

# Plan for the Future

Peace of mind for you...your family and loved ones



*"estate planning at its best"*

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## About Charterhouse Inheritance Planning

Charterhouse Inheritance Planning, a trading name of Professional Broker Services Ltd, is a well-established estate planning and legal services practice based in Glasgow.

Our main service and administration office is located in Glasgow and our registered office in Neilston, East Renfrewshire.

Working closely with our specialised solicitors, Dallas McMillan, and financial advisors, mortgage & insurance brokers throughout Scotland, we encompass all areas of successful planning of our clients' estates and assets - for the future benefit of their family and loved ones.

Charterhouse has a proven track record of satisfying our clients' life-planning needs and wishes, and our primary aim is to exceed their expectations.

# What we do for our clients

- Wills
- Will Trusts
- Powers of Attorney
- Family Trusts (Discretionary Protection Trusts)
- Trusts for minors
- Pilot Trusts
- Mortgage Discharges
- Title Deed Transfers
- Deeds of Variation
- Estate Agency & Conveyance services

## We listen...we advise...we arrange your protection strategy



Family Trusts can provide you with an invaluable solution to ensure that your assets are controlled and distributed to your beneficiaries according to your exact wishes - and do not end up going to the wrong people or organisations. This is just one of the many benefits of setting up a Family Trust with Charterhouse Inheritance Planning

# Wills...

Making a Will is probably one of the most important decisions that you will make in your lifetime.



## Your Will

- Sets out the legally required process to “settle” your estate, known as “Probate” or “Executry”
- Documents your wishes as to who gets what, and how much
- Helps to provide for the people you care about
- Can avoid family disputes, stress & unnecessary costs
- Confirms your preferred Guardians for young children

## *But I already have a Will?*

- Changes in estate legislation over the past years may seriously affect the wishes in your Will
- Have there been any changes in your family circumstances - for example, births, deaths, marriages, divorces?
- Your financial status will probably have changed since you last drew up a Will, or you may need to amend your appointed executors.

## *Don't have a Will?*

- Your beneficiary wishes may be ignored
- Expensive Court costs will be burdened on your spouse/family

# Power of Attorney ...

When a Power of Attorney is needed, it is normally too late to get one, and you should arrange this at an earlier time in your life.



help...when you need it

## What is a Power of Attorney?

A POA is a powerful legal document that allows you to appoint, in advance, a trusted person or persons to assist you with your financial affairs and decisions about your health, care & welfare.

## When should a POA be set up?

As early in life as you feel comfortable with – none of us know what's around the corner – for example an unexpected illness, or an accident. Should you have the misfortune to experience symptoms relating to Alzheimer's disease or dementia, it may be too late to arrange a POA.

## If you don't have a POA in place

- Bank accounts, savings & investments will not be able to be accessed
- You would not be able to sell your property, whether you are single or married/in a partnership. Your family would not be authorised to help you with your financial affairs (even simple day to day banking)
- If you had any health/care issues - the authorities instead of your family, would make decisions for you
- Without a POA in place your family would need to arrange a "Guardianship Order" – this can be expensive (as much as £3,000), and can take up to a year to finalise

# Take control of your assets & protect them with a Family Trust



*who do you want to inherit?     /     when are they to inherit?*

*is there anyone you don't want to inherit from you?*

In most family circumstances a standard Will is not enough to ensure...

- that the right people receive their inheritance
- they inherit what you wanted them to
- they inherit at the right time
- your estate is not reduced dramatically in value for inheritances

As you approach later life, it is vitally important to ensure that all your assets (for example property, savings & investments) that you have worked so hard to build up are protected for the remainder of your lifetime (and in some circumstances beyond your lifetime). Arrangements should be put in place to ensure that these assets are distributed according to your exact wishes when you die, and **avoid serious threats to your assets:**

**Executry Costs** – payable on death and can average £5,000 for a simple estate but can be considerably more depending on the value of your estate.

**Legal Rights** - you are not free to distribute your estate as you wish. Your spouse/partner and children have a Legal Right to claim against your estate.

**Family Disinheritance** – if you do not review your Will frequently, your intended beneficiaries may not inherit any part of your estate.

**Incapacity** – if any beneficiaries lose capacity to look after their affairs, they will receive an inheritance at a time when they are most vulnerable.

**Legal Claims** – your assets may be subject to legal claims from outside authorities, and potential inheritances for your beneficiaries would be reduced.

**Inheritance Tax issues** – failure to plan ahead may result in you, your family, or an intended beneficiary being burdened with a tax issue.

**Doing nothing will mean that if any of the circumstances above occur, your assets will be at risk. Family Trusts can potentially solve most or indeed all of these problems.**



# The Family Trust Solution

## **The Problem & Issues**

### **Executry [Probate] Costs**

Executry costs (or Probate) are not widely understood by the public, yet they have always been around. This expense occurs during the required legal process to administer an estate after death – all the assets of the deceased are gathered in, financial claims dealt with - and eventually the remaining funds are distributed according to the Will (if a Will exists).

It is normal for a solicitor to be appointed to administer an estate after death. The cost of this can be extremely high and can take at least 6 months to complete – in many cases this could take up to 3 years – adding considerable expense and delay for your beneficiaries to inherit.

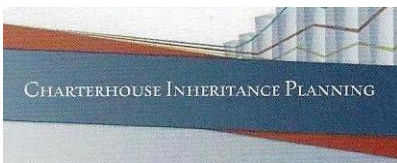
*Family Trusts remove this cost, as all the assets sitting in your Trust are not part of your estate and therefore do not form part of the Executry (Probate) process. The Trust can be wound up and the assets held within it are transferred quickly to your beneficiaries.*

### **Legal Rights**

If you have made a Will which does not leave anything to your family, certain family members have a Legal Right to a specific share of your estate. Under Scots Law, your spouse and your children can claim one-half to one-third – this depends on whether only your spouse, your children, or all survive – of the total value of your moveable estate. Your moveable estate consists of all that is not land or buildings.

*Family Trusts can help solve this issue, as Legal Rights cannot be claimed against the assets in your Trust.*





# Family Trust solutions

## Family Disinheritance

This problem will have serious repercussions for your intended beneficiaries and is one that most people are not fully aware of – but it can be avoided. For example, as a widow (or widower) you remarry and do not make out a new Will (or your new Will is not set out correctly). If you die before your new spouse, then he or she might inherit all or a substantial share of your former assets. It is now up to your new spouse as to whether they leave any inheritance to your own family members! To make matters worse, if your new spouse then dies without making a Will, your original family members will have no legal right to claim on the estate.

*Family Trusts solve this problem and ensure your original wishes are carried out exactly as you wanted.*

## Incapacity

None of us know what the future holds health-wise for ourselves and our family. If your spouse, partner, family member or any other intended beneficiary has a health issue or was to suffer a serious accident resulting in their inability to make decisions, they may inherit from you at a time when they are most vulnerable and unable to manage their inheritance properly.

*Family Trusts ensure that in the event of this happening, the trustee solicitors would manage the assets placed in your Trust for the benefit of any incapacitated beneficiary in line with your wishes during your lifetime.*



## Inheritance Tax issues

Careful planning must be put in place to ensure that when leaving a person an inheritance, you do not burden them with an inheritance tax responsibility.

*Family Trusts can be arranged to avoid this issue – your beneficiary can opt to leave their inheritance in your Trust, and it will therefore not be part of their estate assets.*

If you are facing an inheritance tax issue, then there are many options and legal strategies available to significantly reduce this tax burden on your estate.

*Please note:*

*Any Family Trust benefits in respect of care home charges can only ever be incidental. Local Authorities have wide powers to possibly overlook any arrangement put in place where the main (or even a significant) reason for the arrangement is the avoidance or reduction in care home costs.*

**Although setting up a Family Trust may appear extremely complex to you, our specialised team of advisors and panel solicitors make the whole process simple and seamless.**



**A Charterhouse Associate Partner will consult and advise you on the best strategy to suit your wishes, then guide you through the whole procedure.**

**If you have an appointed financial advisor or mortgage/insurance broker, we will work with them to ensure that any financial matters are put in place for you, and your family.**

**peace of mind for you...your family and loved ones**

# *Family Trusts.....Frequently Asked Questions*

**Why should I bother?** You don't need to do anything - but if you don't you may lose a significant part of your assets, savings & investments.

**But my family will look after me!** You may never need to leave your home, but unfortunately more people than ever before now require residential care – and this trend is expected to continue and possibly increase. You should also consider that the care you may require could be beyond that which your family could provide.

**Is it worth it?** If the Trust arrangement enables you and/or your family to retain your assets, then it must be worth doing. You have saved hard for what you have and this shouldn't be put at risk by not planning ahead to protect what you have.

**Can it benefit my family?** Your Trust can help to avoid the expensive costs, long delay and trouble involved in winding up your estate. If you only have a Will and your house is still in your name when you die you will need a solicitor to carry out the executry administration – which can be lengthy and expensive. If, however, the house has previously been put in a Trust, the remaining trustees can deal with the house immediately – avoiding the executry procedure costs and delays. This would also apply to other assets transferred to your Trust. The trustees make sure that your inheritance goes exactly as you set out in your Will.

**Why do I need solicitors as Trustees?** You will normally be the leading trustee. The solicitors are independent from your family and will be guided by you and by the instructions as set out in your Will and your Letter of Wishes. This saves your family the time and cost of distributing the assets, and importantly avoids any disputes.

**Can the trustee solicitors be trusted?** Again– you are the leading trustee. The solicitors are not beneficiaries of the Trust and cannot benefit from the Trust in any way. Solicitors are supervised and controlled by The Law Society of Scotland, and also have to operate under Scottish Trustee legislation.

**What assets can be transferred to the Trust?** Normally clients place their house (and other owned property) + other assets (normally any suitable Capital Investment Bonds).

**Can more assets be added later?** Yes, assets can be placed in the Trust at a later date, although the timing of assets to your Trust is crucial – our consultant advisor will explain this when you meet.

**Is there a limit to the value of assets in a Trust?** Yes – each Trust will usually hold assets up to the value of the current Inheritance Tax Nil Rate Band – £325,000. Assets in excess of this would create an immediate charge to lifetime Inheritance tax of 20% of the excess. There are options available to protect your assets if your total estate is in excess of this.

**When is the best time to set up my Trust?** As soon as possible – the best timing is when you are in good health, living independently with no prospect of entering long term care.

**Can I change my mind?** Yes – you can request the assets to be transferred back into your name at any time, but there will be costs involved in arranging this.

**I have a small mortgage – will that make a difference?** A mortgaged property cannot be transferred to a trust. Normally you would set up a Will Trust meantime until your mortgage has been paid off, then upgrade to a full Family Trust.

**I run my own business?** Your business may be doing well at this moment in time - but what happens if there are changes? Consideration should be given to protect your personal assets from your creditors.

**Can I move to another property?** Yes – the sale and purchase are carried out by the trustees – the solicitors and you. The sale proceeds are retained within your Trust and then used to purchase the new property, thus keeping your assets protected at all times.

**What happens if I lose capacity?** The remaining trustees can assume a new trustee – normally a family member – to assist in the running of your Trust. Typically, if you have set up a Power of Attorney, that person would usually step up as a new trustee.

**What happens when I die?** The Trust, and the protection it provides, continues as before until such time as it becomes appropriate for the trustees to appoint assets to the beneficiaries, and wind up the Trust when this has been completed.

**What if another trustee dies?** The remaining trustees assume a new trustee in their place.

**Who gets my estate when I die?** The assets in your Trust will remain in the Trust and when appropriate to do so, they will be distributed in accordance with your Will/Letter of Wishes.

**Do I really need a Will?** Yes, absolutely. Your Will is extremely important, as any assets which are in your name (and not placed in your Trust) when you die will need to be dealt with according to the terms of your Will – our Associate Partner will discuss this with you.



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*Help is at hand.....* If you want to discuss your situation in strict confidence or simply want more information - contact us and we will guide you through the process.

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Contact us by phone, text or email. Alternatively, you can go to our secure website where you can submit your question online or ask us to contact you. *Visit our website* – packed full of more information and contains guides to all your estate planning options.



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