Richard Woodward & Associates

Will Writing | Probate | Lasting Powers of Attorney | Trusts

Telephone: St Neots 01480 290060

Thank you for your enquiry, please relax and let me do all the work for you, with thousands of local clients and over **35** years Will writing experience, I am well placed to help you whatever your circumstances, and I will talk to you in plain English with no legal jargon.

Most orders can be arranged by telephone, email and post, which makes things more convenient for all, however free home visits are available.

FIXED FEE PRICES & NO VAT

Single Basic Wills £175 each
Specialist Trust Wills £375 each

-

A Pair of Protective Property Trust Wills £750
(Including arranging tenants in common at the land registry)

-

A Pair of Lasting Powers of Attorney £450 per person
2 Pairs of Lasting Powers of Attorney £850 per couple
A pair is (1 x Property & Finance + 1 x Health & Welfare) + Registration Fees – £92 per document

-

A Single Family Trust (For a Single Homeowner) £3780
A Pair of Family Trusts (For Joint Homeowners) £4500

Also Fixed Fee Probate from £995 + Court Fees

www.rwalegal.co.uk

CHURCH VIEW HOUSE | 17 CHURCH VIEW | ST NEOTS | PE19 2BB

No Will Who Gets What?

You are married (or in a civil partnership) and your estate is worth less than £322,000.

The surviving spouse/civil partner inherits everything.

You are married (or in a civil partnership) your estate is worth more than £322,000 and you have no children.

Your surviving spouse/civil partner inherits it all.

You are married (or in a civil partnership) your estate is worth more than £322,000 and you have children.

It now starts to get interesting and potentially problematic for the surviving spouse/civil partner. The first £322,000 and the personal possessions will go to the spouse/civil partner. The remainder of the estate will be divided in half with half going straight to the surviving spouse and the other half being divided between surviving children.

You are not married (or in a civil partnership) but have children

Your children will inherit everything equally. Again, if a child has pre-deceased you then their children will get their parent's share.

You are not married (or in a civil partnership) and have no children

Your surviving relatives will inherit in the following order.

1. Parents
2. Brothers or sisters or their children (or children's children etc)
3. Half-brother or sisters or their children (or children's children etc)
4. Grandparents
5. Uncles or aunts (brothers and sisters of the whole blood of a parent) or their children (or children's children etc)
6. Uncles and aunts (brothers and sisters of the half blood of a parent) or their children (or children's children etc)
7. If you have no surviving spouse/civil partner, parents, children, siblings, grandparents, uncles, aunts, cousins, first cousins etc then under the Intestacy Rules, everything will go to the Crown.

Gobbledygook

'Language that is meaningless or is made unintelligible by excessive use of technical terms'

We have intentionally removed most 'gobbledegook' from our Wills as we believe a modern Will should be understandable. Many firms justify their amazingly high prices by including pages of 'legalese' that is already covered by the STEP provisions, in other words 2 lines of text (The Standard Provisions of the Society of Trust and Estate Practitioners 3rd Edition) shall apply in your Will covers everything not printed. However, there is one word that we are regularly asked about.

'ISSUE'

The word 'issue' means 'Bloodline children' that are your 'lineal descendants' if this word was replaced by the word 'children' in a Will it could be argued that this meant Stepchildren or Godchildren and that is not what most families want. Note: Adopted children have in law the same status as 'Bloodline children' but they have no claim on their natural parent's estate.

Who is STEP?

Step is the 'Society of Trust and Estate Practitioners' They are a global professional association for practitioners who specialise in family inheritance and succession planning. Many of you will notice in your Will the wording, The Standard Provisions and all the Special Provisions of the Society of Trust and Estate Practitioners (3rd Edition) shall apply.

Q: What does this mean? Any properly drafted Will must contain a large amount of text dealing with routine matters, in the past it has been necessary to set this out in full in each Will. STEP has condensed this material into its Standard Provisions. The use of the Standard Provisions offers many advantages, the final document is much shorter, drafters and client can concentrate on the beneficial provisions which matter most.

Meet **Craig Copley**, Craig arranges all our Family Trusts, he is a full member of STEP, Craig has substantial expertise in this area and his membership can be checked at www.step.org

STEP
ADVISING FAMILIES ACROSS GENERATIONS

SECRET COURT SEIZES BILLIONS

From the Elderly and Mentally Impaired

A secret court is seizing the assets of thousands of elderly and mentally impaired people and turning control of their lives over to the State - against the wishes of their relatives. The draconian measures are being imposed by the little-known**:**

'Court of Protection'

Set up in 2007 to act in the interests of people suffering from Alzheimer's or other mental incapacity. The court hears about 23,000 cases a year always in private involving people deemed unable to take their own decisions. Using far-reaching powers, the court has so far taken control of more than **£3.2billion** of assets.

The officials are legally required to act in cases where people do not have a 'lasting power of attorney' which hands control of their assets over to family or friends. Families trying to cope with a mentally ….

impaired loved one are forced to apply for a court order to become a deputy to access money, they said they felt the system put them under suspicion as it assumed at the outset that they were out to defraud their relatives. The problems begin when someone is suddenly unexpectedly mentally impaired. Without this document relatives must apply to the courts and the anonymous:

'Office of the Public Guardian'

Part of the Ministry of Justice based in an office block in Birmingham, is required to consider the background of the families to decide if they are fit to run the ill or elderly person's affairs. The organisation has **300** staff, costs **£26.5million** a year to run. It prepares reports for the Court of Protection. In many cases relatives must complete a 50-page form giving vast amounts of personal information about themselves and their own finances and their relationship with the person they wish to help care for.

Most of the applications are decided on without holding a hearing, other applications relating to personal welfare, or large gifts that may be contentious require the court to hold a separate hearing to decide the case. The Office of the Public Guardian then charges **yearly fees of up to £1500** to supervise these activities.

‘Jean was Horrified’

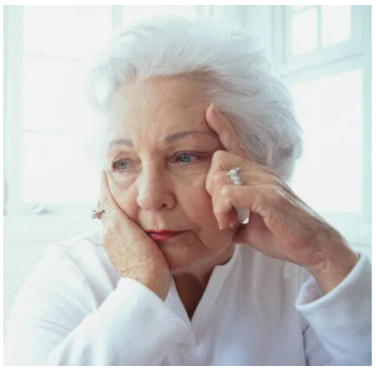
David and his wife **Jean** were **73**, they **DID** consider making **‘Lasting Powers of Attorney’ (LPAs)** but wrongly concluded that they were only for old people with **DEMENTIA**, and would leave it for now.

‘This is what happened’

David had a serious stroke in **2010** and although he eventually left hospital to live at home, he had lost his capacity as defined by the **2005 Mental Capacity Act** and could not make financial decisions. Jean, desperate for money to raise funds to reorganise the house and pay for David’s carers made enquiries about **EQUITY RELEASE** but was horrified to find out that as she and David owned the house jointly, David was not allowed to sign because of his condition and Jean could not sign for David because there were no LPA’s in place and …..

Jean’s only option was to apply to the **‘Court of Protection’** to get permission to obtain the equity release, the legal costs & fees were nearly **£3,000** and it took **18 months** to sort out.

David died in **2019**, and in those **9** years, apart from the ongoing intrusion and bureaucracy of the **‘Court of Protection’** Jean had spent in the region of **£18,000** in various fees and costs obtaining and maintaining the **‘Deputyship Order’. (See page 4 opposite)**



‘what a nightmare’

No ‘Lasting Powers of Attorney’ in Place!

What are the estimated costs?

Initial application Legal & Court Fees for Deputyship Orders
£2,000 - £3,000
Ongoing Fees estimated
£1,500 per year for the lifetime of the impaired.

WHY MIGHT YOU WANT

A 'Lasting Power of Attorney' for

'Health & Welfare'

WHO WOULD YOU TRUST WITH YOUR LIFE, YOUR FAMILY or a STRANGER?

Because without a 'Health and Welfare' Lasting Power of Attorney if you 'lost capacity' someone you don't know and had never met is exactly who you would get to make decisions about, what you eat, what you wear, your medical care and they would be able to override the wishes of your family in any respect of your health & welfare if they felt they needed to!

'Here is an example' Peter aged 81 has late-stage Alzheimer's, his family cannot look after him, so he lives in a nursing home. Then Peter is diagnosed with a brain tumour, of course he is unaware of this as he lacks the capacity to understand. Peter had always said to his family that if ever he had cancer he never wanted to any serious operation or chemotherapy. But because Peter had not made a 'Health and Welfare' Lasting Power of Attorney the people in charge of his care decided **against the pleas** of Peter's family and gave the hospital the permission to operate on Peter's brain, remove the tumour.

It saved Peter's life, but he lived on for a miserable 4 years, further debilitated by the surgery, weakened by the chemotherapy and when he died he was completely confused and in a near vegetative state! If Peter had made a 'Health and Welfare' Lasting Power of Attorney appointing his wife and daughters as his attorneys they would have had the 'power to refuse' the lifesaving treatment that Peter had, which would have allowed Peter to die peacefully.

How can you "lose capacity?

Anyone of any age can 'lose capacity' common causes are:

Accident - Stroke – Dementia

WHY YOU DEFINITELY NEED

A 'Lasting Power of Attorney' for

'Property & Finance'

A Step-by-step INCAPACITY SCENARIO

DAY 1: David aged 58 has multiple strokes and family told he will never recover.
DAY 9: All bank accounts with David's Name on are 'frozen' **including the joint account**, his wife Fiona is unable to sign on David's behalf.
DAY 10: Fiona needs to make an application to the 'Court of Protection' but must borrow money from her son as their joint bank account is frozen, the total cost of this application is between **£2,000 & £3,000.**
DAY 14: Fiona must establish a new bank account in her own name to receive her personal pension that was previously paid into the frozen joint account.
DAY 30: Due to David's physical situation there is an urgent need to move to a bungalow, but this cannot happen as Fiona is unable to sign for her husband, so she will have to wait for the 'Court of Protection's decision on her application.
DAY 116: The 'Court of Protection' makes its ruling, Fiona will be made 'deputy' but firstly she must take out a bond to protect her own husband's assets against her mismanagement, cost **£550** each year.
Day 118: 'Court of Protection' tells Fiona how much she can write out a cheque for, Fiona must keep detailed accounts and make regular reports to the Court there will be more fees for different reports with an average estimated cost at up to **£1,500** each year.

FACT: All of this will go on day in and day out, every month of every year until Fiona's husband David dies. If Fiona and David had made Lasting Powers of Attorney, they could have avoided all the stress, intrusion & bureaucracy created by the 'Court of Protection' but time and time again they put off deciding until David was struck down and the decision was taken away from them. **This is happening in thousands of homes in England today.**

TIME AFTER TIME

Bob & Ann 'PUT IT OFF'

TO PAY CARE HOME FEES

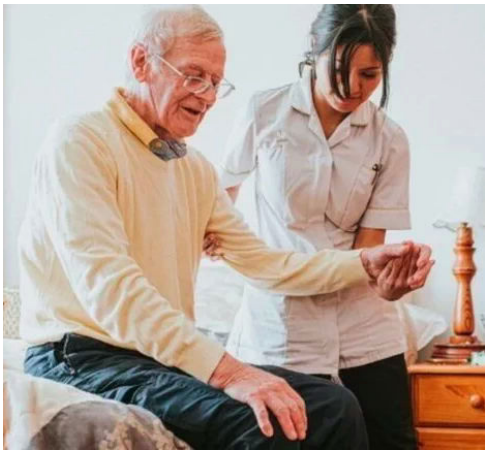
Leaving their children's future in the hands of

FATE !

Bob & Ann 72 owned their home worth **£480,000** which they wanted to leave their children. Bob & Ann thought they had planned well but after Bob died his wife developed dementia was moved to a **'nursing'** home, Ann's house was sold, and the money used to fund the **£9,000 per month 'nursing' home costs.**

Ann lived in the **'nursing'** home for 4 years, and **over £450,000** of her money was spent on her care, when Ann died only **£28,000** was left. Stories like this are common, the sad thing is Bob and Ann 'knew about' **'Protective Property Trust Wills'** but 'time after time' kept **'Putting Off'** upgrading their old Wills. With **'Protective Property Trust Wills'** Bob & Ann for only **£750** would have protected **50% (£225,000)** of their homes value for their children.

The cost of care has risen dramatically in the last few years, gone are the days of £400 per week. Locally in St Neots one of the new care homes recently built which is very nice and like a 5 Star hotel inside, the starting price for a room is **£1,650** per week for someone with basic care needs, rising to well over **£2,000** per week for people with dementia and severe physical needs.



Tenants in Common

V

Joint Ownership

How do 'Protective Property Trust Wills' work? Firstly, it is important to understand how property can be owned, it can be owned **'two'** totally different ways, either **'jointly'** where if one owner dies the survivor become the **100%** owner known as **'right of survivorship'** or as **'tenants in common'** where each owner holds a separate **50%** share and if that owner dies their share can be left in a Will to who they want.

In the case of **'Protective Property Trust Wills'** it goes into a **'Property Trust'** within the Will and usually the ultimate beneficiaries are your children, but they only inherit on the death of the second owner, the trust fully protects the survivors right to remain living in that home and move if they wish, plus much more.

It is this situation we need to protect **50%** of you homes value against being assessed for care fees, as the first person to die **50%** share go into the **'Property Trust'**.

Apart from writing your Will with everything you want in it and including the **'Property Trust'** we do a search at the land registry to establish how you own your home.

If it is held Jointly, we fill in a land registry form call a **SEV**, both joint owners sign it, then it is sent to the land registry, and the ownership will then become **'tenants in common'**.

The new wording you will see on the title under **SECTION B Proprietorship** will read **'no disposition by a sole proprietor unless a trust or corporation'**.

This type of Will is also very useful for other situations for example if you buy a house with a partner or if you are in a 2nd or 3rd marriage and you wish to protect your share or investment in a property for your children and make sure it does not go to a new partners family.

Consider – Wills or Family Trust?

With a Pair Property Trust Will's on the 1st death that 50% share of your home goes into a 'Property Trust' within the Will, so that 50% is safe, the other 50% is also still at risk.

BUT WHAT IF YOU BOTH NEED CARE?

You each own **50%** of your home,
You both live to be incredibly old,
You both go into care at the same time,
Then **100%** of you home is at risk again.

SOLUTION - A FAMILY TRUST

Up to 4 Trustees - You & your Children (Or others)
You the owners remain in control of the **Family Trust**
Now 100% of home is protected against Care Fees
(Subject to certain conditions – Please ask us)

Plus

Your Beneficiaries can save thousands on PROBATE costs.

SAVE THOUSANDS ON PROBATE FEES

FAMILY TRUSTS
WITH & WITHOUT PROBATE

If you put your home into a Family Trust you can save your family thousands in Probate & Legal Fees and they can sell your home without delays, here is an example based on solicitors fees of 1.75% inc vat.

Save your family thousands on probate fees with a Family Trust

PROBATE FEES
No Family Trust

House Value
£400,000
Savings in Bank
£80,000
Estate Value **£480,000**

Current Probate
Application Fee **£300**

+ Possible Solicitors
Fees & Vat **£8400**

Total Cost £8700

PROBATE FEES
With a Family Trust

House Value
n/a (In Trust)
Savings in Bank
£80,000
Estate Value **£80,000**

Current Probate
Application Fee **£300**

+ Possible Solicitors
Fees & Vat **£1400**

Total Cost £1700

Saving the average family over £7,000 with a Family Trust.

More Benefits of a Family Trust

YOU ARE PROTECTED

Our Family Trusts are arranged for you by specialist lawyers who are members of the 'Society of Trust & Estate Practitioners' www.step.org (STEP)

DIVORCE

Assets in Trust are protected from your children's marital and money problems.

YOU ARE IN CONTROL

Unlike giving your home away to your children, you are always in control of your Family Trust and your home.

SPENDTHRIFT CHILDREN

You can protect family members who cannot look after their finances wisely.

NO CHALLENGES

A Trust cannot be challenged in Court whereas a Will can. Increasingly more Wills are being challenged in court by aggressive Probate Lawyers, by setting up a Family Trust everything is settled now.

MOVING HOME

In the future a new home you move to can also be placed into the same Family Trust which has been set up for 125 years. (Properties must be mortgage free)

Note: You cannot set up a family trust if you have a mortgage. You should not set up a family trust if you may need equity release in the future. You cannot set up a family trust if your home and savings are above certain levels for tax reasons, please ask. Trusts must be registered by your trustees with HMRC.

SAFE WILL STORAGE
IN ST NEOTS

MAJOR PROBLEM 1 (Dementia)

Month after month, year after year we get calls, mum/dad has died, we found your card, did you do the Will? do you have it? we can't find it. As people get older and become forgetful, or get dementia, they look at their Will, then hide it somewhere odd and no one can find it, this happens all the time.

MAJOR PROBLEM 2 (Families)

The other major problem with storing your own Wills is 'Intentional Destruction' of your Will by family members who do not like what you have written, especially a problem where different families or 2nd relationships are involved, things may seem cosy now, but time can change everything, this also happens all the time.

Benefit. **Only £50** whenever you want to update your Will.

Benefit. **50% Discount** on Will Writing for your executors & family.

Benefit. **Only £750** for our grant only **PROBATE** services, saving your estate **£245** off our normal low fee of **£995.**
(Excludes Court Fees & IHT400 Applications)

Only £25 / year per Will

Payment by Standing Order or DDM so that it shows up on your Bank statements making your Will traceable to us.

HOW

*Return your Wills to us TRACKED DELIVERY or by HAND to **RWA Legal** at 17 Church View, St Neots PE19 2BB & we will send you details how to pay, EASY.*

SOME INTERESTING FACTS

Q: What are the main technical reasons for Challenging a Will?

A: Lack of testamentary capacity.
For a person to make a valid Will they must: Be able to understand that they are making a Will, and the effect of making that Will. Know the nature and value of their estate. Understand the consequences of excluding/including certain people in their Will. Not be suffering from a disorder of the mind that might influence their views. The fact that a testator is eccentric or was experiencing certain delusions does not necessarily mean there is a lack of testamentary capacity. (Banks v Goodfellow (1870).

A: Lack of valid execution.
The will must be in writing and signed by the testator (the person making the Will) or signed by someone in their presence under their direction. It must appear the testator intended by their signature to give effect to the Will. The testator's signature must be made or acknowledged in the presence of a minimum of two witnesses who are present at the same time. There is a legal presumption that a Will has been validly executed, unless evidence can be provided to show the contrary.

A: Lack of knowledge and approval.
For the Will to be valid, the person making the Will must have knowledge of, and approve, its contents. You can challenge a Will based on lack of knowledge even if the Will appears to be executed properly, and even if you know the testator was of sound mind.

A: Fraud/forged Wills.
The Will can be contested if you believe it has been forged or some sort of fraud has taken place. This might be the forging of a signature, for example. If someone led the testator to believe that certain facts were true, and this influenced the contents of their Will.

A: Undue influence.
You could challenge a Will if someone unduly influenced, coerced or put under duress the person who was making the Will.

A: Rectification and construction.
Sometimes a Will is drafted that does not properly carry out the testator's intentions. This could be either because of an administrative error or because the Will writer did not understand the testator's instructions.

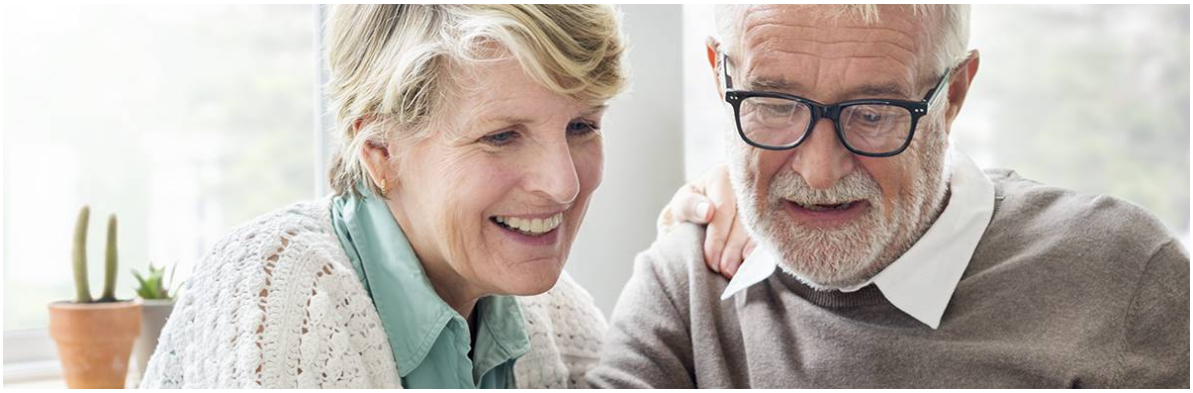
Larke v Nugus (1979)
Cases involving disputed wills very often feature a Larke v Nugus Statement. But what is a Larke v Nugus statement?

A **Larke v Nugus** statement is prepared by the Will writer who originally prepared the disputed Will or witnessed its execution. These statements are frequently **'requested by the Claimant's solicitor'** as evidence against the validity of a Will on the grounds of lack of testamentary capacity, undue influence, want of knowledge or approval or forgery. The information requested from the Will writer includes:

1. The relationship between the Will Writer and the Testator.
2. Full details on how the instructions were given to the Will writer and who was present at the time.
3. Information on how mental capacity of the testator was established and documented by the Will writer.
4. Earlier Wills, how is the new Will is differing from earlier Wills made by the testator and for what reasons.
5. Whether the information provided by the Will writer to the testator was explained and understood.
6. The signing of the Will, who was present and where it took place.

This information should be supported by a copy of the Will writers notes or client file.

The Family Bundle



£1250 - Offer for Couples, a Pair of Property Trust Wills,
& a Pair of Lasting Powers of Attorney for each per person.
Option to Pay by Direct Debit **5** interest free monthly payments.
Government LPA Registration Fees are + **£92** each LPA.

The Golden Bundle

Offer - For Couples & Singles A Will or Wills of Your Choice
& A Pair of Lasting Powers of Attorney for each per person
With a Single Homeowner -Family Trust for your home is **£3995**
With a Double Homeowner -Family Trust for your home is **£4995**
Option to Pay by Direct Debit with a **50%** Deposit &
5 interest free monthly payments on the balance.
Government LPA Registration Fees are + **£92** each LPA.