

Trusts, Wills, and Lasting Power of Attorney: Essential Planning for the Future

[Nick Coffey]

Hello and welcome to this episode of TW Law Talks from Taylor Walton. I'm Nick Coffey and today we're looking at one of the few things in life we can be certain of and that's death. How can we prepare for what happens after we pass away?

How can we best protect what we own and also protect those that we leave behind? Yep, this episode is all about wills. Why do you need one?

When do you need to update one? How do trusts work? And what are lasting powers of attorney?

Zoe Sivelles is a partner here at Taylor Walton specialising in wills and probate. Zoe, hello.

[Zoe Sivelles]

Hello, Nick.

[Nick Coffey]

And joining us here in Taylor Walton's offices in St Albans is Marcus Maisey, who's an independent financial advisor and director of KDW Financial Planning in St Albans. This is not our first rodeo, is it, Marcus? It's nice to have you behind the microphone again.

[Marcus Maisey]

Indeed, thank you.

[Nick Coffey]

Our job, Zoe, is to keep him in check over the next half an hour.

[Zoe Sivelles]

I'll do my best.

[Nick Coffey]

Marcus, throw a statistic at me. Let me throw you a curveball before we even start here. You deal in financial planning.

You have people that come to you to plan their futures. Out of, let's say, 100 clients, how many of them wouldn't have a will?

[Marcus Maisey]

I reckon it's probably half. I mean, the trouble we have is that people have so many misconceptions about needing a will if they're married, if they're not married, et cetera. So, hope to dispel some of those today.

[Nick Coffey]

Yeah, some of those myths. So, this is an obvious question, but why do I need a will? Can't I just bumble along quite happily and then die quietly?

[Zoe Sivelle]

Well, a will ultimately specifies where your assets should go after your death. So, there is an element of choice there. Either you have the ability to choose what happens to your assets after your death by way of a will, or you leave it down to the law and the intestacy rules, which will dictate what happens to your assets after your death.

[Nick Coffey]

So, intestacy. This means that I'm no longer here and someone, an organisation, the government, a process, a machine decides what happens to everything that I've hard-earned.

[Zoe Sivelle]

Yeah, absolutely. The intestacy rules are legal rules that set out an order of priority as to who should inherit your estate if you die without a will, and depending on your circumstances, whether you're married, have children, et cetera. They're very rigid.

They don't accommodate sort of more modern family circumstances. For example, unmarried partners living together, they don't provide for that. They don't necessarily provide very easily for second marriages or stepchildren.

So, they're a very rigid set of rules and they generally, I would say in the majority of cases I see, don't apply very successfully if somebody dies without a will.

[Nick Coffey]

And do you find sometimes that, I don't know, some people actively don't want to have a will because it's a little bit of a, I'm just trying to think of a polite way of putting this in a podcast, but a little bit of a, well, see you all, I don't care, and you can all sort this out.

[Zoe Sivelle]

Sometimes, or people are sometimes ostriches with their head in the sand. They don't like to think that unfortunately death happens to all of us. And the best thing you can leave your children or your family behind is a really well-organized estate.

It would save them so much heartache and hassle if you were to do that, but people just don't like thinking about it. The other thing I find that really stops people from making a will is thinking about guardians for their children. If you have a husband and wife, you have young children, the real stopping point is I just don't know who would look after my children if we both died.

And again, it's a difficult thing to think about, but it's so important that you leave that. If the worst were to happen, to have something well-organized and set out already is really the best thing you can do.

[Nick Coffey]

And I imagine a big part of this is taking the emotion out of it and looking at the law and the practicalities. And this is where you come into it, Marcus. I'm not saying that you're

emotionless, but you do view these situations in a very practical way, a very financial way, a numbers way, and that level-headedness is key, isn't it?

[Marcus Maisey]

Yeah, it is. And I think the biggest trouble we have when we're actually planning someone's estate is that people have these preconceived ideas about what the law is. And I always say to people, look, if you don't plan your estate on death, basically legislation will.

And if you have unmarried couples and even if you buy a house together and you own it as tenants in common, you could end up owning a house with your mother-in-law.

[Nick Coffey]

So, this is the second time you've mentioned unmarried couples, and you've alluded to common law wives and husbands. I think we may be headed down a road here that you're very passionate about. So just explain the background to this and why it matters.

[Marcus Maisey]

Modern families these days, we quite often come across people that are on their second relationship, they're divorced, they've got children, both got children from the first relationship. And they have this preconceived idea that if they've been living together for 20 odd years that they're suddenly common law man and wife and all their assets are going to be left to the person that they're living with. And actually, there's no such thing as common law man and wife.

It's just one of the greatest myths. It's sort of a bar room, you know, legal talk.

[Nick Coffey]

Hold that thought. I have to turn to the lawyer here. Common law husband and wife doesn't actually exist as a thing?

[Zoe Sivelle]

Absolutely. Marcus is absolutely right. You can be living as unmarried partners and that's fine in lifetime if that's how you choose to live.

But on death, that unmarried partner under the intestacy rules has no right to any of your assets on your death.

[Nick Coffey]

So, Marcus, someone coming to you who, for example, is in a lovely, stable, long-term relationship, their second or third or fourth or fifth, with someone who they want to spend the rest of their days with, just explain the mechanics of that. So, if they own a house together, and that person dies, what are the legal and also financial and inheritance tax implications of that? And why should it go into a will?

[Marcus Maisey]

Well, it's going to a will. It's also the marriage part of it. Because I mean, I think I've used this before in one of our inheritance tax podcasts. I've got a couple that own a large house in London, 1.6 million, no mortgage on it. They have other assets as well. They've never been

married. And I explained to them the other day that if one of you dies, you will have to pay inheritance tax to live in the house that you've bought together.

And they...

[Nick Coffey]

You have to pay to be there.

[Marcus Maisey]

Correct.

They would have to pay inheritance tax, because you're unmarried, and you have no children, you only have a £325,000 allowance, everything else is taxed. And so, the house, which is significantly more than their allowance, means that if they died, they'd have to pay inheritance tax. And you know, these are just common issues that we come across.

And again, you have to sort out your estate during your lifetime.

[Nick Coffey]

And Zoe, what this really speaks of is the financial impact of not getting this right. There's also the complex emotional family side of it. Now, I come from a Jewish family.

And it's fair to say that my family is quite, quite complex, lots of personalities, lots of strong-willed individuals, lots of people with their own opinions on stuff. And my day job is navigating my family. So, if I were to no longer be here, I think that, well, (a) it would be impossible because I'd be dead.

But navigating the complexities without a will would certainly be difficult. Families are complex, aren't they? They are complex systems, complex mechanisms, complex people.

And a will takes out some of that complexity, doesn't it?

[Zoe Sivelle]

It certainly does. And I think families are becoming more complex. And Marcus has said before, they see lots of second marriages, or maybe you're divorced, but living with a partner and all these kind of blended families are much more common now than they were.

And in that instance, actually, a will is really important because you might have a second spouse that you want to try and provide for, but you also have children from your first marriage that you want to try and provide for. So, in essence, you've got two different groups of people, and you're trying to provide for both of them in different ways, sometimes slightly competing ways. I mean, if you don't have a will in place, then it can really be a battle between those people as to who should get what.

But if you do have a will in place, you can much more easily try and provide for those two different groups of people.

[Nick Coffey]

I think also we're perhaps talking about two slightly different things here, which is important for us to understand because you've got inheritance and you've got tax efficiency, which are

two different things. So, on the one hand, you've got what you will end up inheriting. On the other hand, and this is obviously what you do, Marcus, in your day job, you've got the notion of how to make sure that what you leave behind is managed in the most tax efficient way.

[Zoe Sivelle]

Yeah, absolutely. So, it may be actually that as an unmarried partner, you do get something because you have joint bank accounts, or you have a property that you own as joint tenants. And in that instance, rather than passing by the scope of the will or the intestacy rules, any co-owner would automatically, or co-account holder would automatically inherit the deceased share of any assets that are co-owned in that way.

So, there may be some instances where an unmarried partner might get a share of a property because it's owned as joint tenants, or they might get cash because it's in a joint bank account. There is a different question of tax efficiency though, and Marcus is right in that because there is no marriage there, there would be inheritance tax to pay on that transfer.

[Nick Coffey]

So, Marcus, does this mean that your role as an IFA has to be hand-in-hand with Zoe's role as a lawyer when planning for the future and planning for your death?

[Marcus Maisey]

Massively, and even more so now after the post-budget because obviously pensions now fall into your estate. And therefore, you know, if you've got a pension, we used to use pensions to be able to leave an asset without inheritance tax to an unmarried partner. But after April 2027, that will now go, and a pension will form part of your estate.

So more so than ever, you know, you need to work hand-in-hand or we need to work hand-in-hand with lawyers as to say, you need to plan your estate now, otherwise you'll just have a huge bill.

[Nick Coffey]

And this wasn't a change, it was a seismic change, wasn't it? Because, you know, you look at this area, St Albans, Harpenden, there's people around here who could and would have pensions of several hundreds of thousands of pounds, often over a million. And if I've understood correctly, previously, you could pass those pensions on in effect as an untouched sum to the next person, whereas now that will incur a 40% tax.

[Marcus Maisey]

Yeah, post-April 2027, a pension forms part of your estate. And therefore, if you have a house down here as well, you know, which is sort of around about the million-pound mark, all your allowances are probably gone, even if you're married. And therefore, there's a difference between passing that on to your spouse if you're married.

And, you know, that's a solution for a lot of people. If you're not married, I need to set up a sort of a marriage guidance thing now, but just saying you need to go and get married.

[Nick Coffey]

You would do it for functional tax reasons.

[Marcus Maisey]

Well, if you've been living together for 20 odd years, and you've got three kids, you're effectively married anyway. So, you might as well for inheritance tax reasons, absolutely go and get married.

[Nick Coffey]

You're common law husband and wife.

[Marcus Maisey]

They don't exist.

[Nick Coffey]

I forgot that already five minutes ago. Zoe, you've got your will, you've sat down with you, you've written it out, you've agreed the terms, you hold that document. And that's it, right?

You never change it.

[Zoe Sivelle]

People have to get the idea that this is a changeable document. This will change with your personal circumstances, with your financial circumstances, with government policy, as we've just seen. So absolutely, any of those triggers, anything like getting married, getting divorced, having children, having grandchildren, all those things would trigger you to at least look at the will you've got and see, is it still valid?

Or has it been revoked, for example, by a marriage? Is there anything that I need to change? But also, as we've just said, a change in government policy and a change in budget would mean maybe huge financial implications for you, which means your will has to be completely restructured, as I think we're now seeing.

[Marcus Maisey]

That's the biggest misconception again. So, people think that on divorce, your will gets destroyed. And on marriage, it doesn't.

And actually, it's the other way around. So, if you get married, so I had a client last year who actually did what I said. They went and had a civil partnership last December.

[Nick Coffey]

Someone followed your advice.

[Marcus Maisey]

They did. Civil partnership last December, which just removed all the issues they had beforehand.

And I said to them this year, have you changed your will? And they said, no, we've got a will in place. And I said, well, it's been revoked by your marriage.

And they had no idea that by getting a civil partnership, that their will had been revoked.

[Nick Coffey]

Bear with me on this because my head's suddenly exploding. Zoe, legal person in the room. So, if I get married tomorrow, my will is invalid?

[Zoe Sivel]

Absolutely.

[Nick Coffey]

Literally doesn't exist?

[Zoe Sivel]

Yeah, it will have been revoked by that marriage, unless it has been specifically made in contemplation of marriage.

[Nick Coffey]

I had no idea about this. So, when you get married, you have to update or create a new will?

[Zoe Sivel]

Yes.

[Nick Coffey]

I think if we take one thing away from this episode today, it's that piece of information, which I had no idea about at all.

We will come to talking about trust. We'll talk about LPAs as well. But I just want to throw a slight curveball at you.

You're a lawyer. You do wills. It's what you do.

My will was done online. Oh, if I could describe Zoe's face right now. Marcus, how would you describe her look of horror?

[Marcus Maisey]

Well, online is one up from the WHSmith 30 quid one.

[Nick Coffey]

Yeah, yeah. So, mine was done online because I felt that it was very simple. I own a house and that's pretty much it.

And I have three children. It was like, here's my house. If I die, you can have my house.

That was pretty much my will. I have no idea where it is now that I mention it. I should probably try and track it down.

I think I left it discreetly in a drawer in my father's desk. But anyway, that's my own problem. Now, look, I'm not here to create podcasts where all of the lawyers at Taylor Walton say, you must come and see us because we're lawyers.

However, just explain to me why I would be better off getting expert legal advice from yourself as opposed to what in effect for me was a form filling exercise. I parted with my £99 and I had a will, even though I don't know where it is anymore.

[Zoe Sivelle]

Yeah. So, we have seen handwritten wills or homemade wills, and they're not something that is specifically for the legal profession. So, it's not something that you have to get done by a solicitor.

I would say in my experience of practice, though, the estates that I have dealt with that have had difficulties in them of interpretation of wills have been with homemade wills where the person making the will has an idea in their head of exactly what they want to do. And it may be very clear to them, but what they have written down and how they have written it does not reflect that. And therefore, after their death, you come to dealing with the estate and actually administering or carrying out the terms of the will.

And that's where the difficulties arise. The problem with that is you don't know what those difficulties are going to be until after that person's died. And then it's very difficult to rectify.

So, I would always say it's to seek professional advice about making your will for that reason.

[Marcus Maisey]

Yeah. And we had a will the other day where the person brought the will in because we always say, if you've got a will, please bring it in so we can look at it. And it was witnessed by the beneficiaries.

So, there are certain things that...

[Nick Coffey]

And that would invalidate it?

[Zoe Sivelle]

It would invalidate the gift to that beneficiary, yes.

[Marcus Maisey]

So, you know, it's one of those things, isn't it? You don't know what you don't know. So, you think you're doing it right.

And actually, you don't know if you're doing it right or wrong, because you don't know.

[Nick Coffey]

Just making a note to myself to make sure someone else signs my parents' wills after I wrote it and signed it and put all the best things going to me. This, by the way, is not true. That was for the purposes of this podcast.

I just need to make that absolutely clear.

[Zoe Sivelle]

I was going to say as well, I've also had a will where the witnesses, although were fine, perfectly acceptable witnesses, hadn't witnessed in the correct manner because they had simply printed their names rather than signed. And so, whilst that did go through the probate registry, we had to get affidavits from them confirming that they did, in fact, witness the will. And that was just an extra hurdle to get over before we could get the grant.

[Marcus Maisey]

We also had a will where they came in and they'd left their house to the children, but the house was owned jointly. So, it didn't pass by will, it passed by survivorship.

And therefore, that clause in the will was irrelevant because they hadn't left their house to the children, they'd left it to their surviving spouse.

[Nick Coffey]

Summary of all the above, you need someone with a forensic eye, i.e. a professional, a wills and probate professional, who can spot those loopholes before it's too late.

[Zoe Sivelles]

Absolutely.

[Nick Coffey]

So, trusts, a word which instils a certain fear in me just because it always seems quite complicated and quite involved.

Marcus, it's what you do. What are the different types of trusts available?

[Marcus Maisey]

So, trust planning is obviously a massive part of inheritance tax planning. But again, there are so many different types of trusts that you have. And again, that needs to be brought into the overall planning.

And this is where I think if you've got a financial advisor who's, you know, worth their salt, they need to bring it in and do it in conjunction with a lawyer, because what you don't want to do is to have things conflicting. So, I came across a client the other day who is unmarried. So that was the first thing.

So, my advice was to get married.

[Nick Coffey]

Did you do your scowl?

[Marcus Maisey]

They own a large house, they're divorced.

They own a large house in Surrey worth £1.5 million. She's early 70s, but she has a medical condition now. She lives with her partner, who is older than her and has got medical issues as well.

And she's left her house in trust for him on her death. And then after death, the partner will then leave it back to her nephews and nieces. And I explained to her that, you know, on first

death, if you leave what's called a life interest for the survivor, for the house to live in the house, that would be subject to inheritance tax.

And then when he dies, and it leaves it to the nephew and niece, it's subject to inheritance tax again. So, you have double inheritance tax on a house.

[Nick Coffey]

So, you'd have 40% and 40% on the same house before it even reaches a third person.

[Marcus Maisey]

On a £1.5 million house, yes. And again, I said to them, did your lawyer not explain the consequences of that? And she said, well, no, we just asked him to do that.

And so, he did it because it was transactional. Whereas, you know, whereas certainly when we work with Taylor Walton, you know, they're very much proactive in; what does this mean? And that's a great question.

[Zoe Sivel]

I think in that instance, actually, your clients had had two different kind of scenarios that they could have had. Either your client could have left the house outright to her partner, but then there's no guarantee that on his death, the nieces and nephews will get it. Or she leaves it outright to the nieces and nephews, but they end up co-owning with the partner.

And that makes a tricky situation as well. So, in some respects, the trust that she had actually was a very sensible way of dealing with that scenario. It just so happens that, again, going back to the marriage, because they weren't married, that's where the tax issue arose.

So, it's really something actually that marriage or a civil partnership, as you said before, just simply for tax purposes would be really helpful there. But otherwise, it's really a balance or a decision for the client to make as to which they're going to do. Do they favour the protection over the tax or the tax over the protection?

[Marcus Maisey]

But the problem was, when I revealed this to them at the meeting, they had absolutely no idea that's how it worked. And it's one of these things that we say, well, you need to go and see a lawyer. And a lot of people go, oh, I don't understand law, it's a bit scary.

And Zoe's very user friendly, if anyone's out there. But I think that's the point is that people don't do it because there is a reluctance to do something. And actually, that's probably the worst thing you can do, because all you're doing is you're just burying your head in the sand and not understanding what the issues are.

[Nick Coffey]

Marcus, you alluded to something called a life interest trust. Zoe, this is one of two kinds of trust, am I right, that you can create. And you can create these trusts either when you're alive, or to be active when you're alive, or to be active when you're dead.

That's my non legal understanding of this. Can you explain how it works?

[Zoe Sivel]

Yes. So just bringing it back to basics, a trust is basically an entity, whereby individuals known as trustees look after assets on behalf of different individuals known as beneficiaries. And there might be various reasons why you set up a trust.

There are, in fact, more than two different types of trusts, there are several different types of trusts. But the ones we see most commonly in wills, and sometimes in lifetime, are life interest trusts and discretionary trusts. So, a life interest trust is basically where the trustees will hold an asset for two different types of beneficiaries.

They hold it for somebody known as the life tenant during that person's lifetime. And on the life tenant's death, that asset will then pass down to remainder beneficiaries, or sometimes reversionary beneficiaries. The purpose of that type of trust, as I said, is to provide for competing beneficiaries.

So, you might have a surviving spouse that you want to allow to remain living in the house as in Marcus's case. But ultimately, you want your share of that property once they have died to go down to other individuals that you have chosen. So, you can put a life interest trust in your will that specifies that.

The surviving spouse or the partner would have a right to live in the property for the rest of his or her life. But on their death, the first deceased share of the property then passes down to the beneficiary specified in the will. And what that means is that the surviving spouse hasn't inherited in full that particular asset, they've only got an interest in a certain part of it.

So, they then can't go and do what they want with the house and disinherit the ultimate beneficiaries you've put in your will.

[Nick Coffey]

Much to their annoyance.

[Zoe Sivel]

Sometimes, yeah.

[Marcus Maisey]

Very common on second marriages when you've got children from the first marriage.

[Zoe Sivel]

Yeah, absolutely. A way of providing for those two different types of beneficiaries. Discretionary trusts are different in that the trustees hold assets on behalf of a number of beneficiaries who are named in the document or in the will.

And the trustees have the absolute discretion to decide in terms of capital and income, who gets what from the trust from that range of beneficiaries, when and how much.

[Nick Coffey]

So would I be right in saying that this kind of discretionary trust is particularly valid if, for example, I don't know, imagine I've got an 18-year-old who I think may not be in the best of shape. There could be, I don't know, drug issues or any manner of other problems. And

what that allows is a certain amount of control that they won't be able to inherit that asset until such a point that I deem fit or I'm confident with them being able to manage it.

[Zoe Sivelle]

Yes, in essence, that's it. You're not giving that asset or that inheritance to a beneficiary outright. It's going to other people who can manage it on their behalf.

And that might mean that they get lump sums at a future point in time. They might get income. They might get very small amounts drip fed to them.

But ultimately, the manner in which they receive their money can be decided in accordance with their circumstances. Sometimes it might be appropriate not to pay them anything at all. And that might be the case.

But the idea is that you give the trustees the flexibility and the discretion to decide that further down the line.

[Nick Coffey]

What about rules in regards to who can be a trustee?

[Zoe Sivelle]

Yeah, that's a very good question. I mean, anybody can be a trustee. The key thing is that you trust them.

The key is in the name. So, you have to trust them, particularly if this is in your will and you will be long gone by the time they're making these decisions. You have to trust them that they understand why you've done the trust, the family circumstances that have given rise to having this particular trust in the will, the issues perhaps with the beneficiaries that are there, and how they should best manage the situation, not only manage the money in terms of investing.

And that's when we would get somebody like Marcus on board to help with trustee investments but also managing the distribution of the funds further down the line. You can, of course, leave a letter of guidance to your trustees with your will, which clients often do to give more information about background. And ideas as to how the client themselves would want the money to be dealt with by the trustees in the future.

But that shouldn't be binding on the trustees. You have to keep the discretion for the trustees.

[Nick Coffey]

I'm seeing that your work is very forensic and actually has an element of, you know, the genograms where people create diagrams of a family structure. And you must sit looking at a situation and have to quite literally map it out in your head. Who is who?

Who belongs to who? Which child belongs to which parent? And actually create that genogram so that you know that you're sealing off any potential issues post death.

[Zoe Sivelle]

Yes, I have sat down and made family trees before, as I'm sure Marcus has with his clients so that we know who is who and who we're providing for and where the kind of scenarios may occur.

[Marcus Maisey]

I think the other thing to remember is that being a trustee is not a thing you should take lightly because you have duties under the trustee act to act in a certain way, act for certain beneficiaries. And the biggest issue we have when we're discussing this with clients to go and see a solicitor to do a will or things like that is that they often go, oh yeah, my brother can do it. And I go, but your brother's the same age as you and the child is 30 years younger.

So, what you're after is a trustee that you can rely on who is a similar age or ideally younger than the person who's the beneficiary because otherwise, you know, the trustees die and then there's all sorts of issues then with court of protection and appointing new trustees.

[Nick Coffey]

And with a trustee, Marcus, could you appoint, I don't know, a professional like, could I appoint Zoe as a trustee?

[Marcus Maisey]

Yeah, you could. And we often, when there's a potential dispute within a family as to who gets the benefit, I often say to them, look, just take the decision away from your children and actually appoint a professional trustee because they will just follow, at their discretion, what you're trying to achieve with the trust.

[Zoe Sivelle]

I think professional trustees are really useful if there's contention within the family because they can be more independent and cannot be swayed by perhaps pressure that might be put on other lay trustees who might side with one side of the family or the other.

[Marcus Maisey]

Yeah. Or if you've got, you know, siblings who are all trustees and one is vulnerable, they may say, well, you know, I want the money. And of course, if you're a sibling, then you can say, well, should we give it to them?

Whereas if you say, well, the professional trustees say you can't have it, then it's a decision that you don't have to take.

[Nick Coffey]

There's two words coming to my mind right now, and they are nest and hornet. So not necessarily in that order. But your job, Zoe, seems rife with pitfalls.

Let's finish on a really important part of wills and planning. Lasting power of attorney. Now, I know having looked at this in regard to parents' situation, this is quite a, it's quite a sad part of this whole subject because you're basically saying, well, look, if I lose my mind, if I no longer have all my faculties, you can take over my affairs.

There's a strong emotional element in that and a strong part that may lead you to not want to have to face that possibility. So, what are LPAs, lasting powers of attorney, and do they actually even work?

[Zoe Sivelle]

Yes, so lasting powers of attorney are documents whereby the individual known as the donor appoints people known as attorneys to act on his or her behalf, either in relation to financial and property matters or in relation to health and welfare matters or both. You can do their separate documents, and you can do one for each.

And the idea is that if you lose capacity, or in certain cases, whilst you still have mental capacity, but with your consent, the attorneys can continue to manage your affairs, both financial and health related on your behalf.

Much like having a will, they're a really important document to get things in order so that your children, your nearest and dearest are able to manage your affairs for you should the worst happen. If you don't have a lasting power of attorney in place and something happens suddenly, for example, you have a stroke and you lose capacity overnight almost, then the only option that would be available to your next of kin would be to go to the court of protection to have a deputy appointed to manage your finances for you.

That process can take over a year, it's very costly, it's a lot of paperwork and it really is a very stressful thing to do at that time.

[Nick Coffey]

And Zoe, you can revoke an LPA?

[Zoe Sivelle]

Yeah, absolutely. You can revoke an LPA provided you have mental capacity and that will obviously stop those attorneys appointed in that LPA from acting. You can then make a new LPA again provided you have capacity in favour of different attorneys if that's what you wish.

[Nick Coffey]

What is clear to me in all of this, and we've barely scratched the surface on what is a complex issue, what is clear to me is actually two things have become clear. One is this is not just a case of go see your lawyer, actually there is a team effort required here and in the case of Marcus, an independent financial advisor to give you that financial advice and clearly and actually I'd underestimate this slightly, you two work very much in collaboration. I think I'd viewed it as more of a separate pursuit but it's absolutely clear that you work hand in hand.

So that's been quite instructive for me. Another thing that I've really learned, and this is not a pun based on what we've just talked about, but trust is so important here. Everything that we're talking about here, provisions for when you die, who you're going to leave your affairs with and to, who you are going to trust in this case potentially you and Marcus, who you're going to trust to put that in order, who you're going to put at the head of your trusts, who you're going to trust to be able to have your lasting power of attorney.

Trust just flows through this like blood through a vein, and it seems that there's a lot of almost leaps of faith that you have to do in this process and that's what you knit together.

[Zoe Sivelle]

Trust really is at the heart of this. Trust in the solicitor to prepare your will and to put the right elements in there so that it does the job it needs to do after your death. Trust in people like Marcus as a financial advisor that the financial elements are all in order so that everybody works together in lifetime so that you know your affairs are in order after your death.

[Nick Coffey]

And your job is to just literally bring that all together.

[Zoe Sivelle]

To bring that all together so that the package of documents that the client has covers what they need in lifetime and after their death. And as Marcus says, if you don't organise your affairs before your death, someone else will do it for you after death and that might not be what you want.

[Nick Coffey]

I'm going to finish with Marcus, but I just thought of a really obvious question. Where do I leave my will? So, I've done all that.

I've got my package, I've gone to my solicitor, I've gone to Marcus, I've got my lovely batch of papers.

[Marcus Maisey]

We've had clients that lose wills as well.

[Zoe Sivelle]

Keep them somewhere very, very safe. We do keep wills in safe storage for clients in our storage facility. Some clients prefer to keep them at home but in a safe, a fireproof safe which is okay if that's what they want to do but always know where it is.

The original document is very, very important. It will be needed after your death and if it cannot be found, there is a presumption that it has been revoked, it is possible to what we call prove a copy which means submit a copy of the will to the probate registry but there are many hurdles to go through for them to accept that it is in fact your final will. So, the original document is really important.

[Marcus Maisey]

Yeah, and I had a client who kept the will in his safe. It's an old Barclays bank safe as well in his garage because I said, you're keeping your safe in your garage. He says, well, it is one and a half tons or whatever it was, and I said, well, where's the key for it?

And he said, oh, that's in the other safe. I said, right and where's the key from the other safe? And he said, well, that's under the floorboard in the shower room.

And I said to him, do your beneficiaries know where this is? He says, no, I haven't told anyone. So, the problem we've got is we would have to get a safe breaker in to get his will out of the garage.

[Nick Coffey]

I'm going to leave the last word with you actually, Marcus. In your experience as an independent financial advisor, how bad can it get? Why should anyone listen to this take from this episode that they need to do this properly?

[Marcus Maisey]

Oh, I mean, I think just for family harmony. I mean, I've seen people fall out over £15,000 and never speak to each other again, you know, and it goes back to what Zoe said earlier. If you don't plan your affairs during your lifetime, then legislation will, and that may not be what you want.

So, I would absolutely say that having a will is the first part of financial planning.

[Nick Coffey]

Can I leave you with a Yiddish word? There is a Yiddish word, which is one of those wonderful words, which sounds like what it actually means. And it's the word for family breakdowns and fallouts, the like of which you just literally described fallouts over money.

And it's a broygus, and it literally does what it sounds like. And it's a great word because it can be a verb and a noun. So, you can broygus with someone, or you can be in broygus with someone, or there can be a broygus between two people.

It's a great word. That's the linguist in me talking. But all of this comes down to this fact, doesn't it?

It's there to avoid broygus.

[Zoe Sivelse]

Absolutely.

[Nick Coffey]

You've both been brilliant.

I've learned quite a lot today, not least that wills are revoked the instant you get married, something I didn't realise. But what's come out strongly listening to both of you talk today is the importance of doing this right and getting the right advice. Marcus, where can we find you?

[Marcus Maisey]

So, we're on London Road in St Albans. You can get us on www.kdw.co.uk or phone number 01727852299 or probably through Zoe.

[Nick Coffey]

Yes, of course, Zoe, you're here at Taylor Walton. So www.taylorwalton.co.uk is the website and your email address is zoe.sivelse@taylorwalton.co.uk. How are we spelling Sivelse?

[Zoe Sivelle]

S-I-V-E-L-L-E

[Nick Coffey]

Thank you both. You've been brilliant. If you've enjoyed today's episode, please do follow this series. That way you'll get notified of all future episodes.

Until the next time from me, Nick Coffey and Marcus and Zoe, it's goodbye.

[Zoe Sivelle]

Goodbye.

[Marcus Maisey]

Bye.

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