**Mencap – Wills & Trusts seminar**

**26/3/18**

**Summary**

**Why a Trust?**

A Trust is a bank account with a sum of money in it to provide for your dependants.

If an inheritance / gift amounting between £6000 & £16000 is received, means tested benefits and support packages will be affected.

Over £16000 = benefits and support packages will be stopped.

If you do open a Trust, you must ensure that any other inheritance or gifts from friends / family members goes into this Trust too – not to the named person. This **must** be specified in their Will. Otherwise, the same rule will apply regarding benefits and support packages.

**What type?**

1. Discretionary Trust
2. Disabled Persons Trust

You will need to speak to a solicitor about which type is more suitable for your circumstances, but generally speaking, the Discretionary Trust is more flexible and easier to manage.

A Discretionary Trust is held in the names of two or more people. This way, the disabled dependant cannot be viewed as the sole beneficiary of the funds in the Trust (so the money cannot affect their benefits). It is the ‘discretion’ of the Trustees as to who the funds are paid to. If you do not have more than one child, you can add the name of a Charity as the second potential beneficiary. (See Letter of Wishes information).

Lifetime vs Will Trust;

A Lifetime Trust can be opened immediately so funds can be paid in during your lifetime. Gifts of money can also be paid in by other people.

A Will Trust opens upon your death, from your assets / insurance policies / sale of your estate. Please consider that assets can take 6 months to be released once someone has passed away.

**Things to look for in your chosen solicitor.**

Check their qualifications & experience in this area – must have a ‘STEP’ qualification which must be listed on their website if they have it.

Discuss costs & timelines upfront. Expect to pay between £800 - £1500 for the complete service.

**Things to prepare before seeing a solicitor.**

Complete an **Assets Questionnaire** – can be found on the internet.

Decide who will be your Trust’s **Executors & Trustees**. Ideally these should be people you trust, are younger than you (they will outlive you) and are financially savvy.

Decide who you want to appoint as **Guardians** for your children.

Decide what **gifts** you want to leave to individuals (jewellery / cars / art / etc).

Draft a ‘**Letter Of Wishes’**. This is a non legal document, but if written into your Will, must be followed. A Letter Of Wishes is held by you, with copies provided for each Trustee. You can amend this document at any time without seeking advice (or expending cost) from a solicitor. This Letter will contain information on how you want the Trust money to be used for you dependant. Eg. To ensure he / she gets a holiday per year from it / benefits from a specific therapy / doesn’t use it to buy a motorbike!

**Trustees**

Each Trust must have between 2 – 4 Trustees. They share the responsibility of the Trust and must all agree to any payments from it.

They must invest the money from the Trust to ensure it generates an income. They are liable for any downfalls of the money in the Trust.

They must honour the information left in the Letter of Wishes and ensure the beneficiaries receive the correct financial support from the Trust’s funds.

If the Trustee ‘retires’ or no longer wants to be responsible for the Trust, they must appoint another Trustee. It is recommended that your Letter of Wishes names people whom they could appoint.

If you don’t have any suitable Trustees to appoint, the two other options are;

1. A Professional – ie. A solicitor
2. The Mencap Trust Company

Both of these options require a fee. A professional may require an initial fee plus a fee each time the Trust is used. The Mencap Trust Company require an initial fee of £250 plus VAT and an annual fee of 1.2% of the Trust fund value.

There is more information about the Mencap Trust Company on their website.