



Beneficial
Trust & Will Company
By Professionals For Professionals

Beneficial Trust & Will Company Quarterly Update October 2024



Agenda

- Who are BTWC Ltd & what do we do
- Diary Dates & Member Zone Updates
- POA Act 2023 – What’s the latest?
- Forfeiture clauses in Wills

- Guest Speaker:
 - Ben Slater – Nellie Supports

- Marketing your business on LinkedIn –
 - Top tips from Richard Mawer



Who are Beneficial Trust & Will Co?

- My name is Amy Peters MBA MIPW STEP Aff - Director BTWC Ltd – IPW Will Writer of the Year 2023.
- East Midlands based Will Writing & Estate planning business established since 1999.
- We specialise in bespoke and affordable will writing solutions dealing with private clients and providing back-office Estate Planning services to professional advisers across England, Wales and Scotland.
- We are fully accredited by our industry bodies, the Society of Will Writers and the Institute of Professional Willwriters. We are also corporate members of the Institute of Paralegals and partner with SRA regulated legal teams and chartered tax advisers.
- We have a partnership with Certainty, the National Will Register and we also have a preferential arrangement with Keylu, the digital legacy planning specialists.
- Beneficial Trust & Will co is our B2B arm of the business, Beneficial Family Wills is our B2C division.



What Services can we offer?

- Simple & Complex Wills
- Discretionary Will Trusts
- Disabled Discretionary Trusts
- Children & Grandchildren's Trusts
- Flexible Life Interest Trusts
- Property Protective Trusts
- Family Settlement Asset Trusts/Lifetime Asset Protection Trusts
- Trust Registration
- Lasting Powers of Attorney
- Advice for Business Owners
- IHT Planning
- Co-habitation Agreements
- Executorship & Estate Administration Services
- Document Safe custody facility

.....And more!



Who do we partner with?



- ✓ Chartered Tax Advisers
- ✓ Independent Social Workers
- ✓ Court of Protection Specialists
- ✓ Solicitors
- ✓ Care fees specialists
- ✓ Financial Advisers
- ✓ Mortgage Advisers
- ✓ Protection Specialists



Member Zone & Diary Dates

BTWC Member Zone Upgraded!

<https://btwc.co.uk/member-login/>

If you haven't got a login, email: enquiries@btwc.co.uk

BTWC Associate

Work with us to compliment you own business or create an entirely new estate planning practice with varied levels of business support to suit you;

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If you don't have time to service clients estate planning needs directly, find out more about our introducer options here;

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Diary Dates;

BTWC Associate Academy – from 22nd January 2025

BTWC Quarterly Update – Tuesday 28th January



CMA Guidance – Consumer Protection Law re Will, Writing, online divorce and pre-paid probate services

- Prospective customers should have the information they need to make informed decisions
- Terms and conditions should be provided to the client (TOB)
- Services are performed with reasonable care and skill
- Sales practices are not misleading, aggressive or generally unfair.

The guidance doesn't create new laws or obligations but sets out the requirements of existing consumer law of all providers whether governed by the SRA, CILEX, IPW or SWW.

The IPW code of practice does exactly what the guidance seeks to do and in line with the requirements of the Chartered Trading Standards Institute.



POA Act 2023 – What does the future hold for Lasting Powers of Attorney?

The current picture;

- During 2023/24 there were over 1.37 million LPA applications received by the Office of Public Guardian
- The OPG are currently overseeing 50,000 deputyship orders
- There are currently 9 million registered LPA's but it is unknown how many of these donors have already passed away (the OPG is not linked to the government Tell Us Once service)
- Registration turnaround time continues to be 16-18 weeks
- The OPG continue to have recruitment and attrition problems within their workforce
- Paper intensive process



POA Act 2023 – Proposals for modernisation

Introduction of a digital application stream – the purpose

- Any revised system needs to be simpler to use
- Reduce the risk of mistakes
- Improve ID checks and reduce the risk of fraud
- Reduce OPG overheads so reduce costs

Key proposed changes (functions)

- Who can certify a copy (in addition to the donor) may be extended to Chartered Legal execs)
- Only the Donor can register the LPA
- Opportunity for rectification of mistakes before registration
- Change to person to be notified requirements
- Mandatory ID checks (likely to be the donor and the CP but not the attorneys)
- Changes to how objections to LPA's can be made
- Highlighting the importance of the Certificate Provider role.



POA Act 2023 – How will it work and when?

Likely to be 3 application streams

- Paper based application
- Hybrid paper and digital application
- Digital Application

Likely to be separated into 3 forms – 1 for the Donor, 1 for the CP and 1 for the attorneys.

However, the finer details of the process does not appear to have been finalised by the OPG and timelines for implementation have not yet been signed off by ministers.

During Spring 2025, private Beta testing may begin and then final ministerial sign off will be required before wider testing can be rolled out. May be +2 years before we see full rollout of any changes.

Fee exemptions and remissions thresholds to stay at £12k and there are plans to modernise the payment methods but the OPG 'are not there yet'.

The review into LPA's has been ongoing for almost 10 years.

Next Session: The importance of professionally drafted LPA's and how we can add value



Forfeiture Clauses

Clients may choose to leave a small amount to a beneficiary in the hope it will reduce the risk of challenge.

In **Nathan v Leonard and National Association for Mental Health (2002)** the deceased had left her residual estate to be divided between:

- A married couple (the Leonards)
- Various charities, and
- Her nephew

In the event of anyone 'contesting or disagreeing' with her will, everything was to go to the Leonards. It was accepted that an Inheritance Act claim was a disagreement. The will was upheld.

When drafting we need to ensure the wording covers claims under the Inheritance Act and not forgetting family provision.

"I DECLARE that any person who would otherwise benefit under my Will but who:

institutes any proceedings to set aside or contest the validity of my Will or any of its provisions, or

lodges any formal objections to the issuing of a grant of a representation, or

brings any proprietary estoppel claim, or

asserts any claim against any asset apparently comprised in my estate, or

brings a claim under the Inheritance (Provision for Family and Dependents) Act 1975 in relation to my estate

shall immediately be excluded from receiving any benefit under my Will and my Will shall take effect as if no provision had been made for the benefit of that person."



Forfeiture clauses

The condition included in a will does not prevent a claim being made. The claimant is free to bring the claim if prepared to take the risk of receiving nothing from the court and losing the entitlement under the will.

What to look out for?

- A second marriage with children from an earlier relationship where nothing is to be left to those children
- An estranged child to whom nothing (or very little) is to be left
- A Cohabitee to whom nothing (or very little) is to be left
- A surviving spouse or civil partner who is left no capital.

A claim is not limitless. The court can only make an order if **reasonable financial provision** has not been made for the applicant.

- For everyone except spouses and civil partners, reasonable provision is limited to maintenance. If a person can adequately provide for their reasonable income needs, they will not succeed.
- Provision for surviving spouses/civil partners is not limited to maintenance. Court will be required to consider what they might have reasonably expected to receive on divorce/dissolution. Where assets are mainly held by the first to die, a spouse/civil partner who is left no capital has a good chance of success.

Assess the risk of challenge, take comprehensive notes and discuss the options with us.





Mental Capacity Assessments –
Protecting your clients wishes and
interests.

Ben Slater – Nellie Supports





Using Linked In to market your
business – Top Tips

Richard Mawer



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In Summary

- Keep an eye out for updates on the LPA process
- Continue to maintain your high levels of professional advice when guiding clients through the process of making LPA's
- Take good attendance notes when there are exclusions or family strife
- When in doubt re mental capacity, ask the experts for support
- Maximise your LinkedIn opportunities.

Remember that we are here to support you and your client conversations.

Submit a case by completing our instruction form, client declaration and Terms of Business (with ID)

Refer a client by emailing enquiries@btwc.co.uk



Feel free to contact me on:

 Amy.peters@btwc.co.uk

 01522 500823

 07818 087197

 btwc.co.uk