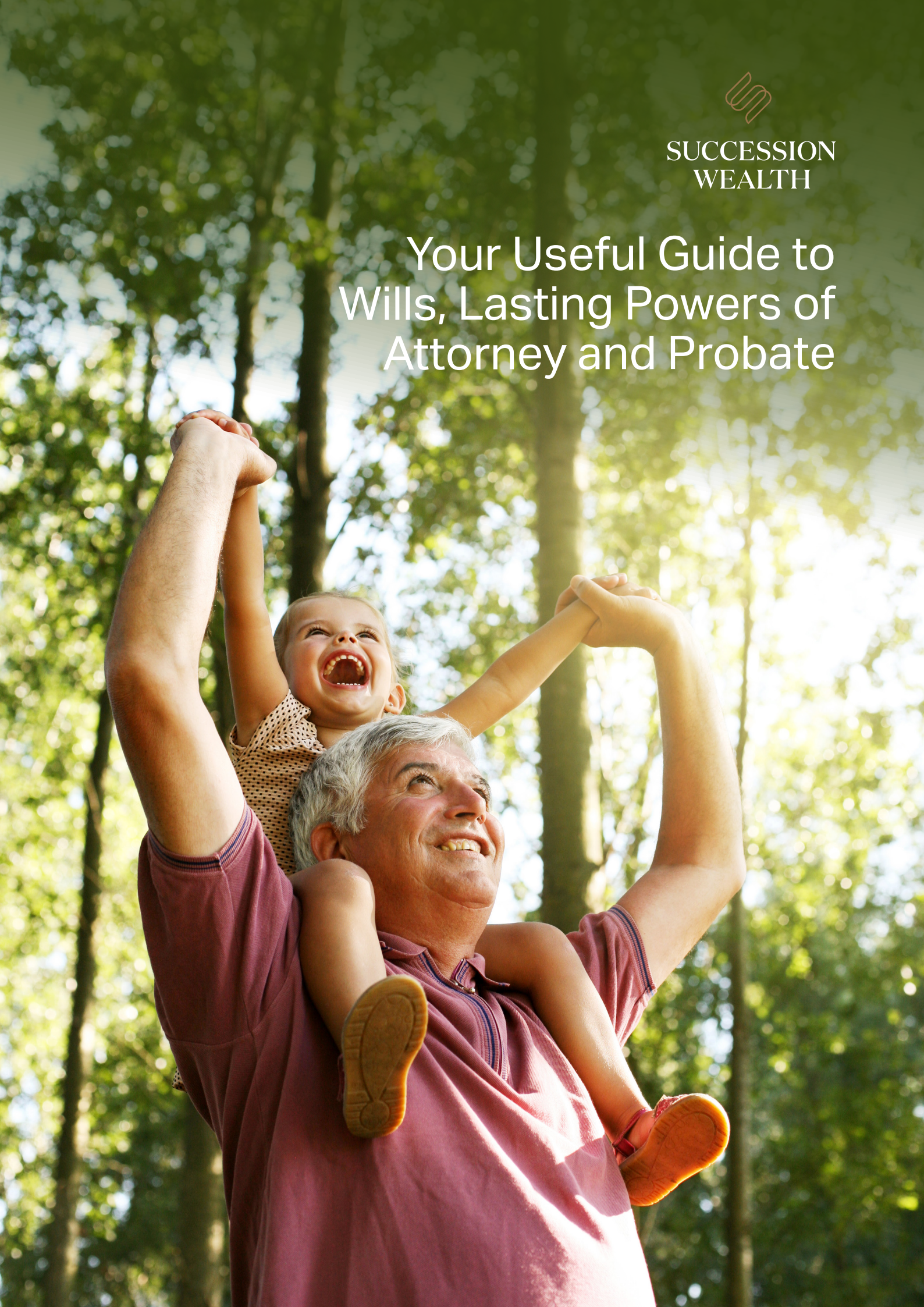
SUCCESSION WEALTH

Your Useful Guide to Wills, Lasting Powers of Attorney and Probate



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Welcome to Succession Wealth

Our Wealth Planners are here to help you take control of your finances and provide you with the confidence you need to go after the things that matter to you.

Succession Wealth Management Limited is a large national UK financial advice firm. Our teams of Wealth Planners deliver high quality independent advice to thousands of clients across the UK, and we're committed to helping people achieve more with their money.

Our clients are at the heart of everything we do and looking after their wealth journey is a privilege to us. The relationships we build last longer than a lifetime, and we are proud to provide advice across generations. When you choose to work with us, we promise to provide an exceptional personal service tailored to your unique financial aspirations.

This guide has been created to provide a high-level overview of Wills, Lasting Powers of Attorney, and Probate and may be useful in helping you understand the basics of how they work and what action you may need to take to implement them.

Dealing with the ill health or passing of a friend or family member can be one of life's most demanding experiences.

Whether you are caring for an elderly parent, or you've lost someone close to you, it is often a highly emotional and stressful time.

On top of processing your feelings of anxiety or grief, you may also be in a position where you are charged with looking after someone's affairs. This may be administering the estate of someone who has died, or taking on the responsibility of managing a loved one's finances when they no longer can.

This additional burden can be overwhelming at the best of times, let alone when you're already likely to be experiencing heightened emotions.

Fortunately, there are steps you can take to aid those close to you and to make life easier for your own family.

In this guide, you'll find lots of useful information about:

- Wills – The benefits of having a Will, how to write one, and why it's important to keep it up to date
- Lasting Powers of Attorney – How nominating a trusted attorney can give you peace of mind, how a Power of Attorney works, and the benefits of putting one in place
- Probate – When you need to apply for Probate, how the process works, and what you'll need to know if you're the executor of a Will

If you require more help in any of these areas, our experienced team here at Succession Wealth can provide support.

Email us at hello@successionwealth.co.uk or call us on 0800 051 4659 and we will arrange for someone to contact you.

Your guide to making a Will

A Will is a document that lets you decide what happens to your money, property, and possessions after your death. It may include provision for the distribution of:

- Property
- Cash
- Investments
- Savings
- Valuables such as jewellery, art, or items of sentimental value.

Your Will is a formal document that must comply with strict legal requirements regarding the content and how it is executed

Did you know?

Even though having a Will is so important, 50% of UK adults still don't have one in place. The top reasons for this are:

1. 24% believe they don't have enough assets or wealth to justify having a Will
2. 17% mistakenly believe that their loved ones automatically inherit their wealth
3. 15% believe they can't afford to make a Will
4. 15% think they still have ample time to make a Will.
5. 14% don't know how to make a Will.

Source: Canada Life

Five reasons why it's prudent to have a Will in place

If you pass away and don't have a watertight Will in place, there's a possibility that your Will could be disputed or your assets may not be divided in the way you wish, potentially affecting the financial security of your loved ones.

Read on to discover five key benefits of having a Will that dictates your wishes after you pass.

1. Peace of mind

It can be worrying to think that there will eventually be a time when you can't care and provide for your loved ones.

A Will can give you peace of mind that, even if you pass away unexpectedly, your wishes will be carried out in a way that is agreeable to you.

You can use your Will to allocate specific assets to your loved ones and make arrangements for your children. And, since it's an official legal document, you can rest assured that your wishes will be adhered to.

2. You could help mitigate an Inheritance Tax liability

After you pass away, there's a chance your loved ones may need to pay Inheritance Tax (IHT) on the value of your estate if it exceeds certain thresholds.

One of the advantages of having a Will in place is that you could strategically make the most of your allowances, which could, in turn, enable you to pass on more of your wealth to your family.

In the current tax year, you can typically leave up to £325,000 of your wealth to your loved ones without incurring IHT. This is known as the "nil-rate band" and is frozen until at least April 2028.

In addition, if you leave your primary residence to a direct lineal descendant, such as a child or grandchild, you may be able to take advantage of the "residence nil-rate band". This essentially means you can increase your IHT allowance by a further £175,000 to a total of £500,000.

So, for example, if you make it clear in your Will that you want to leave your home to a child or grandchild, you can take advantage of the residence nil-rate band and reduce a potential IHT charge.

Charitable Legacies

If you wish to use your Will to further reduce your Inheritance Tax (IHT) liability, you could leave money to charity.

Not only can this give you a sense of pride knowing that you're helping a cause close to your heart, but you can also mitigate IHT since the gift is exempt from the tax.

Better yet, if you leave at least 10% of the value of your estate to charity, you could reduce the IHT payable on your estate from 40% to 36% in the current tax year.

3. It could help your loved ones avoid inheritance disputes

If you don't have a Will in place when you pass away, your family members may not understand exactly how you wish your assets to be distributed.

In this instance, your loved ones may end up embroiled in a bitter dispute over the division of your wealth.

This is especially true if you have estranged family members, have remarried, or have both children and stepchildren.

If this happens, your loved ones could:

- Spend a considerable amount of money on legal fees.
- Be unable to pay important bills since they can't access your assets until the dispute is resolved.
- Experience negative emotions from the dispute, coupled with the grief of your passing.
- Face long-lasting divides between themselves and other family members.

Did you know?

As many as 10,000 people in England and Wales dispute Wills every year, and this number is rising.

In 2021/22, 195 disputes went in front of judges, up from 145 in 2017, and this doesn't cover the disputes settled out of court.

Source: The Guardian

An up-to-date and comprehensive Will can ensure that your loved ones fully understand how you want to split your assets, reducing the likelihood of a dispute.

To further ensure a seamless transfer of your assets, it can be helpful to sit down with your family before you write or update your Will and discuss your intentions with them. This approach can help loved ones to understand your choices, potentially mitigating the chance of any disputes occurring.

4. You can name a trusted guardian for your children

If the worst-case scenario should occur and both you and your partner pass away unexpectedly, it's essential to consider what might happen to your children.

If you don't make your wishes clear in your Will regarding the welfare of your children, you may have no control over who would care for them if you passed away. Typically, the courts will decide who to appoint as a guardian for your children, and it may be someone you wouldn't have chosen yourself.

You can outline your wishes for your children in your Will by naming a guardian. By doing so, you can secure a greater sense of control and avoid the courts having to decide on your behalf.

This can give you the peace of mind of knowing that, even if the worst should happen, the people most precious to you will be cared for by someone you know and trust.

5. It ensures your assets are divided according to your wishes

Above all, your Will allows you to decide who receives what after you pass away. Usually, if you die without a Will, a solicitor decides how to distribute your estate according to the rules of intestacy in England and Wales.

These rules can be strict, typically stating that only spouses/civil partners and close family members can inherit your wealth.

So, for example, if you aren't married to your partner, or wish to leave some wealth to your stepchildren, this can pose a significant problem if you don't have a Will. Ordinarily, they won't receive any inheritance if the intestacy rules are applied.

Conversely, if you have a Will that reflects your wishes, you can rest assured that your assets will be divided as you desire.

6 steps to consider when thinking about your Will

1

Take stock of the complete value of your estate

By considering and cataloguing all your assets, you can give yourself a clear picture of what you have and the assets you'll need to distribute.

2

Figure out how you want your estate to be divided

It's worth thinking about who you want to benefit from your wealth, whether you want to leave any specific gifts to individuals, and if you wish to leave any money to charity.

3

Speak to a lawyer

A solicitor or Chartered legal executive who specialises in Wills and Probate can give you invaluable advice.`

4

Obtain a capacity report from a Doctor

It may be wise to obtain a letter from your doctor certifying that you understand what you're signing so that your mental capacity at the time of making your Will cannot be challenge at some future date.

5

Ensure the Will has been signed and witnessed

In England and Wales, your Will must be signed by yourself and witnessed by two people.

6

Safely store your Will

You can store your Will at home, or lodge it with a solicitor or your bank.

Why it's essential to regularly review and update your Will

If you already have a Will, you may feel that you have taken a necessary step to ensure your affairs are in order for your passing, however making a Will can be a complex and involved process, and it may be prudent to seek legal advice to ensure that your Will reflects your wishes and is legally binding.

"DIY" Wills

While you could write your own Will, doing so may not be wise.

If you aren't aware of specific rules regarding the validity of your Will, or don't outline your wishes clearly enough, your loved ones may argue over your assets.

This could end up costing your family more in legal fees to settle any disputes than if you'd sought professional advice initially.

Don't take a "set and forget" approach to your Will.

Instead, it can be prudent to see it as a live document and update it regularly. Otherwise, your wealth may not go to those you desire if your circumstances later change.

Imagine, for example, you have a Will in place but get divorced.

Since divorce doesn't revoke a Will, if you pass away without updating it, your ex-spouse may still receive part of your estate. Moreover, your inheritance may not provide for any new partner or dependents.

Similarly, if you have since welcomed new children or grandchildren into the family, but haven't reflected this in your Will, the new arrivals may not be entitled to a share of your wealth.

As such, reviewing your Will at least every five years can be sensible.

If you decide to make any changes to your Will after reviewing it, you can add amendments through a codicil – a slight alteration that needs to be signed and witnessed in the same way as your Will – or by writing an entirely new Will that clearly states your previous Will is invalid.

It's worth remembering that if you remarry or enter a new civil partnership in England and Wales, this typically cancels your previously existing Will.

Rules regarding Wills differ in Scotland

While Wills are similar in England, Wales and Northern Ireland, there are some key differences in Scotland.

Wills in England, Wales and Northern Ireland

- Your old Will automatically becomes invalid if you remarry
- You only need one signature on the Will for it to be valid
- Both witnesses need to sign the Will and provide their name, address and occupation

Wills in Scotland

- Your old Will remains valid if you remarry
- You and one adult witness should sign at the bottom of each page of the document
- Witnesses typically must provide their name, signature, and contact details
- "Prior rights" means you can't legally exclude a spouse from your Will, and they may be able to inherit property up to £65,000 and cash of up to £21,000 (or £35,000 if you have no children)

Your guide to Lasting Powers of Attorney

A Lasting Power of Attorney (LPA) is a legal document that allows you to appoint someone trustworthy to make decisions on your behalf if you can no longer do so or, in the case of financial matters, you no longer wish to.

While it is a common misconception that your next of kin would automatically be able to make decisions for you if you were incapacitated, this isn't necessarily the case. Even your spouse or civil partner may struggle if you haven't prepared properly.

An LPA is an incredibly beneficial estate planning tool. However, it's essential to remember that you can only put an LPA in place while you still have mental capacity. If you wait until you're diagnosed with an illness or you're in hospital, it may be too late.

There are two common types of LPA in England and Wales:

1. Health and Welfare LPA

This gives your attorney the power to make decisions regarding your daily routine, medical care, whether you move into a care home, and any life-sustaining treatments you may need.

You must have lost mental capacity for this type of LPA to come into effect.

2. Property and Financial Affairs LPA

This allows your attorney to make decisions about managing your bank and building society accounts, paying bills, collecting benefits such as your pension, or even selling your home.

You do not have to lose mental capacity before a trusted attorney can act on your behalf in financial matters.

Five benefits of having a Lasting Power of Attorney in place

If you don't have an LPA in place, you could inadvertently end up creating issues for yourself and your loved ones should you lose capacity.

Here are five benefits of having an LPA in place:

1. It puts you in control

The main benefit of an LPA is that you can nominate a trusted person (or people) to make decisions on your behalf. Without one, the courts may have to appoint a "deputy" to act on your behalf, and this may not be the person you would have chosen yourself.

You can also control the sorts of decisions your attorney(s) can make, and you can appoint as many attorneys as you like.

For example, you may choose a trusted colleague to make important decisions about the running of your business, and a family member to oversee your personal finances.

Since you can tailor your LPA to your unique needs, this can give you a sense of control over how your affairs will be managed should you lose capacity.

2. It can cover any eventuality

You can use your LPA for temporary situations, such as short-term hospitalisation after an accident, as well as for more long-term conditions, such as in the event of a dementia diagnosis.

Remember that a health and welfare LPA comes into effect as soon as you cannot make decisions for yourself regarding your wellbeing. Meanwhile, a property and financial affairs LPA can come into effect whenever you choose.

These options mean that you can cover all your bases and prepare for any future eventuality.

3. Decisions regarding your financial affairs or physical wellbeing can be made quickly

If you become mentally or physically incapacitated and you don't have an LPA in place, your loved ones may need to apply to the Court of Protection to appoint a "deputy" to manage your affairs.

This can take time – sometimes as long as six months – and could leave your family members facing financial hardship while the Court of Protection processes the application.

Instead, if you've nominated an attorney, they can deal with your affairs immediately. This means a trusted person can begin to make important decisions straight away.

Did you know?

Severe illness can strike at any time.

15% of strokes affect people under the age of 50, while global cases of early-onset cancer rose from 1.82 million in 1990 to 3.26 million in 2019.

Source: Everyday Health and the Guardian

4. It can protect you at any stage of your life

It's easy to think that you'd only need an LPA in the later stages of your life, especially since the document is often associated with supporting people with dementia or Alzheimer's.

However, this isn't necessarily the case, as the unexpected can strike at any time.

Even a short-term illness or period in hospital could leave you unable to manage your affairs. This could be especially damaging if you have a young family relying on you.

Additionally, as you must have capacity to make an LPA, it's important to do it sooner rather than later – as you never know what might be just around the corner.

Thankfully, by having an LPA in place, a trusted person can look after your affairs – no matter what stage of life you're at.

5. It can give you much-needed peace of mind

Above all, having an LPA in place can give you the peace of mind that your financial and physical wellbeing will be looked after if you can no longer do this yourself.

Moreover, since your LPA will remain in place for your lifetime (or until you stipulate otherwise) and because you will have chosen an attorney (or attorneys) that you trust, you don't have to worry about your loved ones struggling if you can't make decisions for yourself.

5 quick steps to set up a Lasting Power of Attorney

1. Obtain the LPA forms or use the Government's online service. Seeking advice from a certified professional can add value and ensure your LPA is set up correctly.

2. Fill in the forms carefully.

3. Sign the completed forms and send them back to the Office of the Public Guardian.

4. Have the LPA document signed by someone you've known well for at least two years or a professional person to confirm you understand what an LPA is and that you haven't been coerced into making one.

5. Send the forms back to the Office of the Public Guardian to register your LPA.

The rules governing Lasting Powers of Attorney can differ across the UK

Nominating an LPA is another aspect of your estate plan that can change depending on where you live. Whilst the rules governing LPA are the same in England and Wales, they differ in Scotland and Northern Ireland.

Powers of Attorney in Scotland

Powers of Attorney in Scotland works much like they do in England and Wales, though the titles differ somewhat. The three main types of Powers of Attorney in Scotland are:

- **Continuing** – deals with your property and finances.
- **Welfare** – deals with your health and any general welfare decisions.
- **Combined** – gives your attorney the powers of both Continuing and Welfare Powers of Attorney.

Powers of Attorney in Northern Ireland

Unlike in Scotland, England, and Wales, you can't give someone the legal power to make decisions regarding your health and welfare in Northern Ireland. You can, however, nominate an attorney to look after your finances, and there are two main types of Powers of Attorney:

- **General** – a temporary Power of Attorney which is no longer valid if you lose mental capacity.
- **Enduring** – an ongoing arrangement that is valid even if you lose capacity. It allows you to appoint an attorney to make decisions regarding your finances and property.

Your guide to Probate

Perhaps one of the most challenging and complex aspects of dealing with a loved one's estate after they pass away is the "Probate" process.

Probate refers to a legal document that gives you the authority to carry out the wishes within someone's Will, but it can also refer to the entire process of settling someone's estate. This could include:

- Obtaining permission from the court to distribute assets
- Paying Inheritance Tax
- Dividing wealth

Probate is typically needed when a person who dies owns property or who has assets in their name.

Probate or "Letters of Administration"?

In some circumstances, if you want to deal with the estate of someone who has died, you will have to apply for "letters of administration" rather than Probate. You will have to apply for letters of administration if:

- There is no Will
- A Will is not valid
- There are no executors named in the Will
- The executors cannot or are unwilling to act

There are strict rules about who can be an administrator, so seeking legal advice may be beneficial.

In certain cases, Probate or letters of administration may not be required. Examples of this are if:

- The estate is just made up of cash and personal possessions such as a car, furniture, and jewellery
- The amount of money is small
- All the property in the estate is owned as "beneficial joint tenants" meaning that this property automatically becomes wholly owned by the other owner

How does the Probate process work?

When someone passes away, the first step is usually to establish whether they have left a Will. If they have, they may have named a suitable executor.

However, if the Will doesn't name an executor, or they aren't willing to act, you have to apply for letters of administration before you can deal with the estate.

If you have been chosen as the executor, you can decide to deal with the estate yourself or appoint a professional to act on your behalf.

It may be wise to appoint a professional to help you manage things if the deceased's estate is complex.

If you decide to administer the estate yourself, you must submit the relevant application, namely for a "Grant of Probate", which you can read more about later in this guide.

A glossary of common Probate phrases

Beneficiary: Someone who will receive a gift, lump sum, or share of the estate.

Estate: All of the assets owned by a person, such as savings, property, and other material goods.

Executor: The person appointed in a Will to administer the estate.

Six things to do if you've been named executor of a Will

While being named executor of someone's Will may seem somewhat daunting at first, there are some simple steps you can follow to smooth the process.

1. Ensure that you are reading the most recent version of the Will

Before you do anything else, it's prudent to make sure that the version of the Will you're referring to is the most recent one.

If the deceased has since made an updated version, and you don't realise, you may end up carrying out their wishes incorrectly.

If you're unsure whether you're reading the most recent version, you may want to contact their solicitor.

2. Arrange their funeral

As executor of someone's Will, you are responsible for arranging their funeral and ensuring that you follow their wishes.

Of course, you don't need to make all the arrangements yourself – you could ask your friends and family to support you through this.

3. Take stock of all the deceased's assets

Next, you may want to start building a clear picture of the deceased's assets and their overall value.

Review their paperwork to track down any of their bank accounts, investments, pension providers, and protection policies.

When you've located them, it can be helpful to let the provider know that the deceased has passed away so they can freeze the accounts.

This could also be the time to take any of their debts into account, as these will typically need to be paid from the estate.

4. Pay any Inheritance Tax

In the current tax year, the deceased's estate won't need to pay IHT if the value is less than the nil-rate band, standing at £325,000.

Moreover, if a qualifying property is left to children or grandchildren, the £175,000 residence nil-rate band can be used.

The deceased may also benefit from some of their late spouse/partner's nil-rate band if this was transferred on their passing.

Any portion of the estate that exceeds these thresholds is typically liable for IHT at the standard rate of 40%.

IHT can be a complex area, so seeking advice can ensure you pay the correct amount of any tax that is due.

5. Apply for "Grant of Probate"

"Grant of Probate" allows you to administer someone's estate when they pass away, and you can apply for this online or by completing a paper form.

It's worth remembering that, before you apply, you must have estimated the value of the estate and established whether any IHT is due.

You'll also need the death certificate or an interim death certificate from a coroner to apply. Then, when Probate is granted, it's worth sending copies to any organisations that hold the deceased's assets so they will release them to you.

6. Distribute the estate

Once you have the Grant of Probate, you're now ready to distribute the assets of the deceased's estate according to the terms of their Will.

This could vary from person to person. For example, a "pecuniary bequest" means leaving a fixed sum of money, while a "residuary request" means leaving an overall portion of the estate.

It's essential to keep clear records of how you divided the assets to ensure you can answer any questions regarding how you administered the estate.

The need for Probate

The rules surrounding when Probate is required vary across the UK, depending on the type and value of the deceased's assets.

However, in general, when someone dies, if Probate (known in Scotland as "Confirmation") is required, it must be obtained before the executors can deal with the deceased's money and property and distribute it to the beneficiaries.

It is important to confirm the specific rules of your own country's jurisdiction before taking any action.

Did you know?

The time it takes for Probate to be granted can vary. While applications have previously taken between seven to 10 working days, some solicitors recently cited delays of at least 30 weeks to a year.

Source: The Law Society Gazette

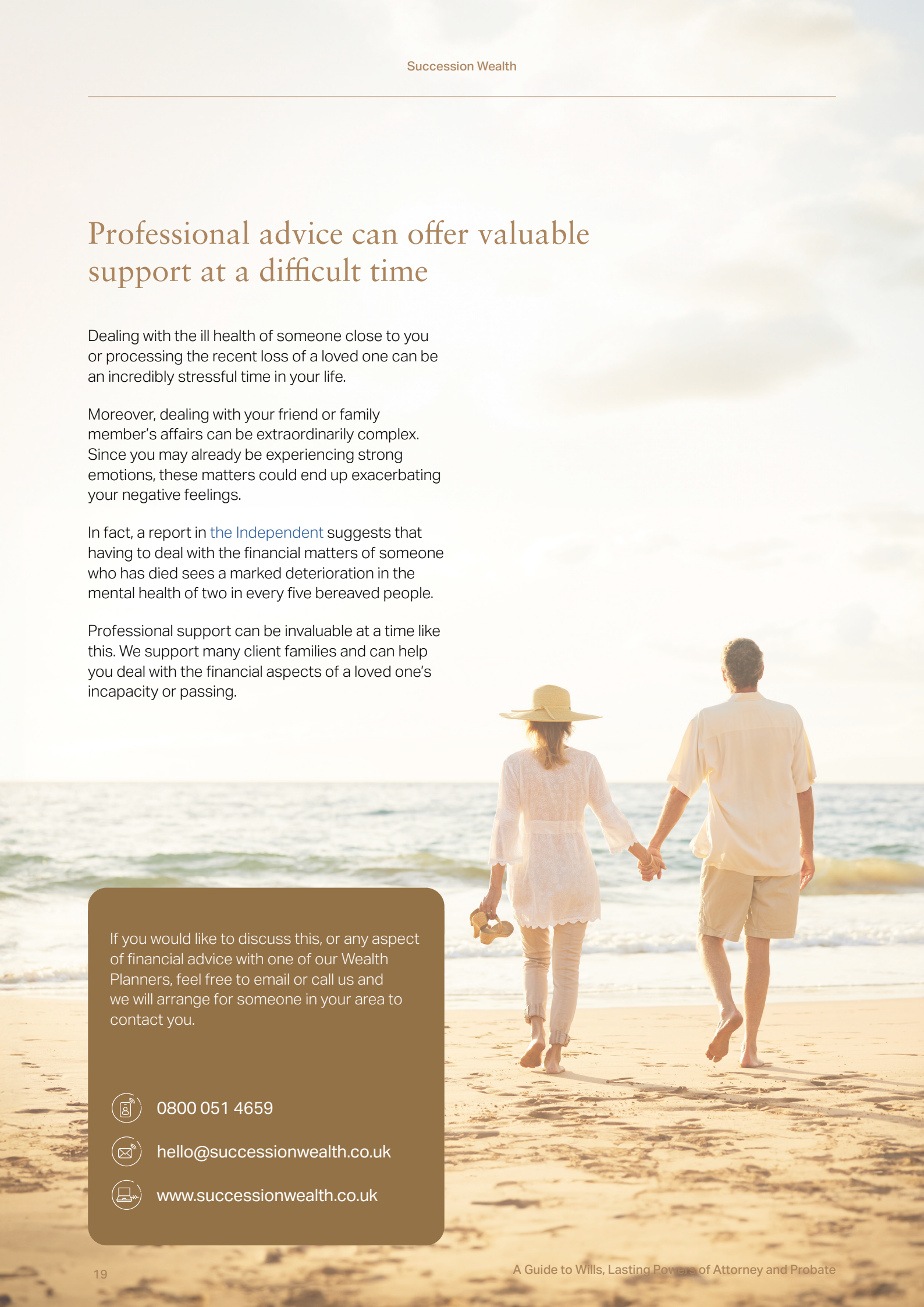
Professional advice can offer valuable support at a difficult time

Dealing with the ill health of someone close to you or processing the recent loss of a loved one can be an incredibly stressful time in your life.

Moreover, dealing with your friend or family member's affairs can be extraordinarily complex. Since you may already be experiencing strong emotions, these matters could end up exacerbating your negative feelings.

In fact, a report in the Independent suggests that having to deal with the financial matters of someone who has died sees a marked deterioration in the mental health of two in every five bereaved people.

Professional support can be invaluable at a time like this. We support many client families and can help you deal with the financial aspects of a loved one's incapacity or passing.



If you would like to discuss this, or any aspect of financial advice with one of our Wealth Planners, feel free to email or call us and we will arrange for someone in your area to contact you.

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