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Spring 2017

A warm welcome to Andrew Willott

Andrew Willott with Stephen Myers

Myers & Co Solicitors in Stoke-on-Trent warmly welcome a new private client solicitor, Andrew Willott, to the team.

Andrew joins the wills and probate department at Myers & Co with a diverse skillset on private client matters. He comes to us with considerable experience in providing bespoke advice to a wide range of couples and high net worth individuals on making a will or probate administration.

Proud to be a local man, Andrew has lived, worked and studied in Stoke-on-Trent and the surrounding area for most of his life.

Before becoming a lawyer, Andrew had a varied work history, including working as a chef and driving an articulated lorry. He even drove a truck as part of an aid convey to a Romanian Orphanage to provide much needed supplies for sick children.

Andrew studied for his law degree, masters and the Legal Practice Course at Staffordshire University qualifying as a solicitor in 2009.

With his personally tailored approach, Andrew can advise you on the implications of inheritance tax according to your individual circumstances.

As part of his ongoing commitment to client care, Andrew can also help you to protect against the difficulties that arise in dealing with financial and personal decisions if mental capacity is lost by preparing a lasting power of attorney.

He is highly experienced with Court of Protection proceedings, having acted on behalf of individuals, concerned relatives and estate administrators in deputyship applications.

For a confidential discussion about any wills and probate matter, contact Andrew Willott on 01782 577000.

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Stepchildren and considerations when making a will

Do you have stepchildren?

Under the laws of intestacy, a stepchild will not automatically inherit from your estate unless they have been legally adopted by you. If you wish to pass on money or other assets to them, then you will need to make a will to do so.

If you do not wish for anything to be passed onto a stepchild, then you still need to take care. If you do not leave a will, or if you do not make reasonable provision for stepchildren in any will you do make, then a stepchild may still be able to make a legal claim against your estate, even if they were not financially dependent upon you.

This is the case whether the child in question was an official stepchild of the deceased, or merely someone the deceased treated as a stepchild prior to their death.

A claim brought by a child who believes they have been unfairly left out of a will, or not adequately provided for, will be brought under the Inheritance (Provision for Family and Dependants) Act 1975.

This Act allows children who were treated as a child of a marriage or civil partnership by the deceased to make a claim. Since 1 October 2014, it has also allowed children who were treated as a child of a co-habiting couple, to which the deceased was a party, to bring a claim.

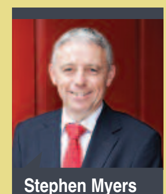
Have your children become stepchildren following re-marriage?

Couples with children from previous relationships have a choice when making wills. They can make 'mirror' wills, which leave everything to each other on the first death and on the second death divide the estate between the children of the respective families. This is the simplest approach but is based entirely on trust, because if you die first then your spouse could make a new will leaving everything to their own children only.

The alternative, watertight approach to ensuring that your children will inherit your estate, involves creating a 'life interest' trust in your will. This will leave your new spouse with the security of a right to the income from your assets and the right to live in your house for the remainder of their life, but the capital of your estate is always protected for your children, who will inherit when your spouse dies.

Such trusts can be set up in a flexible way so that your spouse can move house and to gain access to some of the capital if they need it and your executors agree. However, this could have inheritance tax implications after the introduction of a new residence nil rate band on 6 April 2017.

The important thing is that couples take professional advice together so that they can agree the provisions they are making and understand the inheritance tax implications of their will.



Stephen Myers

For more information on making a will, contact Stephen Myers on 01782 577000.

Is your will enough? Why you may need a letter of wishes

If your will is the most important document that you will ever write, a letter of wishes could well be the second. We all know that having an up-to-date will in place is sensible, but the importance of a letter of wishes is less well appreciated.

Making sure your wishes are followed

When making a will you have the right of testamentary freedom to do as you please. This includes the right to decide whether you leave something or nothing to family members, or perhaps give a legacy to friends or charity, if that is your wish.
Increasingly, such decisions are being challenged in the courts but relatives are more likely to follow your wishes if the reasoning is made clear to them.

Explaining your reasons

There may be many reasons for leaving a family member out of your will, such as estrangement, financial irresponsibility, addictive behaviour, problematic relationships with the spouses of adult children and religious differences. Or it may be that you feel you have settled their inheritance during your lifetime.

In these situations, a letter of wishes can be a very important document since it provides an insight into the background thatthe will itself does not contain and can help to explain a decision that others may not understand.

Where a formal challenge is made, the letter of wishes is your opportunity to explain your decision to the court from beyond the grave.

Storing your letter of wishes

It is sensible to store a well drafted letter of wishes alongside your will, so that it is easily accessible to your relatives when the time comes. At Myers & Co, we provide a free will storage facility and can register your will with the Certainty national wills database.

Andrew Willott

For information on adding a letter of wishes to your will contact Andrew Willott on 01782 577000.

What to do when someone dies

When a loved one dies, and you are the next of kin, there are legal formalities that must be dealt with:

1. **Register the death** - either the next of kin or the executors can do this by appointment with the closest Registrar of Births, Deaths and Marriages. At the end of your appointment the registrar will give you the death certificate.

2. **Organise the funeral** - you may want to check personal papers to see if a will exists and if a pre-paid funeral plan has been arranged or if there are any specific funeral wishes.

3. **Locate the will** - the original will is usually held by the solicitor who prepared it but you may also find a copy of it at your loved one's home.

   Myers & Co are founder members of Certainty, the national database of wills and can arrange a search of this database and of all solicitors within this area in which the deceased lived or formally lived.

4. **Apply for probate/ letters of administration** - The size of the estate, and many other factors, will determine which procedure you need to follow before the assets can be distributed. If there is a will, the executors may need to apply for a 'grant of representation', file accounts and satisfy inheritance tax requirements first. If there is no will, the intestacy laws apply a strict set of rules on who can handle the estate and the order in which relatives inherit.

   It is best to take legal advice at this stage, to avoid expensive and time-consuming mistakes. Your solicitor can advise on the correct

procedure according to the circumstances and handle the whole, or part of, the process for you as required.

Concerns about the will

If you have concerns about the validity of a will, for example if you suspect it has been forged, tampered with or you are concerned whether it was made when your loved one was of sound mind, you should speak with a solicitor as soon as possible.

Varying a will

If all the beneficiaries agree, gifts under the will or intestacy rules can be changed by deed of variation. Commonly used as a method to reduce inheritance tax, this must be done within two years of death to be effective.

Susan Hall

For more information on applying for probate contact Susan Hall on 01782 577000.

Five things to consider when buying a new build home

With the government pledging to build one million homes over the next five years, more of us look set to buy a brand-new home in the future.

Here is what to look out for if you are thinking about buying a new build property.

1. Make sure you know what you are buying

Your new home may not be complete when you agree to buy it. If you are buying the house off plan, it will not yet exist at all.

Even the showhome could be very different, in terms of plot location, size, and even finish, from the house you eventually move into.

It is important, therefore, to be as clear as possible about the specifications of the property you are buying. Check the size and demensions of the property, the plot location, and pin down exactly what the developer is including.

2. Consider the development as a whole

As with any property purchase, your lawyer can check compliance with planning and building regulations. Nonetheless, particular issues may arise with new developments. For example, planning conditions often prevent any property from being occupied until the estate roads are completed.

Your lawyer can also check that there are adequate provisions for drains, roads and shared facilities like street lighting, and that these will become publicly maintainable. Sometimes individual property owners have to contribute towards the cost of shared facilities through a service charge, which the developer should disclose from the outset and which should be covered in the legal documentation.

3. Check whether the property is freehold or leasehold

Last year, over 40 per cent of new build properties were leaseholds. Traditionally, most flats are leasehold as it is an effective way of dealing with responsibility for a shared structure. However, an increasing number of new build houses are also now leaseholds.

If your new home is leasehold, you will usually have to pay ground rent as well as a service charge. You may also need the consent of your landlord, or a management company, before you can alter or sublet your property. These will incur additional costs and could affect your use of the property. Discuss the potential implications with your lawyer before committing yourself.

4. Protect against potential defects

Most reputable builders will offer an insurance policy, or warranty scheme, against major structural defects for a ten-year period. Your lawyer should check that the policy meets your lender's requirements, and explain any limitations to you.

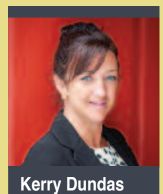
Your lawyer may negotiate a provision for the developer to agree a snagging list of minor defects with you and to remedy them within a defined time frame.

5. Choose the right conveyancer

If you are buying from a developer, they may try to recommend their preferred legal team. However, it is usually better to use an independent lawyer who will put your interests first.

A lawyer experienced in conveyancing new build properties will be familiar with issues specific to new developments. They can ensure the developer is legally bound to complete your property in accordance with the agreed plans and specifications, so you avoid any nasty surprises.

They can also check that the plot plan agrees with the Land Registry's records and resolve any discrepancies early on to keep your purchase on track and prevent disputes in the future.


Kerry Dundas

For more information on our residential conveyancing services contact Kerry Dundas on 01782 577000.

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