

twm

solicitors

Lifestyle Wills



Lifestyle Wills – What are they?

We offer a range of 'Lifestyle' Wills which are designed to give extra protection, and sometimes some tax savings, over and above our 'simple' Wills.

These Wills suit everyone's lifestyles because they also provide flexibility for future generations so that the assets in your estate can be managed according to the needs of your family at the relevant time.

I have simple affairs – Is a Lifestyle Will relevant to me?

When we refer to 'simple' Wills we are usually referring to a Will which leaves everything to the surviving spouse on the first death and then down to children or other beneficiaries when the surviving spouse dies.

For some clients this kind of Will meets their needs. However, increasingly we are seeing circumstances where families could benefit from one of our Lifestyle Wills.

Some of these circumstances are:

Care Fees

If, like many, you are concerned about the impact care fees may have on the value of the assets that you will be able to leave to the next generation, then we can use the Lifestyle Will of the first spouse to die to ring fence their share of your estate so that their assets are not taken into account when assessing the survivor's ability to pay for their care.

Re-marriage of Your Spouse

Although a difficult topic to broach, it might be that your spouse decides to re-marry at some stage after you are gone. If this does happen and unhappily that marriage ends in divorce

then the assets protected by the first spouse to die's Lifestyle Will may not be directly available in any divorce settlement. Further, if you are concerned to ensure that your assets pass down to your children if your spouse re-marries (as opposed to them passing to the new spouse and their family) you can use a Lifestyle Will to ensure that this happens.

Divorce/Bankruptcy of Your Children

If you leave your assets to your children and they subsequently divorce or are declared bankrupt, then it is highly likely that the money you have left will be included in any divorce settlement, or taken by the trustee in bankruptcy.

A Lifestyle Will can be used to protect your assets in these circumstances.

Protecting Disabled Beneficiaries

If a member of your family has a disability or receives means-tested state benefits for any other reason, then a Lifestyle Will can be used to ensure that they can benefit from your estate but without affecting their entitlement to their state benefits.

A Lifestyle Will can also be used to appoint people to manage funds for a vulnerable beneficiary who would find it difficult to look after their inheritance themselves.

Family Business or Farm?

If you own or run a family business or agricultural holding, then our Lifestyle Wills can help you to make use of the inheritance tax (IHT) reliefs available to ensure that your business or farm passes down to the next generation in the most tax efficient way.

Saving Tax for Future Generations

If you are leaving money to members of your family, then you may be adding to the Inheritance Tax bills on their Estates on their death. A Lifestyle Will will be able to preserve assets for future generations, by ensuring that the value of your assets is not combined with the value of your childrens' estates for IHT purposes on their death.

Change in the Law

If the government were to revert to the pre-2007 tax position, removing the ability for a surviving spouse's estate to utilise two nil-rate bands, then having a Lifestyle Will would deliver significant IHT savings.

Even if these circumstances don't apply to you, a well drafted trust in your Lifestyle Will will leave you well prepared should any of these situations arise later.

In addition to 'simple' Wills, the following Lifestyle Will options are available:

Option 1: Nil-Rate Band Discretionary Trust – These Wills have the same basic structure as the simple Wills except that we add a discretionary trust of the nil-rate band in the Will of the first to die. The residue of the first to die's Estate passes to the surviving spouse. On the second death all of your assets could go to your children/other beneficiaries as normal.

Option 2: Business & Agricultural Property – This is an extension of option 1 for people who own business or agricultural property. The Wills would be as for option 1, but all property qualifying for the 100% relief and at least some of the property qualifying for the 50% relief from IHT would also be gifted into the trust.

Option 3: Flexible Life Interest – This option is an extension of options 1 or 2. A second trust is added on the first death, so that all of the first to die's assets are held within a trust environment. This second trust will end on the surviving spouse's death but by including this trust you will be ensuring that all of the capital in the first to die's estate is protected for the

next generation. This kind of trust can also offer opportunities for tax planning.

Option 4: Trust on Second Death – In addition, or instead of the options above, this option involves leaving the survivor's estate into a trust environment. This means that, going forward, all of the survivor's assets are in a protective environment.

If the value of the assets going into this trust on the second death are greater than the nil-rate band, then the trust will attract an IHT Ten Yearly Charge and a charge when property leaves the trust. Even if this is the case, it is not unusual for people to feel that the benefits of the protection offered by this type of structure outweigh the negative impact of the tax charge and this is something we can discuss with you.

Key Terms

Discretionary Trust

A trust where monies are held for a range of different beneficiaries, none of whom are automatically entitled to the trust monies.

Inheritance Tax (IHT)

The 40% tax rate applied to a deceased person's estate on everything over their available nil-rate band.

Nil-Rate Band

The amount an individual can give away free from IHT (Currently £325,000).

If you have a deceased spouse it may be possible to transfer their unused nil-rate band to your estate.

Ten Yearly Charge

An IHT charge levied mainly on Discretionary Trusts. The charge is 6% on the value of the trust that exceeds the nil-rate band after also allowing for any trust property which benefits from an IHT relief.

.....
For further guidance on any of the options highlighted in this document, please contact one of our private client specialists.
.....

CRANLEIGH

Broadoak House
Horsham Road
Cranleigh
Surrey GU6 8DJ

TEL: 01483 273515

EPSOM

123 High Street
Epsom
Surrey
KT19 8AU

TEL: 01372 729555

GUILDFORD

65 Woodbridge Road
Guildford
Surrey
GU1 4RD

TEL: 01483 752700

LEATHERHEAD

Sweech House
Gravel Hill
Leatherhead
Surrey KT22 7HF

TEL: 01372 374148

LONDON

1 Stephendale Yard
Stephendale Road
London
SW6 2LR

TEL: 020 7736 6277

REIGATE

40 West Street
Reigate
Surrey
RH2 9BT

TEL: 01737 221212

WIMBLEDON

7-9 Queens Road
Wimbledon
London
SW19 8NG

TEL: 020 8946 6454



Information contained in this document is correct at time of publishing (03/18) but may be subject to change.

Follow us:



@twmsolicitors