



ESTATE & TAX PLANNING

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How to ensure your will is valid in Corona Virus Lockdown

Under UK law, a will maker must sign the will in the presence of two witnesses, over the age of 18, who then must also sign the will to state they have witnessed the event. The two witnesses to the signing must also not be people who will benefit under the will or a spouse of someone who will.

These requirements are causing problems in the current climate. The offices of many professionals have closed and staff transitioned to working remotely. Social distancing means it is difficult to have two people who are not in your household who will not benefit from the will, come together to sign a document.

Marcus Bishop Associates may be able to take instructions over the phone and email, writing up a valid will, but without the witness signatures, done in your presence, it will all be pointless.

There have been calls over the past few weeks for the requirements for witnesses to be eased, however as yet there have been no changes.

Therefore, if you have either had your will drafted professionally (which is always recommended) or you had written one yourself, currently the best advice to have it validly witnessed is:

- Ask at least two people, over the age of 18, who are not going to receive a benefit under the will, including the spouses or close family of anyone named in the will.

- Print or write out the will and have it ready to be signed – the witnesses do not need to know what has been written, they just need to witness you signing it.
- Arrange to meet outside but remain socially distant
- All parties to use their own pens and preferably gloves for touching the paper
- Once you have signed in front of the witnesses, step away from the will and allow each witness to sign it individually, again socially distancing
- Once it has been signed, ensure you keep it safe and let your personal representatives know where to find it. If you have had it drafted professionally, return it to your professional will writer so they can check that it has been witnessed correctly. Some professionals may allow you to do this by email, with you keeping the original until you are able to return it

Until the laws are relaxed or changed, regarding how wills are to be witnessed, and despite news articles about living wills or solicitors witnessing wills via WhatsApp, the unfortunate truth is you are still required to have the signatures of two witnesses, in person.

If you would like to discuss your Estate & Tax Planning, call David on 020 8670 0917 or email him at: david@marcus-bishop-associates.co.uk.

The importance of the right advice when it comes to vulnerable relatives

When it comes to protecting vulnerable individuals it is important that people obtain the right advice. There are a range of options, with tax and inheritance implications where the right guidance can ensure vulnerable individuals are both protected and provided for.

Who might be considered a vulnerable person?

A vulnerable person can be classed as, someone who:

- Isn't mature
- Isn't financially sensible
- Lacks capacity to deal with financial affairs
- May be good with money but has their finances 'means tested' for benefit purposes.

An example scenario

'Yolanda' has learning disabilities. She used to live with her parents, but decided she wanted to live independently so moved into sheltered housing.

This gave Yolanda her independence, and provided her with the support and supervision she needed as and when as required.

To pay for her accommodation, Yolanda received benefits, Local Authority funding and Personal Independence Payments (PIP).

Yolanda has a huge passion for steam engines. She lives, breathes and dreams of steam engines, and will do all she can to go and see them. This passion has seen her travel across the country on various occasions to see famous engines.

Yolanda's parents encourage this passion, and upon their death would like to leave her some money so she can continue to enjoy the thrill steam trains give her.

They also want to leave money to Yolanda to help maintain her and ensure she is looked after, but don't want this inheritance to impact on the means tested benefit Yolanda receives.

What options do Yolanda's parents have?

It's only right that Yolanda's parents go and see advice from a professional who could advise them of the best routes to take and why.

Some routes the parents shouldn't consider include:

- Leaving all of the money to Yolanda's brother. By not putting the money into a Trust for Yolanda, and leaving the responsibility on her brother to 'see her right' can lead to problems for Yolanda.
 - a) Firstly, the parents are relying on the brother's integrity to provide for his sister.
 - b) Secondly, this leaves the inheritance they left their son at risk of any issues that could affect his wealth. These issues include: divorce, creditors, being spent etc.
- Create a Deed of Variation. This can have tax implications, but also be classed as 'deprivation' with regards to the care Yolanda receives in sheltered housing. The Deeds of Variation would be included in the means tested benefit which could result in Yolanda receiving a reduced payment, or losing this benefit altogether.

So, what should they do?

In this scenario, the best option for Yolanda and her parents would be to place any inheritance into a Discretionary Trust. Ideally a Disabled Discretionary Trust, as this would protect Yolanda's means tested benefits. There are also tax advantages available to Yolanda if this is the route chosen by her parents.

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