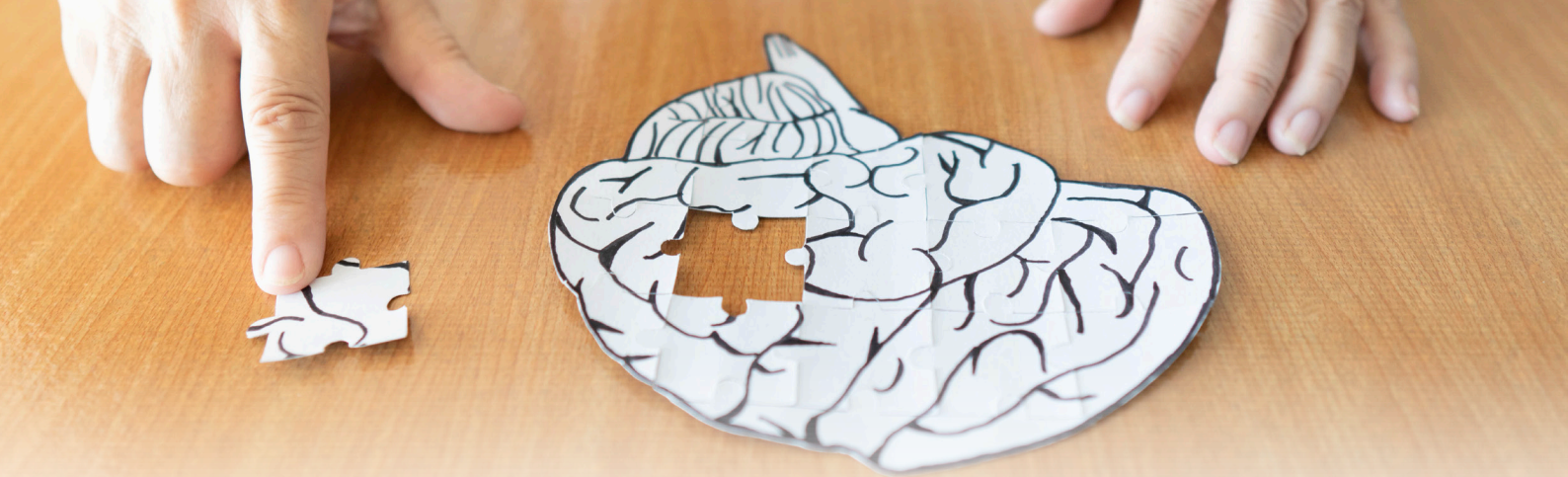
**Mixed trusts** combine elements from different kinds of trusts.

A **trust for a vulnerable person** is often used if the beneficiary has a disability or is an orphaned child. The tax liability is usually lower.

**Non-resident trusts** can sometimes mean the trustees pay no tax or a reduced amount of tax on income from the trust if they are resident outside of the UK.

Trusts can be highly effective in tax and estate planning. They can also be complex – so it makes sense to talk to a solicitor experienced in this area of work. To discuss the different types of trusts, contact us on **01934 623 501** or send us an enquiry via the [Contact page](#).





# Dementia Talk: A Visit from Alan Richardson of Alzheimer's Society

PowellsLaw were pleased to welcome Alan Richardson of Alzheimer's Society to our office recently to talk to partners and staff about Dementia.

Alan is a volunteer Dementia Champion, and gives up his time to enlighten businesses and other groups as to the effects of dementia, which is a disease and not a normal part of ageing.

Alan was able to discuss his own personal experiences of dealing with a loved one living with dementia. He was able to share tips and suggestions for how everyday life can be made easier for those affected by dementia, and what the symptoms of dementia may be.

Following Alan's visit and the group discussions held during that meeting, many of the staff at PowellsLaw are now Dementia Friends, including all of the Private Client team who deal with Wills and Powers of Attorney.

One in 14 people over the age of 65, and one in 6 people over the age of 80 have dementia. There are around 850,000 people in the UK living with dementia. It is possible to live well with dementia, but important to plan ahead and get your affairs in order. If you or a loved one have recently been diagnosed, make sure that financial and other affairs are in good order. Ensure that you have an up to date Will. Consider setting up a Lasting Power of Attorney. This will allow someone else you trust to make decisions on your behalf if you're no longer able. These decisions may relate to property and financial matters or your health and welfare, allowing you a say in your future medical care.

Contact one of the team at Powells Law for a free initial discussion on **01934 623 501**.

## Later Life Planning Team Update



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