



Prosperity
Law LLP

➤ Private client

Planning for **Your Future**

A guide to Wills, trusts and estate planning



It's about preparing now

to ensure that what happens in the future will reflect your wishes.


We all hope that we have the mental capacity to make our own decisions long into the future. That our assets and estate will benefit our families or the causes that we care about.

A will could ensure that you protect these interests and avoid being disappointed by the consequences and their far-reaching effects.

We can help you to plan your estate in accordance with the rules of law and your requests, and discuss the scenarios, and legal consequences, so that you can protect your beneficiaries.

Many people believe that wills are the preserve of the wealthy and question the need of having a will if they do not have a significant amount of money or property to leave to their family.



A photograph of a man and a woman looking at a laptop screen together. The man is in the foreground, looking down at the screen with a slight smile. The woman is partially visible on the left, with her hand on the man's shoulder. The background is a bright, out-of-focus window.

A will means that you decide who should benefit from your estate.

If you don't have a will, the 'intestacy rules' will govern how your estate will be distributed. These rules set out a specific order in which people should benefit from your estate. They could mean that someone you didn't want to benefit from your will. Also, these rules do not enable gifts to charities, organisations, or friends.

Wills protect unmarried couples and their property. If you are unmarried, your partner will not benefit from your estate under the intestacy rules. Having a will in place could prevent your partner from having to make costly and complex claims against your estate.

In a will, you can decide who will look after your children should you pass away before they reach 18. These 'guardians' are legally-binding unlike the appointment of godparents.

A will also means that you can provide for your children if you remarry. Without a will, your spouse will inherit the first £322,000 of your estate and half of the remainder above that. Those assets would then be part of your spouse's estate and they would be free to decide who to leave their estate to.

Finally, marriage and divorce – marriage will automatically revoke any existing will unless it has an 'expectation of marriage clause'. The intestacy rules would then decide how your estate would be administered. Married people do not gain instant access to a deceased spouse's assets including bank accounts unless the assets are held in joint names. You should update your will and review your assets and estate planning after you marry.

Divorce does not automatically revoke your will but your former spouse will be treated as if they had predeceased you for the purposes of any gifts to them – unless your will contains a contrary intention. You should always update your will after divorce to ensure it reflects your wishes.



We all know that we should write a will, but it is also important that we should consider a **lasting power of attorney**

These can have a significant impact on someone's quality of life.

By 2025, more than

one
million

people in the UK will
have dementia

(According to the Alzheimer's Society)

1 in 5

people over 85 already
suffer from dementia

Handling your financial affairs becomes virtually impossible – which is why we recommend everyone plans ahead to ease the burden on their family and have an LPA.

An LPA gives another individual the legal authority to look after specific aspects of your financial affairs or health and welfare decisions should you lose the capacity to do so yourself.

While you may think this is just for the elderly, it can apply to younger people that have had an accident or severe illness. You should consider having one alongside your will.



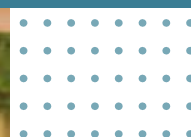
Without an LPA, relatives may face long delays, a lot of unnecessary stress and a huge amount of expense to apply to the Court of Protection to get access and take control of your assets and finances. Banks, care homes and local authorities as well as tax, benefits and pension authorities recognise appointed attorneys using a valid LPA on behalf of a loved one.



Of the 30% of people in the UK who have a will,

only
12%

have a lasting power of attorney



There are two types of LPA.

The first is an LPA for financial decision making. This can be used while someone still has mental capacity. An attorney can generally make decisions on buying and selling property, paying the mortgage, investing money, paying bills or arranging repairs to a home.

The second type of LPA is for health and care decisions. This covers decisions about healthcare as well as personal welfare. This type of LPA can only be used when a person has lost mental capacity. An attorney can generally make decisions about where you should live, your medical care, what you should eat, who you should have contact with and even what kind of social activities you can take part in.

This type of LPA is very important, especially if you have to advocate on behalf of your loved one with the NHS, Local Authority or Social Services over a care package or other type of query or appeal for Continuing Health Care funding.

You can choose anyone you trust as your attorney as long as they are over 18, not bankrupt and they are willing to take on this role.

Their duty is to make all decisions in your best interests and they must follow certain principles set out in the Mental Capacity Act. These are aimed at making sure you are encouraged to make your own decisions where possible.

To protect your interests, an LPA must be signed by a certificate provider – a solicitor or someone else of your choosing who can certify that you understand the LPA and have not been pressurised into signing it.

It can take up to three months to register the document with the Office of Public Guardian and their registration fee costs £82 for each per LPA submitted to the OPG for registration.

Anyone receiving certain means tested benefits can obtain an exemption from this fee and anyone who can prove that they have gross income of less than £12,000, can obtain a remission of 50% of the OPG fee.

Dealing with inheritance tax

while grieving for a loved one can add to an already difficult time

We can help you to plan your estate and mitigate tax liabilities on your death.

Estate planning – or the mitigation of with inheritance tax (IHT) – may involve creating trusts, lifetime trusts or giving away assets. We can advise you on the solutions available and put the necessary measures in place.

In our modern world, family scenarios are complex and can often involve multiple marriages and children. Wills reflect this so it's vital to get the measures in place now, including appointing any guardians for children.

There are two different areas to consider.

Firstly, we can manage the estate planning for business owners or entrepreneurs who are still taking an income from their company and need to determine their exit strategy from their businesses.

We work with the business owners and their advisers to protect their interests and can put in place measures to mitigate their tax liability through careful estate planning which can often involve trust advice.





We recognise that many people are wanting to continue to work –long into retirement. We can manage planned gifts into trusts or to direct gifts to children. We can advise on and draft the relevant type of trust and provide options for wider intergenerational estate planning.

For many of our clients, it can be a wider conversation about control of your estate and any concerns you have –namely, who receives what and when from your estate. We can discuss your concerns openly and empathetically with you to ensure your estate planning meets your needs. We can bring in a family law specialist should the need arise to discuss pre-nuptial agreements or cohabitation agreements where appropriate.

The second area of estate planning is the retired pensioner or someone who has already sold their business. They have done the hard work, retired, and are now enjoying life. Their main concern is the IHT due on their death.

We work with financial advisers to work out how much capital you need for an income and whether it is appropriate to gift any of the estate to your family.

It could mean they gift commercial or residential property to their family. Each time, we devise a bespoke solution for our clients as we know that no single clients issues are ever the same.

Clients often seek advice when they downsize, moving into a smaller property can be fraught with issues and we can deal with any IHT planning issues providing advice around using the residential nil rate band or address concerns regarding care home fee mitigation.

We can have a wider conversation about what steps you need to take and involve financial advisers if required.

We aim for the process to be as comfortable as possible. Conversations can be distressing but we pride ourselves on clients being able to talk to us privately, confidentially and confidently about your wishes and trust us to put the interests of you, your family, finance and property first.

Care fee mitigation

Estate planning is also vital to manage care fees as well as inheritance tax. Having to manage this, while securing a place for a loved one in a care home, is incredibly stressful.

The media have made much hay on people's concerns for their property should they need to go into a care home. The rules as they currently stand state that if you have assets over £23,250, you will be paying for your own care—the so-called 'capital threshold'. Most people with a property therefore will be considered as self-funding.

To mitigate this risk, couples can own half each of their residential property. You can then make wills that bypass your spouse and leave your share of the home to your children. Savings and investments can be held in your own name and left to your children.

If one person from a married couple moves into a care home, the local authority will then only assess that person's assets. So, if their spouse continues to live in the home, you will not have to sell your house.

If, however, one member of a couple has died and the surviving spouse is living in a care home, the local authority will then consider all of the residential property to pay for these costs.

We can advise you on the best way to mitigate these costs. A house, for example, can be placed in a trust or the asset passed to your children.



The main aim would be for a couple to ensure that all assets are divided equally so that the local authority will only consider one half of your combined worth. This would seek to avoid a distressing and protracted discussion with the local authority.

Couples need to ensure that you register assets in your individual names proactively. Many people consider a trust so that the surviving spouse can still live in the family home.

While this is fairly straightforward legally, it relies on the family having an open conversation with us so that we can develop a bespoke solution that meets your individual needs.

Probate & administration of estates

Our team deals empathetically with all administration of estates and probate needs.



From full estate administration to grant only services, we can help you take care of a deceased person's estate, and distribute their estate in line with their will or under the intestacy rules.

We also act as the adviser to the estate to administer it in a straightforward, impartial manner. We can also help navigate any disputes on an estate.

A personal representative (PR) is responsible for winding up someone's estate; they can be either an executor or administrator. If the deceased has a will, they will usually name at least one executor. If there is no will, a relative will need to apply to the Probate Registry for a grant of letters of administration—they are then known as an administrator or PR.

A grant only service will allow the personal representatives to access funds to pay any debts and distribute assets to the beneficiaries. We ask the personal representative for all the key details on the deceased's assets and debts to prepare the required paperwork for the Probate Registry and HMRC.

We will then submit an application to the Probate Registry and manage this process smoothly. Once this is complete, we will send the grant of probate to the personal representative to allow them to complete their duties.

We can also carry out full administration of estates. This includes (for the most complex of estates) advice on making claims for tax relief, business or agricultural tax relief, administering the estates of non-domiciled/ non-UK resident deceased people and those with assets overseas.

Where the deceased has no remaining family, we can register their death and arrange their funeral, and are often already appointed as the executor of the will, we may have to obtain valuations of assets and make the full application for a grant of probate after settling any inheritance tax which is due and payable to HMRC. We can also distribute the deceased's assets according to their wishes and provide advice to beneficiaries looking to amend or vary the terms of their benefit to bypass to their own children. This is often done for the wider families benefit and to avoid the children of the deceased inheriting a further IHT problem.

Our experts will explain all legal terms and their implications clearly, always acting in your best interests. In what can be an extremely distressing time, we deliver the highest level of service to you. We are highly experienced in navigating this complex area of law.


Our trust expertise covers the entire range of trust services

For your loved ones to manage your estate while grieving can make an already emotional time more stressful.

Our trust expertise covers the entire range of trust services. From managing the day-to-day administration of trusts, to set up and registering of trusts, and preparing tax accounts. We deal with the full range of trusts available, including the implicated estate planning that may be involved when it comes to allocating your assets and mitigating tax liability.

You can transfer assets to a lifetime trust so that your assets are not considered part of your estate –reducing your inheritance tax (IHT) liability. This also takes away the need for you to give away assets to beneficiaries seven years before your death to minimise IHT.

In our modern world, family scenarios are complex and can often involve multiple marriages and children. Trusts can protect the interests of your beneficiaries to take account of any family situation and ensure that your wishes are reflected.



Our experienced private client team can help you with the preparation of lifetime trusts so that your family can avoid unnecessary worry.

We can also administer the trust to look after those family members who need extra guidance –perhaps they have faced health or personal issues that mean they would benefit from us administering the trust objectively.

We can act as the trustees of the trust and manage it on your behalf and have considerable experience of trust administration. Each trust requires two trustees. We can provide both of these roles or along with a family member, we can act as a trustee. Alternatively, we can be an independent adviser to the trust, delivering objective advice to the trustees.

Trust law is constantly evolving and can be complex to understand. We stay abreast of changes in trust law, rules and regulations to offer our clients the best solutions that meet their needs.



We know that everyone's situation is different and our clients' estates are of varying complexity. That's why we work with accountants and financial advisers to tailor our advice to meet your needs—and offer the trust that is best suited to your estate.

We listen to you and find out more information about your estate. Based on that, we provide you the service that meets your needs rather than the most complex or expensive solution for you.

Our experience of appointing trustees and protecting your chosen beneficiaries is extensive and our service fully confidential. Advice and service regarding trusts and what's involved is unique to you and your circumstances and, as such, considers all legal implications and scenarios to ensure you have the correct trust deeds in place and peace of mind that comes with them.

We aim for the process to be as comfortable as possible, offering you a personalised service. We ensure we understand your needs and your estate, and we place these at the centre of everything we do to provide a solution that meets your requirements.

You have worked hard all your life and it is our role to protect your interests and those of your beneficiaries.



Charlotte Keating

Partner & Head of Private Client



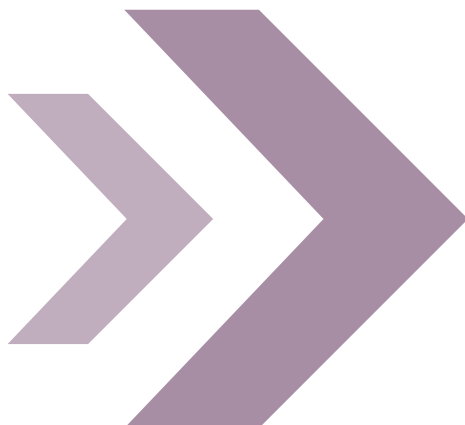
Charlotte is a Partner and head of the private client team in Manchester. Charlotte carries out the full spectrum of private client work from estate and succession planning to trust administration.

Charlotte specialises in the following:

- Estate and succession planning, with a focus on wealth protection or tax-efficient wills for highnet worth individuals or individuals with complex family circumstances;
- Inheritance Tax advice and lifetime giving;
- Lasting Powers of Attorney and registration of Enduring Powers of Attorney;
- Estate administration including estates comprising of business or agricultural assets, overseas assets or individuals with non-UK residence status;
- Resealing foreign grants;
- Trust and estate tax returns;
- Trust advice including creation, TRS registration, administration and winding up; and
- Creation and registration of charitable trusts.
- Charlotte also acts as a professional executor, trustee and attorney.

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Paul Magee

Partner and Head of
Dispute Resolution –
Commercial Property and
Contested Probate

Paul Magee is a Partner and the Head of Dispute Resolution – Property and Contested Probate at Prosperity Law LLP situated in our Spinningfields, Manchester office.

Paul has been a litigation solicitor for over 30 years and is very experienced. He now specialises in property litigation and contested probate. Paul is always happy to have an initial, no fee obligation chat. He believes in providing value to his clients who include commercial developers, landlords, tenants, insurers, Letting Agents, sports personalities, musicians, and many others. Sometimes negotiation and mediation do not work with an unreasonable opponent and court action may be needed. In that case Paul will not hesitate in taking robust action. Paul has been involved in a number of leading Court of Appeal cases and deals with specialist barristers and expert surveyors. Paul has experience of the following:

- Property litigation including a wide range of disputes comprising but not limited to the following;
- Professional negligence in relation to property (Land Registry, conveyancing, solicitors, barristers, surveyors, architects, engineers);
- Commercial lease disputes (termination, renewal, statutory compensation);
- Residential lease disputes (including section 20 consultation procedure);



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- Landlord and tenant;
- Forfeiture/possession;
- Dilapidation claims;
- Defective builds;
- Party Wall Act claims;
- Public and private land disputes including rights of way (legal and prescriptive), parking, trespass, encroachment, rights of light, and restrictive covenants;
- Adverse possession;
- Service charges;
- Neighbour nuisance;
- TOLATA disputes relating to property claims by unmarried partners. TOLATA is short for the Trusts of Land and Appointment of Trustees Act 1996;
- Contested Probate/Trusts and Estates;
- Issues relating to challenges to wills arising from invalidity, undue influence, and fraud. This includes advising in relation to claims which may be brought pursuant to the Inheritance (Provision for Family and Dependents) Act 1975; and
- Court of Protection matters.





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