



**Chambers  
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LEGAL SERVICES

**Live like there  
is no tomorrow...**





## YOUR WILL, AND CREATING A LASTING POWER OF ATTORNEY

### Trust Chambers & McClay.

*“In this world nothing can be said to be certain, except death and taxes.” Benjamin Franklin 1706.*

Nobody likes to pay tax and nobody likes to think about the possibility of dying. Unfortunately, dying happens to all of us – at any age – no matter how rich or poor.

We work hard all our lives and would like to think that when we're gone the fruits of our life's work will pass to our loved ones.

Sadly without a Will this is not necessarily what will happen.

With thousands dying without a Will (intestate) each year, it means that...

- ❖ Someone else gets to decide how to distribute your assets
- ❖ You could end up with a wholly avoidable inheritance tax bill
- ❖ Your partner has no legal right to inherit
- ❖ Your spouse or civil partner will not automatically inherit everything
- ❖ The courts and social services decide who will bring up your children
- ❖ Any children from previous relationships may be 'disinherited'
- ❖ Entering a care home could reduce your life savings to £14,200

Make a Will today – it will save your loved ones a lot of pain and anguish, and ensure the taxman doesn't get more than his fair share. It is far too important to delay.

Alongside death and taxes, nobody likes to think about the possibility of losing their mental capacity or becoming infirm in later life.

However, according to The Office of The Public Guardian, one in three of us will develop dementia and accidents which affect our mental capacity can occur at any time.

In the event of dementia or accidents, most people believe that their next of kin would be able to step in and make decisions for them. But this is not the case.

Therefore, Lasting Powers of Attorney (documents where you can appoint somebody to make decisions and act on your behalf) are just as important as Wills when it comes to ensuring your wishes are followed.

Without a Property and Financial Affairs LPA bank accounts (including joint bank accounts) may be frozen, potentially leaving you and your spouse without the ability to pay your regular bills until an application to the court is made for deputyship. This is a lengthy and expensive process.

Without a Health and Welfare LPA it would be down to the doctors and social workers to decide how you should be treated and cared for, including things as basic as whether you can stay in your own home.

Only by taking out LPAs can you be certain that “Your” wishes will be fulfilled.



# WITHOUT A WILL

## Who will get your assets?

If you are single or married and die without a Will, the law dictates that the courts will divide your assets according to a rigid formula, referred to in legal terms as the Rules of Intestacy.

This may not be in line with what you might want to happen.

The Rules of Intestacy dictate who will inherit your estate and in what proportions depending on who survives you. This often leads to arguments when people who believe that they should be entitled to an inheritance are either left out or receive less than they were expecting.

Without a Will your potential beneficiaries will have to apply to the courts to get permission to administer your estate. This can lead to delays during which your assets, including bank accounts, may be frozen, leaving your loved ones without access to funds.

*NOTE – Without a Will, family members may benefit, but friends and charities you may wish to leave to would not.*

## If you are married what will your spouse get?

As a married couple, assets do not automatically go to the remaining spouse. Your spouse is only automatically entitled to the first £250,000 if you do not have a Will. If you have children they are automatically entitled to half of anything above this amount, sometimes leading to family pressures surrounding the release of funds to pay them.

**Make a Will to protect your immediate family from the possibility of the courts distributing your assets against your wishes.**

## If you are unmarried what will your partner get?

Unmarried partners do not inherit and have no outright claim to the assets owned by their partner. If you do not have a Will, your assets will be distributed according to the Law of Intestacy, and will go to your parents, brothers, sisters, grandparents, uncles and aunts, but not to your partner.

This happens more frequently than people would wish and often leads to arguments and bitterness, compounding the stress and grief of losing a partner.

**Make a Will to protect your partner and avoid potential future conflict.**

## Who will look after your children?

Making a Will is the only way to make sure that the appointed guardians for your dependent children are the people you – and your children – want to look after them.

Only mothers and married fathers have automatic guardianship of their children.

Note that unmarried fathers do not automatically have this right. In all other cases, the law dictates that unless a guardian has been nominated, whoever wishes to look after the child must apply to the courts for guardianship. At this point, the welfare of the child is paramount and the courts will ask social services to draw up reports on the suitability of those applying.

**Make a Will to appoint a guardian of your choice and remove any uncertainty about your children's wellbeing.**



A Member of the  
Society of Will Writers



# MAKING YOUR WILL

## Why might I need an asset protective Will?

If you have remarried since an original partner's death, and are without a Will your 'new spouse' could get the assets meant for the children of the first marriage. Your children from your second marriage could also inherit over and above those from the first.

**Make a Will to ensure all your children inherit their fair share, in line with your wishes.**

## What will happen if you go into care?

Going into care is expensive, typically costing around £30,000 per year with nursing extra. The law dictates that if you have assets worth more than £23,250 you will need to pay the full cost of any future care home fees.

If your assets are worth between £14,250 and £23,250 you will need to contribute toward the fees until your assets fall to that lower limit where care is free. The rules also prevent you from giving your assets away if it is assumed that the main reason for doing so is to avoid paying care home fees. This is called Deprivation of Assets.

With the above as context, making your will early, the manner in which you own your property and the arrangements you make in your Will are vital to protect the assets you wish to leave your children and other beneficiaries.

**Without forward planning, you may leave as little as £14,250 from your joint estates and a lifetime of saving.**

## Is there still Inheritance Tax?

In short, yes, but inheritance tax planning will vary depending on your individual circumstances. If your individual estate is greater than the inheritance tax allowance, we can offer the advice that could reduce any potential tax liability.

Inheritance tax (IHT) is payable at 40% of the value of your taxable estate on death. It has often been described as a voluntary tax because with the right planning during your lifetime, you can legally minimise or eliminate the tax on your death.

If you are unmarried but jointly own property with someone else, or have children with their own tax issues it is particularly important that you seek professional bespoke advice.

**Getting the right IHT advice could save thousands of pounds in the future.**

## Having a Will means...

- ✦ Peace of mind. Having chosen someone whom you personally trust to act as executor you will ensure that your wishes are carried out
- ✦ Setting out your funeral arrangements (no matter how straightforward or unusual they are!)
- ✦ Appointing guardians to have parental responsibility of your dependants or children under the age of 18
- ✦ Deciding who should receive items with sentimental value, rather than all of your personal possessions being treated the same way
- ✦ Providing for friends or charities or other organisations who would not benefit if you died intestate (i.e. die without leaving a Will)
- ✦ Helping prevent disputes within the family by making your express wishes clear
- ✦ Minimising tax liabilities after your death
- ✦ Making special provisions for children who have health, matrimonial or financial problems, ensuring they benefit from your estate





# LASTING POWERS OF ATTORNEY

Lasting Powers of Attorney (LPAs) are documents which allow you to preselect who you would want to make decisions on your behalf or conduct your affairs if you were to become incapable or unable to do so for yourself, either through infirmity, stroke, dementia, or even through being injured in an accident.

The LPA replaced the Enduring Power of Attorney on 1st October 2007 and in addition to making decisions about your finances, you can now appoint your chosen attorney to make important decisions about your medical treatment and long-term healthcare.

In both of these two forms of LPA you can add restrictions or conditions to areas where you would not wish your attorneys to have the power to act.

## **Why is it important to have LPAs drawn up in good time?**

You must make an LPA whilst you are still able to make decisions for yourself. Mental capacity means the ability to make or communicate specific decisions at the time they need to be made. To have mental capacity you must understand the decision you need to make, why you need to make it, and the likely outcome of your decision. However, if there does come a time when you are unable to make your own decisions, you will have lost mental capacity and therefore it will be too late to have an LPA drafted.

## **What happens if I don't have an LPA?**

Unless you have created an LPA whilst you have the capacity to do so, your family will have to make an application to the Court of Protection for a deputy to be appointed. This is an extremely costly and lengthy process. The appointed deputy has to produce annual accounts and the Court of Protection charge substantial fees.

Additionally, if you lose mental capacity all bank accounts may be frozen (including all joint accounts) until a deputy is appointed. This inevitably can cause a great deal of distress for family and friends as bills cannot be paid and pensions or benefits cannot be accessed.

## **What sort of decisions are covered under a Lasting Powers of Attorney document?**

In the case of a Health and Welfare LPA, your attorney will have the power to make decisions about your healthcare and medical treatment including;

- Whether you live at home or will live in a care home
- Your daily routine eg washing, dressing and even things as simple as your daily diet
- Any medical care you might want to receive at the end of your life
- Giving or refusing consent to life-sustaining treatment

Without a Health and Welfare LPA these sorts of decisions would be made by doctors or social workers on what is called a “Best Interests” basis. Whilst they might take your family’s wishes into account they would be strangers to you and ultimately, it would be their decision.

With a Property and Affairs LPA, your attorney will have the power to manage your finances including;

- Dealing with bills and state benefits
- Running your bank accounts
- Rearranging your investments
- Buying and selling your property to best meet your needs

Only by drawing up a Property and Affairs LPA can you make sure that the people you would want making those decisions are empowered to do so.



## **WE ARE THE EXPERTS...**

### **Trust Chambers & McClay.**

When it comes to writing Wills and LPAs, you need an expert on the case.

This is exactly what we are – experts. It is all we do. We were founded in 1999 and since that date we have written over 80,000 documents.

#### **As unique as you are...**

Your circumstances are not the same as anyone else's. The way you save, whether you own a home, what you collect, invest in, and whether you have children who will inherit when you die, all contribute to a unique and complex personal profile.

#### **That is why it is important never to take general advice about Wills...**

Let us help you. We will give you the facts on several fundamental issues that may be relevant to you. We will explain how the law works and what may happen if you don't have a Will.

#### **Personalised service at a time and place to suit you...**

Once you have reviewed the information, give us a call and one of our specialist Will writing consultants will take you through the process in the comfort of your own home or location of your choice.

We will take your instructions and give you full guidance and all the advice you need. If you wish, you can discuss your own personal circumstances in more detail to best fulfil your wishes and protect the financial results of your life's work.

It costs remarkably little to get a Will professionally written by Chambers & McClay. However, it could save tens of thousands of pounds in unnecessary inheritance tax bills. That is in addition to saving your loved ones heartache and trauma at an undoubtedly difficult time.

#### **We are a specialist...**

There is a widely held assumption that only a solicitor or bank can write a Will. This is not true. Chambers & McClay Legal Services, a specialist Will writing practice, who only write Wills and LPAs, are experts in this field.

#### **We do not appoint ourselves as executors...**

Solicitors and banks may suggest that they act as executors to administer your Will. However, expect charges of between 3-5% of the value of your assets to cover this work, besides the upfront costs of writing the Will. At Chambers & McClay, we do not appoint ourselves as executors, saving you a small fortune.

#### **We have fixed fees...**

We charge a fixed fee to take your instructions and write your Will. Our clients tell us the cost is remarkably low. There are no nasty surprises. Everything is clear, open, honest and highly professional.

#### **We are experts in writing Wills...**

We are one of the largest Will writing practices in England with consultants based throughout the country. Our experience and expertise ensures the Will making process is simple, straightforward and stress free.

#### **We are members of The Society of Will Writers...**

Every one of our legal team are members of The Society of Will Writers. You are welcome to check our credentials by calling The Society free on 0800 838270.





### **We keep up to date...**

Our legal staff and consultants are put through intensive training and undertake continuous professional development tutelage to ensure that you receive the most relevant and up-to-date advice available.

### **What else can we help you with?**

Alongside offering Wills and Powers of Attorney we have a partner network which allows us to introduce you to other services, including things like funeral plans and probate help and advice.

### **Probate...**

The majority of Wills do need to obtain probate (a legal process whereby a Will is proved in a court). Probate can be a lengthy and costly process when sorting out the financial affairs of the deceased. Whilst we do not offer a probate service ourselves, we work with professional organisations that do. We would be happy to recommend them to you.

### **Funeral Plans...**

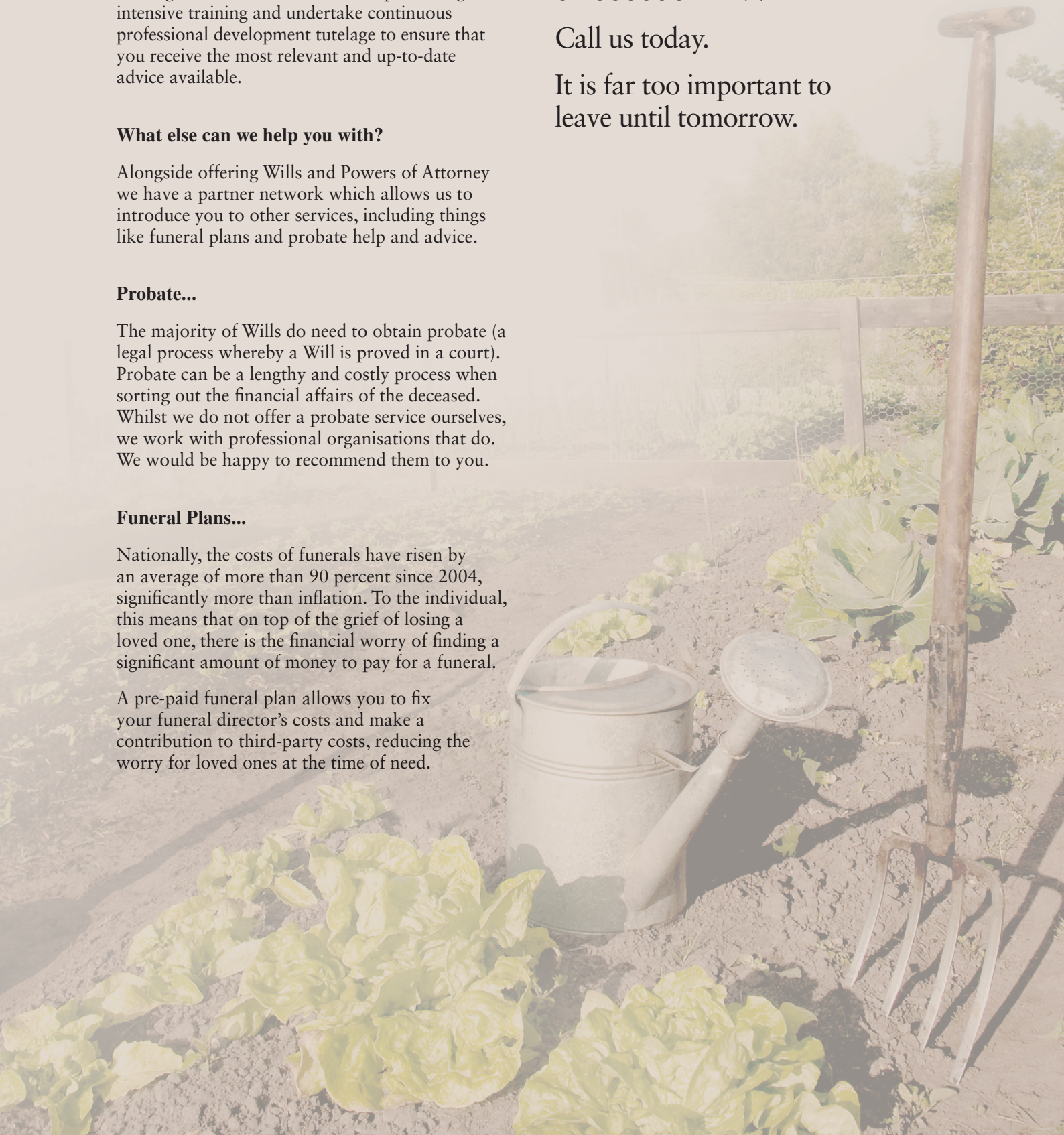
Nationally, the costs of funerals have risen by an average of more than 90 percent since 2004, significantly more than inflation. To the individual, this means that on top of the grief of losing a loved one, there is the financial worry of finding a significant amount of money to pay for a funeral.

A pre-paid funeral plan allows you to fix your funeral director's costs and make a contribution to third-party costs, reducing the worry for loved ones at the time of need.

**Call us to make an appointment  
on 08000 322 477**

**Call us today.**

**It is far too important to  
leave until tomorrow.**



# Chambers & McClay

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