

ADVANCE DECISIONS also known as LIVING WILLS and ADVANCE STATEMENTS

Advance Decisions

Definition

- Decision to refuse life sustaining treatment
- Applies if you have lost mental capacity
- Must have capacity at time you make it
- Must be in writing signed and dated
- Binding

Advance Statement

Definition

- General statement of wishes about future care if you are unable to communicate your decisions or preferences
- Preferably in writing
- Not binding however those taking best interest decisions should take it into account
- May be affected by making of an LPA

Reasons to make Advance Decision/ Advance Statement

- Choice
- Helps family next of kin
- Peace of mind

Cost

- None

LASTING POWERS OF ATTORNEY (LPA)

Definition

- Legal document allowing someone to make decisions or act on your behalf because either you lack mental capacity or you no longer want to make your own decisions
- Can be short or long term
- Two types
- Wealth and Finance
- Applies immediately unless you state otherwise e.g. Buying selling property investments paying Bills property maintenance
- Health and Welfare
- Applies if lost mental capacity e.g. medical care lifesaving treatment

History

- Replaced Enduring Power of Attorney 2007
- EPA still valid and can still be registered

Reasons to make LPA

- Can apply immediately or when you lose capacity
- Control
- Choice
- Easier for next of kin
- Removes necessity of applying to Court of Protection

Procedure

- On line or in writing
- DIY /Solicitor /Advice Agency
- Need mental capacity
- Appoint Attorneys and possibly replacement attorneys
- Signed and witnessed by the Attorney (Replacement Attorneys) and the Donors
- Verified independently either by a professional or someone who has known you 2 plus years
- Notification optional can notify up to 5 people
- Registration with Office of Public Guardian

Cost

- Office of Public Guardian fee £82 for each type of LPA
- Independent verifier may charge
- May be some fee reductions depending on circumstances
- Solicitors Fees

WILLS AND PROBATE

Why make a Will

- Certainty
- Choice
- Peace of Mind
- Easier for next of kin/relatives

What if you don't make a Will (Intestacy)

- Estate less than £250,000
- All passes to surviving spouse
- No spouse to children (not step children)
- Estate more than £250,000
- 1st £250,000 to spouse plus 50% of remainder
- the other 50% of the remainder to children not step children
- No spouse to children (not step children)
- No spouse or children Intestacy Rules apply

How to make a Will

- Solicitor/Will Writer
- DIY

- Must have mental capacity
- In writing
- Signed Witnessed Dated

What to include

- Making Will for today need to regularly review
- Executors
- Ideally Executors should be aware of appointment but don't need to know what's in your Will or sign it
- Guardians for children under 18 even more important to get their agreement!
- Funeral preferences
- Personal Possessions (List kept with Will)
- Legacies
- Residue

After made Will

- Storage Safe Bank Solicitor Probate Registry
- Amendments (codicil)
- Costs
- Revocation remarriage

PROBATE

What is Probate?

- Administration of your Estate after death
- Executors apply for a Grant of Probate at a Probate Registry
- Intestacy relatives apply for Letters of Administration
- May not necessarily have to apply for a Grant of Probate

Process

- Solicitor
- DIY
- Application to Probate Registry (Wrexham)
- Inheritance Tax
- Grant gives authority to collect in Assets pay any and distribute your Estate in accordance with terms of Will

Cost

- Probate Court Fee £215
- Solicitors Fees