Concerned about care fees?

The government's plan for the payment of care home fees has caused great concern for many families. It seems that those who spent a lifetime planning to leave a legacy for their families may end up with little to pass on, while those without savings will receive the same care, with government funding. At face value, it seems extremely unfair.

If you require residential nursing care in Hertfordshire you might be expected to pay in excess of £980 per week or over £50,000 per annum. If your combined assets and income (including any social security benefits to which you may be entitled) exceed (in England) £23,250.00 you will be responsible for paying for any care costs until your assets and income fall below that threshold.

Advice about care fees

Talk to us to help you plan your legacy and prepare for the future. With careful Will drafting it may be possible to protect your estate or part of it against care fees. For example, a married couple could create a Trust over the first spouse's interest in the family home or their overall interest in the joint estate. The Trust will benefit the surviving spouse during their lifetime and assets will only pass following their death to the children or perhaps grandchildren. The Trust allows the surviving spouse to enjoy the estate whilst protecting the capital value for the benefit of the next generation.

As a firm we are often asked if assets such as the family home and/or savings can be given away with a view to avoiding future care fees. The local authority will look at your previously owned assets and when you handed them over. If your actions are seen as a deliberate tactic to avoid care fees the gift could be reversed. The local authority also has the power to claim the care costs from the person who received the gift. Advice should be sought before a property or large sums of money are given away to ensure you are acting in good faith and within the regulations.

FAMILY • LITIGATION • WILLS • TRUSTS & PROBATE

Who should I contact?

If you need further information or advice please contact our dedicated Private Client team (Wills, Trusts and Probate Department) on 01462 458711 (Hitchin) or 01707 887700 (Welwyn Garden City) who will be happy to provide you with further information and if appropriate arrange a mutually convenient appointment.

HRJ Foreman Laws Solicitors is recognised by Lexcel - the Law Society's quality mark for excellence and regulated by the Solicitors Regulation Authority. We operate to the highest standards required by the Law Society's Conveyancing Quality Scheme (CQS). Our track record in leasehold enfranchisement is acknowledged by ALEP (Association of Leasehold Enfranchisement Practitioners). We follow a professional code of practice recognised by the family law group 'Resolution. As members of STEP we are acknowledged Trust and Estate Practitioners. We also work with Certainty, the National Will Register.

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10 Parkway,
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HRJ FOREMAN LAWS
SOLICITORS

WILLS, TRUSTS, LPAS & CARE FEES

Specialist legal advice to help you plan for the future

Planning for both your future and your family's might feel like a momentous task, but with the right help, it doesn't have to be. It's never too early to deal with concerns such as inheritance tax, care home fees and how you will provide for yourself and your loved ones in the longer term.

Our specialist Wills, Trusts and Probate team appreciate the personal nature of Wills, Trusts and Lasting Powers of Attorney, and the need to tailor them to your specific circumstances. We can also provide advice and assistance on gifting and how you might benefit your loved ones during your lifetime.

Making a Will

Nearly two thirds of UK adults don't have a Will. If you are one of them you aren't alone. But it means that in the event of your death, the intestacy rules will dictate who will administer your estate and who will benefit.

By preparing a Will YOU:

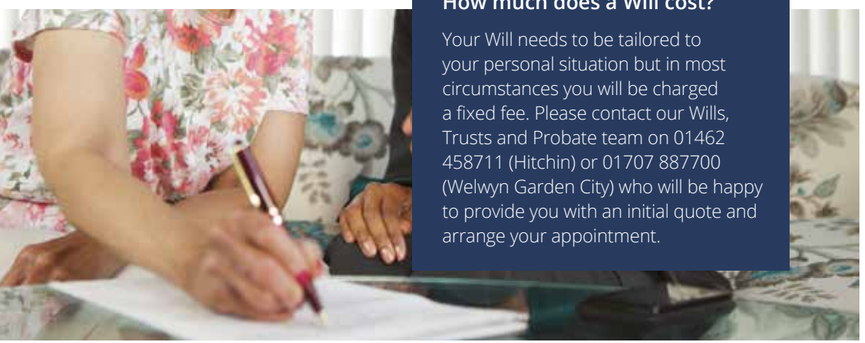
- decide who will administer your estate and who will benefit
- can appoint a guardian to look after your minor children
- can decide when your children will receive their inheritance
- can protect your children's inheritance whilst providing for your second spouse or civil partner
- can protect assets against care fees
- can protect assets if you are cohabiting as your partner will not automatically be entitled to anything, regardless of how long you have been together.
- may, depending upon your circumstances, be able to reduce the amount of inheritance tax paid to HMRC.

When planning for your Will, please be aware of seemingly "cheap" Will drafters who will come to your home for a low price – they are unregulated and afford you little or no protection should something go wrong. HRJ Foreman Laws Solicitors is regulated by the Solicitors Regulation Authority and The Law Society.

When you have completed your Will with us, we will store your original document in our archives and register your Will with Certainty, free of charge. Whilst registration of your Will is not yet compulsory in the UK, to do so is recommended and provides an additional safeguard that your final wishes will be carried out. Certainty, as a company, is endorsed by the Law Society.

How much does a Will cost?

Your Will needs to be tailored to your personal situation but in most circumstances you will be charged a fixed fee. Please contact our Wills, Trusts and Probate team on 01462 458711 (Hitchin) or 01707 887700 (Welwyn Garden City) who will be happy to provide you with an initial quote and arrange your appointment.



Lasting Powers of Attorney

If you need someone you trust to look after your Affairs, should you be unable to manage them yourself, you may wish to consider Lasting Powers of Attorney.

Lasting Powers of Attorney (LPA) allows you to choose the people who will take decisions on your behalf at a time when you require assistance or are unable to make that decision yourself. LPA's are often considered later in life but should not be considered a document solely for the elderly.

Our specialist Wills, Trusts and Probate team understand the personal nature of your situation and the need to tailor your LPA's to your specific circumstances.

There are two different types of LPA'S:

Lasting Power of Attorney – Health and Welfare:

Under this LPA your Attorney/s can make decisions on your behalf in connection with your personal welfare. Such decisions may range from liaising with care providers and/or your doctor to consenting to, or refusing, life sustaining treatment.

Under this Power your Attorney's can only act for you once the LPA has been registered with the Office of the Public Guardian ("OPG") and at a time when you lack capacity to take such decision yourself.

Lasting Power of Attorney – Property and Affairs:

Under this LPA your Attorney/s can make decisions on your behalf with respect to your finances and property. This can include running your bank and savings accounts, taking decisions about making or selling investments and selling property including your home. Under this LPA your Attorney/s can act, in the absence of any restriction, as soon as the LPA has been registered with the OPG.

Your Best Interests:

Your Attorney/s must always act in your best interests. They must take into account all of the relevant circumstances. This includes, if appropriate, consulting you and others who are interested in your welfare.

You can include LPA preferences and/or instructions, setting out how you would like your Attorney/s to act on your behalf. The most flexible form of power would be to appoint your chosen person/s without subjecting them to any conditions.

Enduring Powers of Attorney

You may already have an Enduring Power of Attorney (EPA) dealing with your Property and Financial Affairs. These Powers predate LPAs and are still valid but do not authorise your Attorney/s to take decisions regarding your health and welfare. Your Attorney/s will, in the absence of any restriction, be able to act on your behalf immediately and even before the EPA has been registered with the Court. The Attorney's must however register the document once they believe you are beginning to, or have lost mental capacity.

Deputyship

In the absence of a Power of Attorney (whether LPA or EPA) your family or those closest to you will need, should you require assistance, to apply to the OPG to act as your deputy. This can be a lengthy process which may result in your family looking to their own resources to pay for your care until the Court provides them with the appropriate authority to act on your behalf.