

Estate Planning



ProTrust Estate Planning
25 North Row
Marble Arch
London W1K 6DJ
0207 113 5760

info@protrustconsulting.co.uk

www.protrustestateplanning.co.uk

Estate Planning: is it simply a fancy phrase for Will preparation?

Everyone knows how important it is to have a Will prepared. A Will is the legal document by which you leave your Estate to your chosen beneficiaries on your death.

Good 'estate planning' is of course based around creating effective Wills. However, a Will is one document (or a set of documents part of one single process). There are many other facets to 'Estate Planning' and hopefully these notes will give you a flavour of what you should expect from a specialist in this area.

What then does Estate Planning comprise?

First and foremost, it is the peace of mind that is attained by taking all reasonable steps to ensure that your estate (comprising your money and property) passes in the most efficient and effective manner to your chosen beneficiaries, at the *'appropriate time'*.

'When is an appropriate time'

Most people consider 'estate planning' as applying to death planning. Yes, that would be an 'appropriate time' to pass your estate on to your family! Wills are central to that planning as they are the documents that set out the passing of your estate following your death. However, estate planning is not just Will-planning for after death – what about the process of giving assets to your family while you are alive? What about planning for circumstances where you are in older age, possibly frail and needing help and care?

'Wills'

Effective Wills can ensure that your estate passes to your chosen beneficiaries and where possible in law, protected from attack from 3rd parties. Wills with trusts can provide 'succession interests' ensuring that assets pass to one beneficiary initially (such as a surviving spouse) and then ultimately protected to pass on to children and grandchildren. There are many aspects to cover with Will preparation and we have a dedicated set of notes/guidance for proper considerations for Wills and trusts. We will not double up on that information in this leaflet. If you need anything further by way of information or a questionnaire to complete, let us know.

'Lifetime Gifting'

If you can afford it, gifting assets away during your lifetime is of course very rewarding. Benefits to the recipient might seem obvious but there are more benefits than might seem first apparent:

For the recipient

- They receive their gift sooner than otherwise they would do if receiving after death. As such, they have practical access to the use of the asset or capital at an earlier stage;
- They might have to pay less Inheritance Tax (IHT) or less IHT than if they inherited on death;
- They have the chance to thank you personally!

For you (the donor of the gift), there are benefits:

- You have the chance to receive the thanks of the recipient!

- You see the recipient having practical use and enjoyment of the asset;
- You may be able to pass more value to the recipient as the amount might not be attacked from an IHT perspective (if it is planned carefully and properly).
- You may help the beneficiaries in your Will (by reducing your IHT bill);
- By giving away in your lifetime using a trust structure, you can still retain a degree of control on the assets as trustees for your lifetime whilst putting in place a family protection structure.
- Remember, making regular gifts from your surplus income can reduce your IHT bill and they are not part of your '7 year rule' gift making.

What else is Estate Planning?

During your Lifetime: for your benefit

Powers of Attorney: ensuring that your chosen family members (or friends) are appointed to take decisions on your behalf in the event of future mental or physical incapacity. We have a dedicated set of notes on Lasting Powers of Attorney and Court of Protection to guide you through the process.

Financial planning for your retirement: working with your financial advisors we can help you plan your financial retirement arrangements. We create a spreadsheet confirming your asset situation and IHT position, which is often sent (with your agreement) to your other advisors so they can utilise this when advising you financially or from a tax perspective.

On death: for your family

Executor guidance: we guide your executors and trustees through their responsibilities and duties to ensure that your estate is handled in the most effective and efficient manner. We will always aim to contact your executors as part of you preparing your Will so that they have a point of contact in the event of them having to take up their role. We have a dedicated set of guidance notes for the Executor role and please ask us for a copy.

Advice for Guardians: if guardians are appointed to look after under age children, we can assist in how this process is to be managed. The Will provides the framework for the legal appointment of Guardians but often the scope is kept sufficiently flexible so as to enable a proper application of the role and responsibilities. Guidance at the appropriate time (whether before death or after it) is useful and to provide peace of mind.

Funeral planning: we can advise you on the process of funeral planning and put you in touch with our preferred provider to make all the arrangements. We strongly recommend you consider a funeral plan. Not only does it provide peace of mind for you, but it also guides the family and takes some of the practical pressure off of them at the time.

Inheritance Tax Planning: planning the gifting of your estate to mitigate the reduction in the benefit your family members receive is an important part of our estate planning process. Please ask for our set of dedicated guidance notes in this area;

Planning for Probate and estate administration: providing all the advice and assistance to Executors and beneficiaries in the administration of the Will and the filing of IHT accounts. Ensuring that your executors are

equipped with a neat, complete set of papers and guidance to reduce the time spent in searching records post-death is a good and important part of the successful planning process. Digital legacy guidance is also helpful.

Ongoing Trust administration: many Wills contain trust provisions which might survive successive generations; ongoing support and expertise is available here.

Things to consider when Estate Planning

Here is a list of some of the matters to consider with us:

- For your estate administration, who to choose as Executors and guardians and what those roles actually involve in practice.
- Who would you appoint as your Attorneys in the event of any future mental or physical incapacity? Would you like spouse and children appointed together?
- Inheritance tax planning within the Wills for people with estates in excess of the Inheritance Tax threshold (currently £325,000 per individual and £650,000 for a couple) or to claim the additional Residence Nil-Rate Band (RNRB) tax allowance of up to £1m per married couple.
- Is there a wish to protect your estate from third-party claims or attack on the assets passed to a beneficiary.
- Where estate passes to children, avoiding potential claims from a son-in-law or daughter-in-law on a marriage break-up or from outside parties.
- If you are giving money to Charity, how best to structure payments and whether a trust may be suitable.
- Dealing with substitute provisions contained in Wills in the event that your primary beneficiaries die before you.
- Adequately setting out your funeral provisions and wishes.
- Obtaining advice on how your Will would be administered and the current Probate procedures on death.
- Ensuring that the Will is 'claim-proof' in the event of queries on mental capacity or undue influence (professionally prepared Wills are unlikely to be challenged, assuming they are correctly drawn up by an experienced advisor).

Overall, there is a due process of ensuring the correct drawing up of the Will, certifying its validity and ensuring that all of the legal necessities as to capacity, knowledge and understanding of what is being carried out are formally covered.

We will guide you through this process with all the advice you need to make straightforward decisions.

Many of the above considerations are best covered using Will-Trust structures.

Why Use Trusts with Wills?

There is good reason why we are 'ProTrust' consultants. We specialise in trust-related estate planning. We like to think we are advocates of the general use of Trusts with Wills and for making effective gifts to family. We almost always recommend trust use within the majority of the Wills we prepare. We are supporters of the philosophy behind the use of trusts and the good reasons for doing so. We like the freedom that UK Government provides families and individuals with the use of trust protections. Trusts do attract taxes above certain levels but generally speaking such taxes are not considered to be punishing taxes.

Trust benefits can be summarised in one word, 'PROTECTION'. Protection primarily of your wishes.

This can include:

- Ensuring your beneficiaries receive your assets in the most efficient and effective way for them (and against 3rd party attack on such assets following your death).
- Ensuring a succession structure. For example, to their spouse then on to their children and eventually down to grandchildren) rather than to just one individual with no subsequent protection of the wishes.

You may wish to have a structure that can protect your estate from potential third party claims, which could include the following:

- Inheritance Tax
- Nursing and care fees
- Creditors/bankruptcy
- Divorce

Expertise and Experience

The reason why it is advisable to see a specialist in the area of Wills & Trusts, is to have proper and informed advice on the options available to you in the distribution of your Estate. There are matters which simply are not considered by most people when thinking about Wills and it is only through speaking to professionals who have had the experience of dealing with such matters regularly over a number of years that all of the issues and legal traps are carefully and safely navigated.

The person you instruct must make sure that he or she has full knowledge of those alternative options. Instead of a simple Will structure, which may be sufficient for some kinds of circumstance, many people will actually need something more complex in order to cover all of the issues.

Contact Us

For more information and for an initial discussion for advice please contact us on:

Email: info@protrustconsulting.co.uk

Telephone: 0207 113 5760