myers&co solicitors news

Spring 2016

Myers & Co celebrate their 10th anniversary in style

Myers & Co celebrated their ten-year anniversary at the end of 2015 in spectacular style, with a party at the Potters' Club in Stoke-on-Trent. There was a wonderful turnout of guests to the celebration, who were greeted by glasses of champagne and canapès.

Firm directors, Stephen Myers, Dermot Callinan and Kerry Dundas, welcomed staff, clients and friends to join them in a celebration of the momentous event. Since its establishment in 2005, the firm has built an enviable reputation in Staffordshire for both its private client and commercial legal services.

Guests were treated to entertainment on the evening, including saxophone music and a magician. The night was topped off by a specially made ten-year anniversary cake.

Stephen Myers, head of the private client department, said 'We want to thank all our staff, clients, family and friends for their support over the last ten years. We hope everyone who was able to join us for our anniversary celebration enjoyed the evening as much as we did. Here's to another successful ten years for the firm.'

In this issue

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Time for a new year will health check?

The start of a new year is an excellent time to take stock and get your life in order. If you have not already made a will, then now is the time to do so. Even if you have already made a will, you should not assume that you have done all you can to put your affairs in order. If you do not regularly review your will every five years it can easily fall out of date.

Anyone who has made a homemade or DIY will is particularly advised to have it reviewed by a specialist wills and probate solicitor as it may not reflect your intentions or achieve your desired outcome.

Recent changes to the intestacy laws and new rules on inheritance tax allowances could also mean that the terms of your current will could be improved upon, and provide you with a more favourable tax position.

There are a number of health checks you can carry out yourself:

1. Are your name and address still the same?
2. Has your marital status changed since you made your will?
3. Are the names and addresses of your executors and trustees up to date?
4. Have you had children since you made your will?
5. If you have left any specific gifts of your personal effects, have you sold any of them or already given them away?
6. Have you included everyone you would like to as a beneficiary?
7. If your will is likely to be unpopular with your family, have you left a statement or letter of wishes accompanying your will?
8. Have you included substitutionary clauses to cover if any of your beneficiaries die before you?
9. Is your will correctly signed and witnessed?
10. Is your will stored so that it is tamperproof and fireproof?

Myers & Co. Solicitors provide a free will storage facility.

Contact Stephen Myers for a confidential discussion about updating your will.

Stephen Myers

How to protect your children's inheritance

As we live longer, more adults are marrying a second or third time. Divorce among the over-60s, otherwise known as silver splitters, has risen by a third in the past decade. While most adult children are happy that their parents have companionship in old age, they may have worries over inheritance.

Ultimately, most of us want our children to inherit our assets at some point in the future. But if we have a partner or spouse it is also usual to want them to benefit first, for the rest of their life, before assets are passed to the children.

If you make a will leaving everything outright to your partner on your death, there is a possibility that your children may not receive anything. There is nothing to stop your partner from disinheriting them. Even if you and your partner have made 'mirror' wills which leave everything to the children on the second death, your partner could later change their will if they wish to.

Life interest trust in your will

One solution is to have a life interest trust written into your will. The trust is set up to provide for your partner or spouse for the remainder of their lifetime, but ensures that the capital passes to the children at the end of the day.

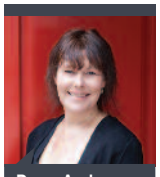
Discretionary trust in your will

Another option is setting up a discretionary trust in your will which allows your trustees to benefit both spouse and children at the same time. The will should be supported by a letter of wishes to the trustees, setting out guidance as to how they should consider using their discretion.

Leave gifts to your children on the first death

If there are adequate assets, particularly where your spouse or partner is sufficiently financially secure without requiring your entire estate, gifts to children may be considered on the first death. You could even put your gift into trust for your children, particularly if they are minors. This can have inheritance tax consequences and advice should be taken on your individual situation.

For more advice on protecting your children's inheritance, contact Dawn Anderson.



Dawn Anderson

Elderly relative going into care?

Making decisions on care for elderly relatives is rarely straightforward, as there are a minefield of different options and funding considerations.

Where an elderly person lacks mental capacity, the process of moving them into care can be particularly challenging. If they have already made a lasting power of attorney while they had mental capacity, this will help. There are two types of lasting power of attorney:

- health and welfare – allows attorneys to make decisions on care homes and ongoing medical decisions; and
- financial – allows attorneys to make decisions on funding costs, managing bank accounts and selling property.

Court of protection deputyship order

If there is no lasting power of attorney in place, it could be necessary to ask the Court of Protection to appoint a deputy. This will enable a designated person to make decisions for the elderly person in the way an attorney could, or for the court to make a one-off decision on behalf of the individual.

Funding and assessment

Depending on the level of their assets and income, your relative may have to contribute towards their care home fees and in some cases fund their own fees in their entirety.

If your relative qualifies for local authority funding, the local authority has a responsibility to carry out a needs assessment and prepare a care plan. If your relative would like to move to a care home that is more expensive than the funding amount they will receive, a family member can pay the difference by way of a 'top-up' fee.

NHS continuing care funding

NHS continuing healthcare funding is available in some circumstances to cover healthcare costs, including the full cost of residential care. If you think your relative fulfils the criteria and they are turned down, there is an appeal process you can invoke which can include having an independent assessment carried out.

NHS-funded nursing care may also be available. This provides for a set amount of funding towards specific nursing costs each week, but does not cover the full cost of residential nursing care.

Concerns in care

Once your loved one is in care, their health or mental capacity may begin to deteriorate, and you may need to be more involved in making decisions for them. Without a lasting power of attorney you would not be included in making decisions about their daily care routine, such as diet, dressing and bathing, as well as decisions about medical treatment and life-sustaining interventions.

Selling their home

More often than not, when a person goes into care their home needs to be sold. You will only be able to manage this on their behalf if you have a financial affairs power of attorney or deputyship order in place.

Make or review their will

When an elderly relative goes into care, it is an appropriate time to get them to make or review their will to reflect any changes in circumstances.

For more advice on protecting your children's inheritance, contact Susan Hall.

Susan Hall

Challenging a will

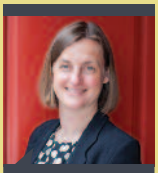
If a loved one has died, and you are concerned about the validity, contents or fairness of their will, then you may decide to challenge the will during the process of probate.

Common reasons for challenging a will include:

- concerns that a will has not been properly drafted or executed. If the signature does not match the deceased's usual signature, or if the will was not witnessed properly it may be invalid;
- family members may challenge a will where they believe that the person making the will was not in sound mind;
- suspicion of fraud that a will may have been destroyed or altered after it was made;
- concerns that the deceased was vulnerable to undue influence and pressurised into making or changing their will;
- where a dependent has not benefited in the way they anticipated, then they may have an inheritance claim;
- disputes can arise where the deceased has chosen to exclude family members from their will; or
- where the deceased left a substantial proportion, or all of their estate, to a charity.

All of these situations can be tricky and may cause unease among the family. However, if you suspect that a will is not valid or you wish to challenge its fairness you will need to take action quickly, to avoid the assets of the estate from being distributed.

For advice on challenging a will or making a dependency claim, contact Karen Coleman.



Karen Coleman

Buying a home – joint tenants or tenants in common?

If you are buying a property with someone else, you will be asked whether you want to own it as joint tenants or tenants in common. Your decision may determine your respective shares in the property.

In particular, if you are not married, or in a civil partnership, you need to think about what will happen to your respective shares of the investment if one of you dies or you later separate.

Joint tenants

If you decide to be joint tenants you will own the whole of the property together, with a right of surviviorship. This means that if one of you dies, the surviving partner automatically becomes entitled to the whole of the property. It applies even if there is no will, or if the will does not refer to the surviving partner.

Tenants in common

If you decide to be tenants in common, you will each own a defined share of the property. This could be 50 per cent each, or whatever you decide. An unequal split may be appropriate if, for example, you have contributed different amounts to the purchase, or one of you is taking on more responsibility for the mortgage.

Your conveyancer can ensure the transfer deeds record the shares in which you both own the property. Alternatively, they may prepare a separate declaration of trust. Either would determine the split of any sale proceeds in the future, and head off a potential dispute.

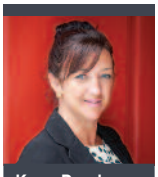
When you die, your share of the property will be distributed according to the terms of your will. If you do not have a will, your share will be distributed according to the intestacy rules. It will not automatically pass to the other tenant in common, and they may be forced to sell their home.

Changing your mind

If you start out as joint tenants and your circumstances change so that you no longer want to be joint tenants, you can serve a notice to sever the joint tenancy. This changes the joint tenancy to a tenancy in common. You might want to do this if your relationship breaks down or for inheritance or tax planning reasons. Your lawyer can prepare the appropriate notice for you.

Making the right arrangement for you

There are different inheritance and tax planning implications for each option. You will especially need to be aware of these if you have children from a previous relationship to consider. It is best to take independent legal advice before committing to anything and your lawyer will be able to advise you on your best options.



Kerry Dundas

For help and advice when buying a home, contact Kerry Dundas.

Legal advice for you and your family

- Dispute resolution
- Employment problems
- Residential conveyancing
- Wealth protection
- Wills and probate

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