

Private Client Brochure

Mansfield
Solicitors & Advocates
Limited

Who We Are

Whether you are planning to make a Will, appointing an attorney or if you need assistance in administering an estate We are on hand to help navigate you through the process.

At Mansfield solicitors advocates we take the time to understand the individual needs and requirements of our clients We offer a high class professional service delivered with empathy and understanding at a distressing time.



Anna Comerford

“

I am privileged to be able to offer my services to clients at a time in their lives where they may find themselves particularly vulnerable and concerned for the future. I take my work very seriously and ensure that client's receive advice and support in a timely fashion so they feel informed and empowered.

”



Anjala Balendran



Sarah Clark

The head of the Private client department is Anna Comerford. Anna is an experienced solicitor who was admitted on to the role in 2004.

She is contactable on her e-mail anna@mansfield.legal and our main number 0203 772 6728 Anna is assisted by her team comprising of Anjala Balendran Solicitor and Sarah Clark.

Anjala's e-mail is anjala@mansfield.legal and Sarah's is sarah@mansfield.legal

What We Do

Will writing service

Whether you are writing a will for the first time or amending an existing Will we can help.

A will is likely to be one of the most important documents you ever write and it's important that consideration is given to a number of factors you may not have considered yet.

- Appointment of Executors who are the people legally responsible for carrying out your wishes expressed in your Will
- Appointment of guardians to look after young children
- Who is to benefit from your estate? If you want to leave your estate to your children, at what age would you want them to inherit? Do any children have special needs to be provided for?
- What is to happen to your estate if your children die before you or at the same time as you? Who would you want to benefit?
- Will any Inheritance Tax be payable?

What happens if you die without a Will?

- If you die without a Will in the UK you die 'intestate', which means that your estate is administered in accordance with the Intestacy Rules. The division of your estate and possessions will be determined according to these rules which are often impersonal, inflexible and do not reflect today's family structures.
- The Intestacy Rules may not allocate your estate and possessions in accordance with your wishes, resulting in your nearest and dearest not benefiting as you wished.
- Couples living together and partners who have not registered a Civil Partnership have no automatic right to a share of their partner's estate on death under the Intestacy Rules. Also if you are separated or your divorce has yet to be finalised, your spouse is still entitled to inherit from your estate. Intestacy Rules do not make provision for stepchildren of the deceased either.
- Making a Will is the surest way anyone has of providing for others after their death. We can guide you through the options available.

Impact of Divorce

If you already have a Will and are later divorced (or the marriage is annulled or declared void) the appointment of the former spouse as executor in the Will no longer takes effect, and any gift to the former spouse will generally lapse.

Remarriage

If you marry after making a Will, the marriage automatically revokes the existing Will (unless specific provision is made in the Will, i.e. it is made in expectation of that marriage).

Property

Most married couples own property jointly as 'joint tenants', if one of you dies the property automatically passes to the other, regardless of what is in any Will. It is often the case in the event of separation that the separating couple would prefer to leave their respective share of the property in a Will to someone else, perhaps to children. In order for such a gift to take effect it is necessary to change the joint ownership by way of 'severance of tenancy' so that you are 'tenants in common' where you would each have your own specified share of the property, which you can leave to someone else in your Will. You do not both need to agree to the severance provided that the other has been given notice. We can deal with the severance on your behalf.

Business assets and succession planning

Our team are experienced in providing advice to business owners and will discuss the various options you have when it comes to succession planning.

Probate and Estate Administration

After a bereavement managing the administration of the estate can be overwhelming for any one. At Mansfield Solicitors we offer a number of options to our clients and can provide as much or as little support as you require easing the burden for family members when dealing with the necessary legal procedures involved in administering a person's estate in the UK.

If the deceased left a Will, there will be Executors who are responsible for dealing with the estate. If there is no Will, the people responsible for dealing with the estate are called Administrators. Executors and Administrators are often referred to as Personal Representatives. They have the task of collecting in the deceased's assets, They are also required to settle any debts of the estate, including funeral expenses and administration expenses, out of the deceased's funds. Personal Representatives are also responsible for sorting out any tax issues, including Inheritance Tax, Income Tax and Capital Gains Tax.

Obtaining the Grant of Representation

In order to deal with assets in the estate, Personal Representatives will often need to apply for a Grant of Representation. This is a legal document which authorises the Personal Representatives to collect in the assets. If there is a Will, the Grant is called a Grant of Probate. If there is no Will, the Grant is called a Grant of Letters of Administration. Most financial institutions will require sight of the Grant before they will release the monies, although this may not be the case if there are small amounts of money involved. If the deceased owned a property or shares, a Grant will certainly be required. We can help you with this process by taking care of all the paperwork involved.



Complete Administration

If you would like us to deal with the whole administration of the estate for you, we can assist with all these matters including:

- Notifying third parties of the death, i.e. financial institutions, share registrars, utility companies
- Obtaining valuations of assets
- Placing statutory notices in newspapers to advertise for any unknown creditors
- Dealing with any Inheritance Tax, Income Tax and Capital Gains Tax matters
- Obtaining the Grant of Representation
- Collecting in the assets
- Selling the deceased's property or transferring property to beneficiaries
- Settling liabilities, tax liabilities, funeral expenses and administration expenses
- Selling shares or transferring shares to beneficiaries
- Paying any legacies left by the deceased to beneficiaries
- Preparing estate accounts to account for monies going in and out of the estate from the date of death
- Distributing the monies in the estate as per the Will or Intestacy Rules (if there is no Will)
- Post-death variations - advising on variations of the Will after death to maximise tax mitigation or vary entitlements under the Intestacy Rules

What is Inheritance Tax?

Inheritance Tax is a tax that is levied by the government when wealth is gifted either during your lifetime or on your death.

The current Inheritance Tax limit for the 2012/2013 tax year is £325,000 and this allowance is known as the Nil Rate Band. If the total value of your financial assets is more than the Nil Rate Band, it is possible that Inheritance Tax may be payable on the value of your assets over this amount. The rate of Inheritance Tax upon death is currently 40%.

Inheritance Tax payable on death is based on the value of your estate when you die. This will include:

- Everything you own at the date of your death e.g. your property, bank accounts, investments, personal belongings such as cars, jewellery, expensive electrical goods and antiques
- Your share of anything owned jointly with your spouse or any other person
- The value of any trust fund from which you are entitled to benefit e.g. receiving an income
- The value of any gifts made by you in the last seven years before you die and which are not covered by any exemptions
- The value of any assets which you have given away but still get a benefit from e.g. if you give away a house and still live there.

People who are UK domiciled (i.e. were born here or have moved here and severed ties with their country of birth or have lived permanently in the UK

for 17 of the last 20 years) are liable to Inheritance Tax on their UK and worldwide assets. People who are not UK domiciled are liable to Inheritance Tax on the value of their UK assets only.

Charities and a spouse are exempt from paying Inheritance Tax - (although you should bear in mind that anything you leave to your spouse will increase the value of their estate and may result in a tax liability on their death depending on the value of the estate). Some assets also attract relief from Inheritance Tax e.g. agricultural and business assets.



Living Wills

A Living Will is a term used for an Advanced Medical Decision. It is a written statement setting out your wishes in relation to medical treatment should you become terminally ill or incapacitated.

A Living Will is neither a right to life nor a right to die but a right to choose. An advanced direction can only be used to refuse a treatment and not to ask for a specific treatment. It cannot be used to ask for a procedure that is unlawful.

Advance directions now have a legal status under the Mental Capacity Act 2005 and Health Care Professionals must follow such an advance direction if it is valid and applicable to the situation. It is important therefore that your GP or treating Health Practitioner is aware of the existence of your Living Will.

Living Wills are more generally used when there is knowledge of a critical illness. A Living Will can help someone to prepare for the pending treatment of that condition.

Health and Welfare Attorneys

Where someone is looking at making provisions for their future it is advisable to give some consideration to making provisions to cover welfare situations that may arise in the future., Most people understand the importance of a Will to provide for their death but many do not consider what will happen in the event that they are incapacitated for some reason , whether it be temporarily or longer term consideration should be given to Appointing an attorney to deal with either your Health and Welfare or your Financial decisions should you not be able to.

Situations that may give rise to a need for a Lasting Power of Attorney include:

- Where couples are not married or in a registered civil relationship but wish their partner to be the point of contact for welfare decisions
- Where there is no family
- Where a non-family member is their preferred choice
- Where there is a mental health issue such as bi-polar that can come and go
- Where one spouse is well and one spouse is in need of care and there is a dispute between the well spouse and social services
- Where people want to make an advance directive - you can make a Living Will at the same time.

Family Trust and Asset Protection

Many people in the UK are concerned about whether their financial assets will pass on to their loved ones after they die. By planning ahead and taking steps sooner rather than later, you can enable the transfer of assets to run smoothly from one generation to the next and preserve family wealth.

Creating a Family Trust

A Trust is the formal transfer of assets (it might be property, shares or just cash) to a small group of people (usually two or three) or to a Trust company with instructions that they hold the assets for the benefit of others.

If the Trust is to be made in your lifetime, to take immediate effect, then it is usually evidenced by a trust deed. If it is to be created on or shortly after your death then the trust provisions must be set out in your Will - a 'Will Trust'.

Whether by lifetime settlement or by Will, the Trust document states who are responsible for looking after the gifted assets (the trustees), who are to benefit (the beneficiaries) and any rules or conditions that the trustees are bound by for the benefit of the beneficiaries.

Most Trusts fall into one or two main categories depending on how the income or benefit (dividends, interest, rents, free use of property etc) is dealt with:

- Interest-in-Possession Trusts are where the income or benefit must be given to the specific beneficiary - it is his or hers by right.
- Discretionary Trusts have several types, but the common feature is that the benefits are allocated at the trustees' discretion to any one or more of several beneficiaries. The trustees might even decide, for a time, to benefit no one; the income being accumulated for future use.

Transfer of Property

This is one simple way of ensuring that your property passes to family members or a loved one. Property can be transferred outright or into joint names. However, it is very important that the following risks are considered:

- The recipient of the property may fail to support the person making the gift, leaving them vulnerable and at risk of losing their home
- In the event of the divorce of the recipient, their share of the property would be considered as part of their assets in any financial settlement
- If the recipient were to become bankrupt, their trustee in bankruptcy could claim

against the recipient's share of the property when selling assets to pay creditors

- On the death of the recipient their share of the property would form part of their estate and would pass under their Will, or if no Will existed then to the next of kin under the intestacy law
- There may be adverse tax consequences for both the person making the gift and also the recipient

If you transfer assets, whether outright or into a Trust, with the intention of avoiding care fees, then you may be deemed as still owning the assets for the purposes of assessing your eligibility for Local Authority funding.

Severance of Joint Tenancy

Most couples own property jointly as 'Joint Tenants'. This means that if one Capital for the purposes of a Local Authority financial assessment as it is no longer theirs. The Local Authority cannot treat the family home as Capital whilst there is a surviving partner still living in the property.

Deprivation of Assets

Where a person needs residential or nursing home care in England or Wales, the Local Authority will carry out a financial assessment to calculate how much should be paid towards the care fees. There are strict rules regarding 'Deprivation of Assets' where a person's objective is to obtain assistance with care fees. Therefore, if someone disposes of assets with an intention to obtain help with care fees then the person making the gift can be assessed as if they still own the asset.

If the Local Authority believes you have given your assets away to avoid the payment of care fees, they may calculate your ability to pay as if you still owned those assets. In some circumstances, where the asset has been gifted within 6 months prior to the person going into care, the Local Authority could recover the cost from the person who has received the gift.

Generally, it is the motive and intention behind making the gift that is the important factor although there are no guarantees as there is no time period after which it can be said that the gift is likely to be successful. If the gift took place at a time when a person is fit and healthy and could not have foreseen the need for a move to nursing or residential care, then it is more likely that the gift will be successful.

Court of Protection

When a friend or family member becomes incapable of managing their own affairs and no Power of Attorney exists we can assist in making an application to the Office of Public Guardian to appoint someone to act on their behalf.

Whether due to an accident, dementia or Alzheimer's disease or other age-related conditions we can help at this most difficult of times.

Our expert team are on hand to speak to you today so please call 0203 772 6728 or email Anna at anna@mansfield.legal



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