



Beneficial
Trust & Will Company
By Professionals For Professionals

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



Agenda

- Who are BTWC Ltd & what do we do
- Common Reasons for updating a Will
- Estate Planning for blended families
- Gifting the family home during lifetime

- Inheritance Tax Planning for Landlords –
Dr Paul Hutchinson



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



Common Reasons for updating a Will

- **Changes to personal circumstances**

- Birth of a child (appointment of guardians but also changes to grandparents and siblings Wills)
- Marriage or civil partnership (remember that marriage revokes any prior wills not made in contemplation of marriage)
- Divorce or relationship breakdown (remember that a divorce treats the former spouse or civil partner as having predeceased)
- Receiving an inheritance (enhanced wealth can be a reminder of the need to protect wealth for future generations)
- Illness and wellbeing (has this changed not only for the testator but for any of the executors, trustees, guardians and beneficiaries?)

- **Changes to legislation and tax**

As a general point, we do make it clear in our TOB that we do not infer any legal responsibility to keep plans up to date with changes in legislation but we do have a duty of care to communicate effectively with clients who may be potentially affected.

- The transferable nil rate band was introduced in 2007 and there may be historic wills containing NRB discretionary trusts originally intended to transfer the spouses nil rate band. These trusts still can have a purpose in planning but we need to ensure this is not at the cost of compromising the Residence Nil Rate Band allowance.
- The residence nil rate band and discretionary trusts – where residue is directed to discretionary trusts we need to ensure that if estates are worth in excess of the ordinary nil rate band allowances but within the RNRB threshold that valuable tax allowances are not lost
- Wills for unmarried couples should be carefully reviewed where there are children should be carefully considered to ensure all available exemptions are utilised.

Client Reviews: Keep in touch with your clients and schedule regular reviews



Estate Planning for blended families

Acknowledge the complexity

- Blended families often come with complete relationships and financial arrangements with assets acquired before the current relationship that need to be accounted for.

Make provision for the spouse or partner

- Consider the use of life interest trusts to ensure the spouse can enjoy the benefit of an asset but the ultimate beneficiaries can be clearly specified by the testator.

Mr Smith is married to Mrs Smith and Mrs Smith has a child from a previous relationship called Clare. Mr Smith and Mrs Smith also have a child together called Tom.

If Mrs Smith died first leaving everything to Mr Smith in her will, Mr Smith could then change his will and decide not to leave anything to Mrs Smith's child after he dies. Another issue that could arise is that Mr Smith decides to re-marry. In doing so he has unintentionally revoked his former will and now his new spouse will be entitled to the first £322,000 of the overall estate and half of anything over that amount. Mrs Smith's son Tom would be entitled to the other half. This could potentially leave Mrs Smith's child Clare with nothing.

Alternatively, Mrs Smith could have directed in her will that her most valuable asset (her share of the house) will go into a life interest trust via her will. This could initially benefit Mr Smith as the 'life tenant' providing him with security of tenure and then on Mr Smith's death, Mrs Smith's share will pass to her pre-defined beneficiaries. This means that even if Mr Smith changes his will after Mrs Smith's death or if he goes on to re-marry, Mrs Smith's share will always pass to her defined beneficiaries.

Consideration for children

- It may be that clients choose to divide assets equally between all children regardless of biological relationship or specify specific shares to each child.

IHT Considerations

- Remember the RNRB especially if the couple are unmarried. Lineal descendants are children, step-children, grandchildren or other descendants including the spouse or civil partner of a lineal descendent. It does not include children of an unmarried partner, nephews, nieces or siblings.



Gifting the family home during lifetime

Mother Norma and daughter Dawn lived together in a £1.4m property which had been converted into upstairs and downstairs flats where each lived independently.


In 2004 Norma willingly gifted her flat (at the time worth £600k) to her daughters name to avoid inheritance tax. The relationship between the two deteriorated from 2008 with a feud resulting in Norma making 155 calls to police regarding allegations about the daughter, harassment incidents and culminating in the deliberate making of water leaks into the downstairs flat where the daughter lived. The daughter attempted to make arrangements to carry out repairs but the mother refused access to the tradespeople.

Dawn then decided to take legal action and served her mother with court orders which were found ripped up and strewn all over the garden. The case ended up in court where Norma alleged Dawn had initially tricked her into gifting the property, which the County Court judge dismissed.

In 2022 the daughter took action to evict the mother from the property. Norma now claimed that the gift had been made with the implicit expectation she could live there for the rest of her life. The judge ruled that Norma's two defences were incompatible with each other. Consequently, the request that Norma should be evicted was granted. Norma was also required to pay £10,000 in legal costs.

- Inheritance Tax – Gift with Reservation of Benefit (GROB) unless market rent paid and a landlord/tenant agreement formalised plus survival for 7 years after making the gift.
- Capital Gains Tax – If the daughter owned her own property and now owned the second property gifted by mum, any subsequent sale would likely attract a capital gains charge.
- Care fees – Inconclusive.





Complete the missing piece of your clients planning



Working with us & Diary Dates

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;

<https://btwc.co.uk/adviser-packages/>

BTWC Introducer

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

<https://btwc.co.uk/becoming-a-btwc-introducer/>

Diary Dates;

BTWC Associate Academy – from 26th June 2024

BTWC Quarterly Update – Tuesday 6th August 2024



IHT Planning for Landlords.....and other points of interest!

Dr Paul Hutchinson LLB (Hons) LLM(Wales) Ph.D Grad.PLL FIPW F.InstPA



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





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