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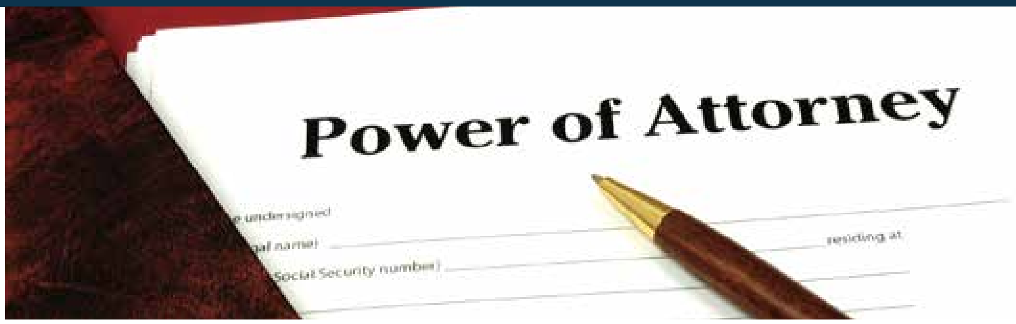
LASTING POWERS OF ATTORNEY – AVOID A LIFETIME LEGACY OF WORRY



Around 31 million British adults have no will according to a recent survey by Which?

There is a regional split in those without a will – 42% of adults in England say they have a will, 35% in Wales and 31% in Scotland. The reasons quoted for not having a will are pretty varied, but often revolve around a lack of understanding of the intestacy provisions and a belief that the individual doesn't have enough money or other assets for a will to be necessary. Many people also don't like to discuss the issue of death and so also avoid discussion around writing a will.

While dying intestate can cause many problems for those left behind, it's fair to say that it doesn't impact on the deceased. And this lack of a direct consequence of inaction may also contribute to the fact that so few people have taken the trouble to write a will.

But there is another legal document, often called a living will, which does impact directly on the individual who sets it up. According to figures for the end of 2016, less than 4% of the adult population of the UK have set up what is properly called a *'Lasting Power of Attorney'* (LPA).

The LPA is designed to allow an individual (known as a donor) to appoint, in advance, another person, the *'Attorney'* to look after their affairs should they become unable to do so themselves due to mental impairment. In England and Wales, there are two types of LPA: one deals with Property and Financial Affairs, while the other deals with Health and Welfare. The Scottish system is similar and also has two types of agreement, while in Northern Ireland there is no arrangement to provide for Health and Welfare decisions.

LPAs (Enduring Power of Attorney (EPA) in Northern Ireland) are important. Without them, there is nobody who has an immediate right/duty to manage an individual's affairs.

As an example, a Property and Financial LPA (or equivalent) will allow the Attorney to deal with the donor's:

- Bill payments
- Bank etc. accounts
- Collection of benefits and pensions
- Property sales etc.

While a Health and Welfare LPA, or Welfare Power of Attorney in Scotland, allows the Attorney to make treatment and other decisions on behalf of the donor regarding:

- Activities of daily living (washing, dressing, eating, etc).
- Medical care
- Moving into a care home
- Life sustaining treatment, etc.

An LPA can be vital if you hold joint assets, as the assets may not be able to be sold without a court order appointing a *'deputy'* if you lose your mental capacity without a valid LPA. Anyone over 18 can apply to become a deputy, providing nobody objects to their application, and they have the necessary financial experience if they've applied to be a *'Property and Financial Affairs'* deputy.

A deputy's powers are much more limited than those of an Attorney who has been appointed under an LPA, and they must pay an annual fee to renew their deputyship.

Obtaining an LPA or equivalent is a straightforward and inexpensive process, which makes the current low take up especially strange.

Premium Bonds – A good investment?

Premium bonds are an incredibly popular savings vehicle, with over 21 million bond holders and around £72 billion *'invested'*. And yet, they really aren't a savings vehicle at all. There is no interest rate, although NS&I provide a guide *'return'* of 1.4% (effective from 1st December 2017). But this return is in the form of *'prizes'* varying from £25 to £1 million. It is in fact extremely unlikely that anyone will see the 1.4% return - a few will receive significantly more while the vast majority of bond holders will receive considerably less.

The perceived benefits of Premium Bonds are that they are 100% guaranteed by the Government and that any prizes received are free of tax. Of course, there's also the thought of the possibility of winning big! While not a savings vehicle, Premium Bonds are also not a lottery, since the *'stake'* will be returned on demand. The only loss is to the spending power of your £100 (minimum purchase price) as it fails to keep pace with inflation.

The current tax rules for savings income has removed the tax advantage of Premium Bonds for the majority of the population, as the personal savings allowance (PSA) means that basic rate tax payers will only pay tax on interest from true savings accounts if they receive more than £1,000 pa, while 40% tax payers will only pay tax on interest over £500 pa. Non-taxpayers will, like everyone else, receive interest gross and will not have to account for any tax. So only 45% tax payers or those with significant deposits now need to seek tax free interest and, for them, Premium Bonds may still be attractive, especially as the prizes aren't set against the PSA. Although the *'return'* of 1.4% is low, it still compares well with instant access *'cash'* ISAs.

Security is also, possibly, over-rated. Deposits are, generally, covered by the FSCS up to £85,000 so they stack up well against Premium Bonds on this front as well.

Of course, there's still the fact that you might win big! There are two £1 million prizes every month (as of 1st December 2017) and the odds of winning that in any one month are a mere 35,926,766,878 to 1!

So if you have some Premium Bonds – and over 100,000 of us have the maximum £50,000 holding – and you want a guaranteed return of more than 0%, it may be time to reconsider whether you should switch out to some sort of deposit account. But the lure of that big win will be a significant factor, whatever the numbers say.

State Pension – Calculation errors.

A Financial Times report in June revealed that many thousands of people have been receiving the wrong amount of State Pension. The errors have resulted in both under and over-payments so that some pensioners will see a fall in the amount they receive when the corrected figures are implemented (they will not have to repay any overpayments received) while others will receive lump sums representing the under-payments (although no interest will be paid).

This is the current status of a review which started in 2014 and will be completed at the end of this year. It has found discrepancies involving poor record keeping, errors and missing paperwork according to the FT.

These findings will cause some doubts over the validity of pension forecasts, which many rely on when planning their personal retirement funding. To obtain guidance from the Pension Service, whether you are in retirement or seeking an up-to-date forecast, follow this link www.gov.uk/contact-pension-service.

Anyone already in receipt of the State Pension will be contacted by the DWP if they are affected by these findings.

The errors uncovered relate to the Guaranteed Minimum Pension (GMP), which was a form of protection for anyone who was *'contracted-out'* of the State Earnings Related Pension Scheme (SERPS). Employers, in effect, guaranteed that *'contracted-out'* employees would receive substantially the same benefits as if they had been in SERPS. This was an especially complex area of pensions legislation and it is not surprising that errors occurred.

If you have not yet retired but have made plans based on a pension forecast, which has always been seen as the prudent way to plan for retirement, and were contracted out of SERPS, it would be prudent to seek a revised forecast. These should be available from the Pension Service by October of this year.