



Beneficial
Trust & Will Company
By Professionals For Professionals

Beneficial Trust & Will Company 1/4ly Update Feb 2024



Agenda

- Who are BTWC Ltd & what do we do
- A recap of 2023 & the changing landscape
 - Predatory marriage
 - Rules of intestacy
 - Identifying client requirements
 - Power of Attorney Act 2023
- Probate Assistance
- Driving remarkable growth in your business – 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





Change is the one
constant you can
depend on!



Does Estate Planning really change that regularly?

- Predatory Marriage and the proposed abolition of S18 of the **Wills Act 1837**
- Consideration of enabling powers to recognize the validity of electronic wills or a new act
- Proposals of a new test for Mental Capacity more appropriate than the **Mental Capacity Act 2005** and more modern than **Banks v Goodfellow 1870**
- Regulatory reviews with a move towards competence-based regulation rather than title. Mandatory CPD requirements rather than statements of continuing competence.
- **STEP standard provisions 3rd edition** released in October 2023 (STEP provisions are the protections and powers that enable the executors or trustees to effectively deal with the estate.
- Justice Committee review of poor service delivery of His Majesty's Courts and Tribunal Services i.e. probate delays of 16 weeks+
- Law Commission revise on burials – **an expression within a will is a wish** rather than a binding instruction
- Statutory legacy increased from **£270k to £322k** during 2023
- Trust Registration Service and the requirement for a duty of discrepancy reporting by a professional person i.e. reporting of unregistered trusts
- Powers of **Attorney Act 2023** expected to be implemented Autumn 2024
- **Inheritance tax** – reform or abolition?



Predatory Marriage

CASE STUDY #1 – Joan Blass

In March 2016 Joan Blass was almost 92 years old with severe vascular dementia and terminal cancer. She was unable to make the simplest decision and never knew that she had married Colman Folan (who was 24 years her junior) just 5 months before her death.

The situation involved a revoked will, an unmarked grave, grooming, gaslighting a private members bill and a campaign to highlight the issues.

Marriage in England automatically revokes an existing Will so Folan inherited Blass's entire estate as well as control of the funeral. Blass was buried in an unmarked grave. Folan remained in the house and has remarried.

Issues with current safeguards

- If the victim has set up a POA, the attorney is not notified if the donor marries
- Notifications of marriage are displayed on notice boards in register offices and are not easily searchable
- No evidence is kept at the point of marriage (no video or audio recordings) and once a marriage certificate is attained, the impact on Wills is difficult to challenge
- Registrars have responsibility for judgement of mental capacity on the day but may not have training on dementia or mental capacity

Beware: Vulnerable clients need to be appropriately supported and assessed with regards to their decision-making capabilities



The Rules of Intestacy

Inheritance & Trustees' Power Act 2014

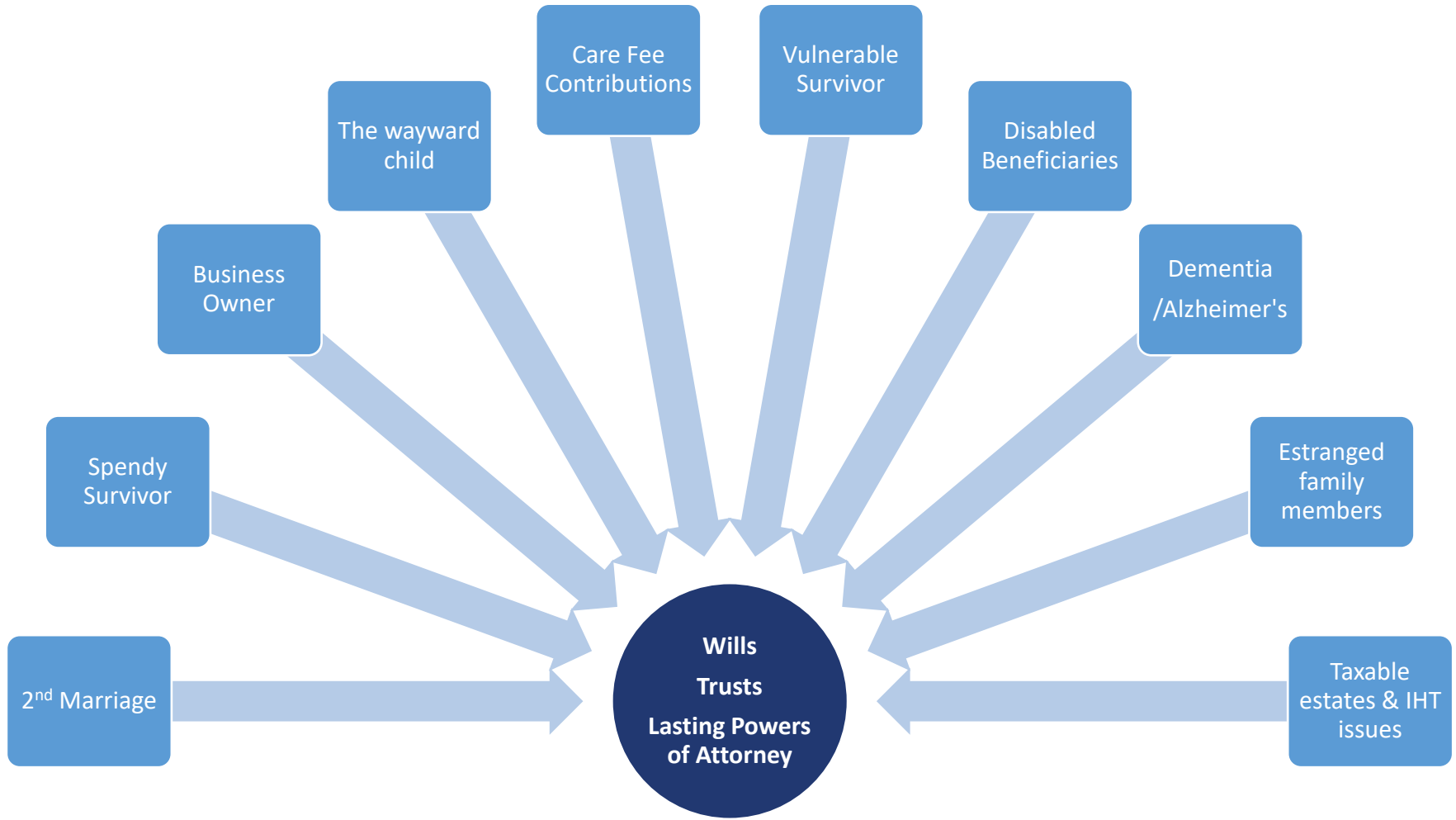
- Where there is no will and a surviving spouse or civil partner + children
 - **Spouse = £322k statutory legacy + ½ of residue immediately**
 - **Children = ½ of residue immediately (or on Trust until 18 years of age)**
- Where there is no will and a surviving spouse or civil partner + no children
 - Spouse = Receives the entire estate to the exclusion of all others
- Where there is no will, no surviving spouse or children, the statutory order of precedence prevails



If none of the above exist, the Estate value is claimed by the Crown



When you speak with your clients, how might you identify that more than a simple will may be required?



Powers of Attorney Act 2023

Reasons for change

- Up to 18 weeks to get a registered LPA
- Paper intensive process
- 30,000 LPA's rejected in 2022-23
- 6.8m registered LPA's
- Recruitment and attrition problems at OPG delaying processing

Highlights

- Only donor will be able to register the LPA
- 'Person to be notified' will now be notified by the OPG digitally
- ID will be required for the Donor and the CP (possibly not for the attorneys and likely no suitability checks for the attorneys)
- Currently limited options for objections to be raised against LPA's and this is likely to be extended

- Paper Channel
- Paper + Digital Hybrid Channel
- Digital Channel



Probate Assistance

Probate & Executor Assistance

Extraction of Grant


- Complete the fact find with the client
- Completion of Schedule of Assets and Liabilities, Notices HMRC return and application
- Issue of grant to the executors to wind up remaining estate

Estate Administration

- Probate specialists contacts various institutions to obtain valuations
- Prepare tax forms and apply for the grant
- Close accounts and direct funds to the estate account
- Identify any trust/conveyancing work and coordinate the completion
- Selling/transferring assets and paying debts
- Selling property
- Production of estate accounts

For probate assistance: enquiries@btwc.co.uk





Complete the missing piece of your clients planning



In Summary

- Prepare the client for a full and frank discussion
- Ask the questions about the family dynamics as well as the financial aspects of the clients affairs
- Consider wider tax consequences of any actions now that may impact the future. But remember, none of us have a crystal ball. Or a magic wand!
- 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





Beneficial
Trust & Will Company
By Professionals For Professionals

Feel free to contact me on:

 Amy.peters@btwc.co.uk

 01522 500823

 07818 087197

 btwc.co.uk

