



Viewpoint

- Inheritance Tax - Is Radical Reform on the Horizon?
- Attorney's Roles and Responsibilities - Where to Start?
- Buying or Selling a House? Meet Your Local Solicitor

Welcome to the Autumn 2018 Edition of Viewpoint



Michelle Rose - Partner

0117 314 5246

mrose@vww.co.uk

Following the longest, hottest summer in the UK since times when flares were in fashion and Orla Kiely™ wallpaper was considered standard pattern, I for one, welcome the current season change to that of autumn's mists and mellow fruitfulness of the maturing sun.

As the Brexit negotiations struggle on beyond Dover, in matters much closer to home, our Private Client team continues apace to broaden in strength and depth.

We welcome this autumn:

- Genevieve Gallagher, Associate in our Watford office, who joins our Estates, Tax planning and Trusts team
- Carly Weyman, Associate who works alongside Partner Lucy Barr, in our Birmingham office's Family team

We also welcome back to our Contentious Probate team:

- Associate, Vicky Ward after a five year career break, who is based in our Bristol office

We are excited about the plans for our London office's move to a new location, which our London clients will no doubt wish to follow the latest developments on and I will keep you updated on these.

In this edition, we include an article on LPAs, which we promised would follow on from our last edition. There is also a Q&A with our Bristol solicitor in our Residential Conveyancing team. There will be Q&A's for our Birmingham readers in future editions.

I hope you find our articles interesting reading.



Inheritance Tax - Is Radical Reform on the Horizon?

Inheritance tax is widely considered to be the most difficult and complex area of tax, both for the general public and for professional advisers.

The Office of Tax Simplification (OTS) has recognised this, and earlier this year asked the public for views on the practical problems faced when administering estates, and calculating and paying inheritance tax.

In response to the call, the Association of Accounting Technicians (AAT) has identified some interesting points:

- Inheritance tax receipts raised a record high £5.3 billion in the year to February 2018. Despite this, inheritance tax is paid for in only 4% of estates.

be reconsidered. In the view of AAT, this exemption provides unjustifiable tax avoidance and the unintentional promotion of AIM-listed companies.

- More than half of those who die in the UK fail to make a Will, and of those who do, only 6.2% leave a will that contains a gift to charity. Bearing in mind that only 4% of estates are taxable, AAT believes that the charitable exemption is an unnecessary complexity that adds little, if any, value and should be scrapped.
- Given the average UK house price and the value of the average UK family's savings and investments, the nil rate band allowance should remain at the current level, (£325,000 for individuals or up to £650,000 combined allowance for married couples/civil partners) particularly in light of the implementation of the RNRB.

“ Inheritance tax receipts raised a record high £5.3 billion in the year to February 2018. ”

- A grant of probate can only be obtained once inheritance tax has been paid, which means that personal representatives are often restricted from using estate assets to pay the inheritance tax bill. This can cause cash flow problems for executors.
- The residence nil rate band allowance (RNRB) has been widely criticized for being far too complicated. The recommendation from AAT is that the new allowance should be merged with the existing nil rate band allowance (the tax-free allowance), effectively increasing the nil rate band for all estates.
- The schemes for business property relief and agricultural property relief need to be revised so that they can no longer be exploited for tax reasons by those who do not genuinely own a business, or who are not farmers. These schemes cost the taxpayer over £1 billion annually.
- The exemption that allows shares in certain AIM-listed companies to be exempt from inheritance tax should

It is important to note that these are the views of AAT and are not necessarily shared by other professionals.

The government's acknowledgement of the complexities of inheritance tax is the first step towards change. It remains to be seen whether the result will be a wholesale change, including scrapping the current system, as suggested by some, or something less radical. Certainly some changes to the current system appear likely. The OTS report is due to be published this autumn.

If your estate is over the tax-free threshold, it is important to review this with your adviser to maximise possible tax-savings.



Mary McCrorie - Partner

0117 314 5368 - mmccrorie@vww.co.uk

Attorney's Roles and Responsibilities - Where to Start?

Most people are aware that there are two types of Lasting Power of Attorney (LPAs), a Property and Finance LPA and a Health and Welfare LPA.

Attorneys under each type have different roles and responsibilities, but both should remember that they have various duties of care towards the person who appointed them (the donor) and that above all, they must act in the best interests of the donor.

Donors can appoint more than one attorney if they choose, who can either be appointed to act 'jointly' or 'jointly and severally'. The distinction is that if attorneys are appointed jointly then both or all the attorneys must agree on the decisions being made, no matter how big or small, before any action can be taken. Attorneys who are appointed jointly and severally have more flexibility, as they are able to act independently of each other too.

“A Health and Welfare LPA is different from a Property and Finance LPA in that it can only be used once the donor has lost capacity.”

Problems can arise in practice if an attorney is unclear about what they are able to do and what is not permitted. We have set out below some helpful points that attorneys should be aware of, depending on which type of LPA they act under.

Property and Finance Attorneys

Attorneys need to check if there are any restrictions made in the LPA by the donor about the authority they have to act. An example of a restriction could be that the attorney is not authorised to sell property on behalf of the donor without seeking specific permission to do so from another party or from the Office of the Public Guardian.

If a donor has made no restrictions on the attorney's authority to act, the attorneys have relative freedom to act, taking steps such as paying bills, signing cheques and investing funds.

Attorneys should also seek out any letter of wishes that the donor may have made with the LPA, in which the donor may set out their individual preferences or instructions to their attorney.

Certain generic restrictions also apply, such as in making gifts and it is important to be aware of those restrictions.

Making Gifts

Regular gifts may be made from the donor's accounts, as long as they are gifts that the donor would have made and provided they are within certain limits. As a rule of thumb, gifts of more than £3,000 in any single tax year are likely to exceed the limit. For gifts that are in excess of the limits, Court approval is required. If an attorney is in doubt about whether a gift may exceed the limits, expert advice should be obtained.

Keeping Accounts

As an over-arching principle, attorneys should never mix a donor's finances with their own. Separate accounts should always be maintained so that the donor's money is clearly identifiable from the attorney's.

The LPA should be registered with the care home and hospital, if appropriate to do so.

What if Different Attorneys Are Appointed for Different Tasks?

If the donor's attorneys for Health and Welfare are different from the attorneys for Property and Finance, it is important that both sets of attorneys discuss with each other the effect certain decisions would have on the donor.

The most obvious example is moving the donor to a care home. The division of tasks in that example would be that the attorney for Health and Welfare decisions would pick a suitable care home that meets the donor's needs, but the Property and Finance attorney would check whether the donor has the means to pay for care at that care home and be responsible for making those payments.

Attorneys should record and list all expenses that they incur and for which they seek reimbursement from the donor's funds. The expenses must be reasonable and have been incurred in their role as an attorney.

Attorneys should also remember to register the LPA with the donor's bank. This can be done as soon as the LPA has been registered, or when the donor loses the ability to act for themselves. If the donor still has capacity, the attorneys should check that the donor wishes them to register the LPA on the donor's account before taking any action.

Health and Welfare Attorneys

A Health and Welfare LPA is different from a Property and Finance LPA in that it can only be used once the donor has lost capacity.

Attorneys can, at that point, make decisions about the donor's medical care, pay for the donor's clothes or other personal care expenses (such as hairdresser costs, toiletries and food) and provide the donor with extra day-to-day support.

Specialist Advice

Given the pitfalls for attorneys who do not fully understand the implications of their role, we recommend that specialist advice is sought by attorneys when taking up their role. In this way, attorneys can be clear about their duties and powers from the outset and be made aware of any specific or general restrictions they must follow.

Our expert team of advisers are well-versed in guiding attorneys through the requirements of their role.



Rachael Armstrong - Partner

0121 227 3726 - rarmstrong@vww.co.uk

Buying or Selling a House? Meet Your Local Solicitor

Margrielle Blake is an Associate in our Residential Conveyancing team, in our Henleaze, Bristol office. She answers our questions below.

Everyone has an opinion on property, but what misconceptions do people have about conveyancing?

The main misconception is that the process is straightforward and easy! This is not often the case, which is why a good local solicitor is the key to a smooth transaction.

What advice would you give someone searching for a conveyancing solicitor?

Search out a local solicitor. Having the ability to meet and discuss the process with them face-to-face is beneficial in many ways.

How best can someone prepare before coming to see a solicitor to buy or sell a house?

Ask questions from the outset about the process so that you become familiar with the steps that need to be taken. Advise your solicitor of your needs and wishes to ensure they are able to provide specific regular updates throughout the transaction. No question is silly, please just ask, ask, ask!

“ Housing prices in Bristol have risen faster than any other major city in the last five years. ”

What part of the work do you most enjoy?

Meeting the clients and helping them achieve their goal of moving into their new home. It is so satisfying when the clients are pleased with their moving experience.

Tell us something about yourself and why people should contact you?

I am very approachable and have acquired an extensive breadth of knowledge in conveyancing, having worked in the industry for over 15 years. I have experience in a wide range of transactions, from individuals buying local property, to large developments and assisting high net worth individuals purchasing properties around the country. I have seen many changes and have learned to adapt to the pace of each transaction.



What common pitfalls do people make when buying or selling a house?

Underestimating the timescale of a transaction. There will be varying factors that will dictate some of the pace, such as the time it will take to reach completion. We will help to manage your expectations and ensure you're well informed in each step of the process.

How is the Bristol market performing?

Housing prices in Bristol have risen faster than any other major city in the last five years. There are several new build construction sites across the city and there are some major business investments planned for Bristol, and this can only be good for the local economy.

Tell us one interesting fact about you?

I have worked in the British Virgin Islands and whilst I was there I learnt to sail.

Find Out More About Our Services

Please contact Michelle Rose if you would like to receive a copy of the below:

- *Lasting Powers of Attorney* - losing mental capacity could happen to anyone, at any time
- *Family Matters* - guidance on matrimonial and family issues
- *Five Good Reasons to Review Your Will*
- *Ten Good Reasons Why You Should Choose VVV to Prepare Your Will*
- *Private Wealth Planning for You and Your Family*

Receive Viewpoint by Email

Would you like to receive Viewpoint by email rather than hard copy?

If so, please contact Laura Loveridge on 0117 314 5371 or lloveridge@vvv.co.uk.

Have Your Say

We are conducting a short survey to understand your thoughts on the use of new technology when preparing Wills and administering estates.

To take part and have the opportunity to win a £50 M&S hamper, please email jmerrell@vvv.co.uk.



@VVVPrivClient

Margrielle Blake - Associate

0117 314 5380 - mblake@vvv.co.uk

In the next edition, we will be introducing Birmingham-based Solicitor, Asia Qureshi, in our Residential Conveyancing team.



Lexcel
Practice Management Standard
Law Society Accredited

 INVESTORS
IN PEOPLE

ajames@vvv.co.uk | vvv.co.uk

 VVV