

# FOCUS

SWW

“THE NEW SUCCESSION LAW EMAG”



ISSUE 3 | WINTER  
2017







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# *A Letter from the Director General*

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Looking back on 2016 and back to October of 2015 we have made a lot of changes here at the Society of Will Writers whilst working towards improvement.

Bernard Shaw once said, "progress is impossible without change, and those who cannot change their minds cannot change anything" and change is something the SWW are not scared of. Although, we are not in the business of making change for changes sake.

Having said that there are a number of things that we are working to change and improve in light of working with the Legal Services Board and in assisting with the Competition and Markets Authority study.

These are:

- Consumer Protection
- Consumer Education
- Improve standards across our members and the profession where possible

In 2017 we will be continuing our work with the newly appointed Professional Standards Board to ensure that clients and prospective clients can take confidence in using an SWW member.



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## **Professional Standards Board Member**

We would encourage you as a member of the public to look carefully at who is writing your Will and take time to ensure that your Will Writer is a professional, has PI insurance, and adheres to a professional code of practice.

In short these are the standards that the SWW expect of its members. Any professional will not have a problem in proving their credentials and my team here at the SWW would be more than happy to check this for you.



Brian McMillan  
Director General  
The Society of Will Writers and Estate Planning Practitioners



# Want to have your business featured in FOCUS SWW?

Do you have a relevant article you would like to have featured in the magazine?

Would you like to have an advert for your business placed in the magazine?

There are various options available for you if so!  
For details contact: [thomas.s@willwriters.com](mailto:thomas.s@willwriters.com)



A typical advert for your business would be 250x250 pixels, larger sizes are available. Please contact us for more information.





# SWW makes traditional visit to Nomad Trust for Christmas

The majority of us look forward to Christmas and have something to be thankful for, but of course, there are those less fortunate and it's important that in this, the season of good will, that they aren't forgotten. Yesterday, SWW Director General Brian McMillan continued the Society of Will Writer's tradition of donating to the Nomad Trust in Lincoln, as they have done for well over 10 years.

A team from the SWW's head office delivered a range of festive delights for the Nomad Trust's homeless shelter. The goodies included huge blocks of cheese, meat joints, fruit, veg, and chocolate. Essentially everything that we all enjoy at Christmas.

Commenting on the delivery Brian said "The Nomad Trust do a great job all year around and are up against it at Christmas so it's nice that we can do just a little to help.". He added "My team are particularly pleased to get involved and always offer to help with delivering the goods to the centre on Monks Road".

The team at The Society of Will Writers and the organisations we work with sincerely hope that everyone at the Nomad Trust and all its visitors have a great Christmas.

For those of you interested in more information about the Nomad Trust visit their website: <http://nomadtrust.org.uk/>

Remember that you can leave charitable gifts in your Will and support the charities you care about after you have gone. Organisations like CAF can assist you with this by managing a trust for you. Your Will should be written by a professional to ensure that your estate passes in accordance with your wishes. It is wise that you choose someone who adheres to a Code of Practice and a regulatory framework like an SWW member.







The Nomad Trust are located on Monks Road and provide shelter for up to 21 people. To find out more about the Nomad Trust and all the services they offer, please visit: <http://nomadtrust.org.uk/>





# THE IMPORTANCE OF PLANNING YOUR WILL

So you have a Will, but how effective is the planning behind it?

The importance of having a valid Will cannot be emphasised enough. Understandably, when it comes to making a Will, we would all hope to cover every eventuality, to ensure that our assets, possessions and everything we have worked hard for, go to the exact people we wish.

Sometimes, however, it is simply not possible to cover every eventuality and trying to do so can prove to be detrimental. The next most important element, on top of having a valid Will, is that the document itself deals with the distribution of your estate sensibly and that there is careful planning behind the content in your Will. Where an estate is large, you should always take into account the issue of inheritance tax, as there may be instances where despite applying exemptions, there will still be a liability.

For example,

*Mrs X has an estate worth £1.3 million. It consists of 2 properties, various bank accounts and various shares and investments.*



*Mrs X has a full nil rate band of £325,000 and there is a full transferable nil rate band available from her pre-deceased husband. After deducting the £650,000 nil rate band, this means that there is still £650,000 liable to inheritance tax at 40%, meaning that the inheritance tax bill will be roughly £260,000.*

*The problem is that Mrs X had wanted to ensure that all of her assets and possessions would go to specific people under her Will, and had therefore made specific gifts of both her properties and each of her bank accounts tax free, leaving only a few small shareholdings and some small investments to residue.*

*As there are not sufficient liquid assets available to settle the inheritance bill, as everything has been specifically gifted under the Will, assets such as property will have to be sold.*

*Unfortunately, this means that although a specified beneficiary will still receive the remainder of the proceeds from the property sale after settling the inheritance tax bill; ultimately they will not receive the property itself as Mrs X had intended in her Will.*

Pecuniary and specific gifts in a Will always take precedent before the estate residue, however, by not effectively planning, such as in the above example, this can put assets at risk. The inheritance tax liability must be settled regardless of whether specific gifts are to be gifted tax free.

Having a Will is important, but the next most important thing is the planning that you put in behind it. Failure to effectively and properly plan how your estate is to be distributed when you die can be as detrimental as not having a Will at all.



# WRITE YOUR WILL

[www.willwriters.com](http://www.willwriters.com)





# A LASTING POWER OF ATTORNEY

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A Lasting Power of Attorney (LPA) is a legal document that grants a person or people the power to make decisions on another person's behalf. Having an LPA will save the family a lot of time and stress in the event of loss of capacity. If capacity is lost without any LPA in place, family and friends would need to apply for a Deputyship which takes significantly longer than registering an LPA.

Unfortunately, capacity could be lost at any time making the need for an LPA ever more important. Whilst it can be quite distressing having to think about what would happen if you did lose capacity, having an LPA arranged prior to this will give you peace of mind knowing that in the event of a loss of capacity, your decisions can be made on your behalf by the people you trust to do so.

There are two types of LPA, both of which must be made when the donor has capacity in preparation for if they lose capacity. The first type is the Property and Affairs LPA which covers decisions about the donor's financial affairs and their property. The attorneys can use this both before and after the donor loses capacity. The second type of LPA is the Health and Welfare LPA. This covers decisions about the donor's personal welfare and health, and can only come into effect after the donor has lost capacity.

So who should you choose as an Attorney? You can have one or more people appointed as attorneys, and these can be replaced should any become unable to act on your behalf. If they are over the age of 18 and have mental capacity, then they can be appointed. It is a very personal decision when it comes to appointing an Attorney, as it needs to be someone that the donor trusts completely. Often this means appointing either a spouse or partner, however this is not always practical and in such cases a professional attorney can be appointed. This will bring added costs as professional attorneys may charge fees.

An LPA isn't valid until it has been sent to the Office of the Public Guardian (OPG) to be registered. There is a registration of £110 per document.

**We also have a handy video on LPAs on our YouTube channel:**  
**<https://youtu.be/LkeWMpjUq80>**

For more information contact the Society of Will Writers or an SWW member.



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# WRITING IS GAME PROFESSIONAL



# Charitable Gifts

You may be considering leaving a gift to a charity of your choice in your Will, and doing so is a great way to ensure that your legacy carries on after your death. Not only is leaving a gift to charity commendable, it can also make a difference to the amount of Inheritance Tax you will pay on your estate should you choose to gift 10% of your net worth.





There are of course many charities to choose from, and deciding which you would like to leave a gift to is a completely personal choice. Perhaps there is a charity you have been passionate about during your lifetime, or perhaps there is a charity you always felt you could benefit by gifting some of your estate.

According to a survey conducted by Remember a Charity in 2015 there are increasingly more people choosing to leave a gift to a charity in their Will. The survey shows that 17% of people claimed to have left a gift to charity in their Will, an increase from 12% in 2010 and 14% in 2013.

There are 3 conditions when it comes to leaving a gift to a charity. You must ensure that the gift is:

1. Outright
2. Immediate
3. To a UK-registered charity.

For the gift to be outright it must go directly to the charity, there can be no other conditions. If you are gifting money, it must be left in whole to the charity. For example, "I give to British Liver Trust of 6 Dean Park Crescent, Bournemouth BH1 1HL whose registered charity number is 298858 the sum of Thirty thousand pounds."

For the gift to be immediate it must go straight to the charity without any other interest in it. The charity must be the first and only recipient of the gift, for example allowing a sibling to occupy the property until their death and then leaving the property to the charity is not allowed.

And finally, for the gift to go to a UK-registered charity they must be registered with the Charity Commission and be given a registered charity number.

Providing these three conditions are met, there should be no issues with the charity of your choosing receiving the gift you wish to leave them, be it in lifetime or upon your death.



# HAVE YOU SEEN THIS LOGO?



**ALL OF OUR MEMBERS ARE 'SAFE TO DO  
BUSINESS WITH' FOR YOUR PEACE OF  
MIND.**

**WE ENCOURAGE ALL SWW MEMBERS TO  
PRESENT OUR LOGO TO THEIR CLIENTS  
TO DEMONSTRATE THAT THEY OPERATE  
BY OUR CODE OF PRACTICE.**



IT'S OKAY  
NOT HAVING  
A WILL AS  
LONG AS YOU  
KNOW WHAT  
WILL HAPPEN  
WITHOUT  
ONE.









# WILL A TRUST REALLY HELP PROTECT MY HOUSE FROM MY INSOLVENCY?

There are many reasons people may wish to place their assets into trust during their lifetime.

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**S**ome do so to keep their property outside of the Probate process, to speed up sale upon death, to protect vulnerable or reckless beneficiaries, or to reduce the risks of someone challenging their Will. Some people, especially sole traders, wish to use trusts to keep their family home away from creditors.

An asset held in trust is deemed not to be owned by the person who set it up – the “settlor” – but is instead owned by the trustees. This does provide a strong protection over those assets: they are “no longer the settlor’s assets” to be divided up by the creditors.

However, nothing is ever that easy.

The Insolvency Act provides that the court may set aside transfers into trust five years prior to any claim that leads to bankruptcy: within two years of the bankruptcy, any such transaction can be set aside; between two and five years before bankruptcy, they can be set aside if the donor was insolvent at the time

or made insolvent by the transfer.

In addition, there is no time limit to the court’s power to set aside a trust where the reason for the settlement was to put assets beyond the reach of someone who is or may at some time make a claim, or to otherwise prejudice such a potential claimant’s interests. This is a real obstacle for those who want to protect their properties precisely for these reasons.

As such it can be dangerous to place assets into trust with these motivations in mind. Similar problems are faced by those who wish to place their property into trust to avoid it being used for care fees.

Trusts can only be used safely if they are settled with proper motivations in mind: otherwise, they may even make matters worse for the settlor and their family.

Article supplied by James Greenwood-Reeves, SWW Trust Corporation.





# FUNERAL PLANNING....

If you still don't have a funeral plan, consider these 5 problems you will be faced with.

A staggering number of people still do not have funeral plans in place. As you can see, your funeral is always going to be one thing you will never be able, sooner or later, to avoid the subject?

Partially it is because it is considered "morbid" or "ghoulish" to dwell on the subject of death and healthy. But that is precisely the best time to start considering options for your everyday life people do not consciously consider their funeral to be "something to think about".

We are none of us immortal, of course, and at some stage the funeral is going to have to be either be done by our relatives, at one of the most distressing and difficult times in our lives; to our truest funeral wishes; or it can be done now, affordably and with the peace of mind we hope for.

Common problems we see in dealing with estates where there is no funeral plan in place:

- It can't be afforded. Lack of liquid assets in the estate can make even simple, dignified funerals very expensive.
- There are delays. It can take weeks or even months for relatives to discuss and agree on a plan. This time the deceased remains in the chapel of rest, or worse still, a mortuary.
- Whether it's because they do not know the deceased's true wishes, or because of differing notions, frequently unplanned funerals can lead to feuds over everything from the coffin to the floral tributes.
- The Funeral Directors chase relatives for money. If the bill isn't settled promptly and the deceased has little cash, this can be very distressing for loved ones.
- Uncertainty. Unless a full plan is in place, our relatives may never truly know what to expect. Also, some funeral directors may be unable to undertake our precise wishes, which can scupper the entire event.

All these difficulties are alleviated by a little forward planning, and without breaking the bank in small monthly instalments or lump sums, depending on what suits you.

Do feel free to speak to us if you think that getting a plan in place will give you peace of mind.



facing.

unappealing as the subject can sometimes be, or later, to avoid paying. So why do people avoid

these matters, particularly while we are young. Another reason is because, quite frankly, in dealing with that needs dealing with."

ing to have to be planned and paid for. This can be times of their lives and with little guidance as to the utmost certainty that everything will go as we

plan include:

minimalist funeral arrangements unaffordable. We must decide on suitable arrangements. During the funeral.

Because they cannot agree on their own ideas and they are far from the religious features of the service down

promptly charges and interest might apply. If the

now how we want our final commemoration to be, we wish, and not knowing in advance what is

breaking the bank. Funeral plans can be arranged

you that little more peace of mind.







**If you have any questions about  
Wills, or any of the content in this  
magazine, contact  
The Society of Will Writers:**

**Chancery House, Whisby Way,  
Lincoln, LN6 3LQ**

**Telephone: 01522 687888**

**Web: [www.willwriters.com](http://www.willwriters.com)**





# The Final Word from Golden Leaves

We believe that it is important to ensure that your affairs are in order to protect you, your family or loved ones, in the light of traumatic, life limiting or end of life scenarios.

While it is true to say that few of us enjoy discussing, or even thinking about the day we are no longer around, today we are finding that more and more of our clients are now coming to realise that planning and paying for their funeral arrangements in advance, makes perfect sense as well.

With this in mind, we have created a partnership with Golden Leaves Funeral Plans, one of the leading and most historic UK funeral planning companies in business today. A business that started offering funeral plans 1984 and was involved in the establishment of the FPA, the self-regulatory industry body that oversees 99% of all funeral plans sold in the UK today.

In 2004 the average cost of a standard funeral in the UK was £1920\*. Had you decided then to set this sum of money aside in a bank or building society account to cover the cost of your funeral when it was needed, it would have grown to £2150\*\* by 2014.

However, by 2016 the average cost of a standard funeral in the UK was £3693\* a rise of 86% in ten years. So, thoughtful as it may

have been, saving for your funeral in a bank or building society would still have left your family with a shortfall of £1440 to find.

A pre-paid funeral plan is a straightforward and affordable way to pay for the end of life services you want and help relieve your loved ones from the financial and emotional burden of arranging and paying for your funeral.

The key benefits of a funeral plan are:

1. Protection against rising funeral costs
2. Funeral Directors costs set at today's prices
3. Acceptance guaranteed with no intrusive medical checks
4. Flexibility on both funeral choices and payment options
5. Peace of mind by helping to remove some of the financial burden and emotional stress from your loved ones

For more information, or if you simply wish to take out a funeral plan. Please contact the Society of Will Writers directly, or alternatively your SWW Will Writer.

\*Average of quotes for standard cremation and burial arrangements from a sample of UK funeral directors. SunLife Cost of Dying report, Mintel 2004/YouGov 2016

\*\*Using average gross Bank and Building Society instant access deposit account interest rates Aug 2004-Aug 2014 from Bank of England for IUMTHAK/IUMB6VK.

Past performance is not necessarily a guide for the future.

## Contact Us

Call our offices in Lincoln on  
01522 697007

Or visit  
[www.trustwillsprobate.co.uk](http://www.trustwillsprobate.co.uk)

**FROM** 50  
FUNERAL PLANS

