



Hewitsons Private Wealth LEGAL UPDATE

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Estate Ordered to Pay School Fees



Tiffany Wiggett
Associate

The estate of Raymond Tish has been ordered to continue paying his children's school fees.

Under the terms of an order made in 2007, Mr Tish paid £18,000 maintenance to his ex-wife and £22,000 maintenance for their two children until they reached age 18 or finished a degree, whichever was the later, plus inflation. He was also ordered to pay all school fees and reasonable extras incurred by the children.

Mr Tish stopped making all payments in March 2014. His ex-wife did not take any action at this point, as he had recently been diagnosed with motor neuron disease and she did not wish to cause him any further stress. However, in May 2014 he made an application to vary the 2007 Order. His ex-wife opposed his application on the basis that she was unable to afford to maintain the children and to pay their school fees alone.

At the time of Mr Tish's death in August 2014 the Order had not been amended. Mr Tish's Will was prepared after his diagnosis, and left to his children "Maintenance to be paid in relation to the current Court Order as may be amended in time". Mr Tish's widow claimed that the 2007 Order ceased to have effect on Mr Tish's death and, as a result, this gift amounted to nothing.

Mr Tish's ex-wife and children made a claim for reasonable provision against his estate, arguing that, as the 2007 Order had not been amended, they should continue to receive the payments.

The judge held that it was clear that the intention in Mr Tish's Will was to continue making the same payment as under the 2007 Order after his death, and awarded the same.

If you would like advice, please contact Tiffany Wiggett on 01604 463340 or [click here](#) to email her.

Dementia Action Week – what action can you take?



Alexandra Svennevik
Solicitor

Dementia Awareness Week changed this year to become 'Dementia Action Week' (21 May – 27 May 2018). This change is to reflect Alzheimer's Society's wish to take action in helping those with dementia, not just raise awareness.

Dementia is now the leading cause of death in England and Wales. There is currently no cure for dementia, but one step you can take now to make things easier if you are ever diagnosed with dementia is to create Lasting Powers of Attorney.

Lasting Powers of Attorney (LPAs) give you the power to decide who will make decisions if you are no longer capable of making your own. A Property and Financial Affairs LPA allows your attorney to deal with financial decisions, for instance managing your bank account or paying your bills. A Property and Financial Affairs LPA can be used before you lose mental capacity (if you wish) or only once you have lost mental capacity. A Health and Welfare LPA can be used by your attorney to make decisions about your healthcare, including where you live and your medical treatment. This can only be used once you lack mental capacity.

If you lose capacity without having an LPA in place, then an application will need to be made to court to appoint a Deputy to manage your affairs. This is a lengthy and expensive process, and you will have no say in who is appointed as deputy. A Deputy does not necessarily need to have any personal connection with you. As a result, a Deputy, no matter whether you might have trusted that person completely, is always supervised by the Court and so there are additional annual ongoing costs.

If you would like advice, please contact Alexandra on 01604 463342 [click here](#) to email her.

Inheritance Tax Increases to £5.2 billion



Carolyn Bagley
Partner

The government received £5.2 billion from Inheritance Tax during the 2017/2018 tax year, which was a sharp increase of 8.1% from the previous year.

Currently each person has an Inheritance Tax free threshold (Nil Rate Band) of £325,000, which can be reduced by any gifts made in the 7 years before death. Some people also have a Residence Nil Rate Band (though not so many as think they have!). Others may have special asset, or charity, based reliefs. Careful Inheritance Tax planning can reduce the amount of Inheritance Tax payable by your estate on your death.

If you would like advice, please contact Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.

Carer "Guided" Dying Man's Hand Into Signing New Will



Tiffany Wiggett
Associate

A carer has been stripped of her £400,000 inheritance after handwriting evidence proved she guided the hand of a dying millionaire as he signed his new Will.

Marcel Chu, a retired City banker, signed a new Will two days before his death in 2014, which left a 40% share of his £1 million estate to his carer Donna Henderson and her children.

Mr Chu became ill with a condition during the final year of his life, which caused him to suffer from memory loss and confusion. Mrs Henderson arranged and paid for his new Will to be drawn up during this time. His relatives challenged the validity of his new Will, claiming that an earlier Will signed in 2008 contained his true wishes.

A handwriting expert found that on the balance of probabilities, the signature on the new Will was not that of Mr Chu. Mrs Henderson admitted that she had held Mr Chu's hand while he signed the Will, but insisted that she had merely guided his hand to assist him, rather than signing the Will for him.

The judge held that Mr Chu would not in any event have had the capacity to sign the Will two days before his death, as he was suffering from memory loss and confusion. The judge ruled that Mrs Henderson should be stripped of the inheritance from Mr Chu's estate, and in addition ordered her to pay £85,000 of legal costs.

This was an expensive mistake on the part of the carer. It was fortunate that Mr Chu had at least made a clear Will some years before his death which was still held by his solicitor and could be used.

If you would like advice on making a Will, please contact Hauke Harrack on 01604 463131 or [click here](#) to email Hauke. If you would like advice on contesting a Will please contact Tiffany

Wiggett on 01604 463340 or [click here](#) to email Tiffany.

60% of UK Adults Do Not Have a Will



Hauke Harrack
Solicitor

Recent research carried out by Unbiased.co.uk revealed that 60% of UK adults do not have a Will.

Nearly two-thirds of those aged 55 and over do have a Will in place. However, only 28% of those aged 35-54 have a Will, and only 16% of those aged below 35 – despite many in these two categories having responsibility for children and major financial commitment!

If you die without a Will in place, this is called intestacy. The laws of intestacy decide who will inherit your assets after your death if you die intestate. These rules do not take into account the more modern family structure. Unmarried partners and stepchildren will not inherit under an intestacy, and children from a previous marriage may not inherit, depending on the circumstances. There is also a risk that those you would not wish to inherit on your death will inherit something, and that people you do not even know may inherit.

If you would like advice on making a Will, please contact Hauke Harrack on 01604 463131 or [click here](#) to email Hauke.

Are you due back part of the £2 million now repayable by Care Homes?



Rachel Hawkins
Senior Solicitor

A care home operator has been ordered to pay more than £2 million back to residents who were forced to pay advance fees when they moved into the care home. The average amount paid back to each resident who was forced to pay these fees will be around £3,000. This amount will be passed to their estate if the resident has died.

Late last year it was reported that the Competition and Markets Authority was taking direct action against care home providers who forced residents to pay upfront fees, and also investigating care home providers who continue to charge the estates of deceased self-funding residents for up to four weeks following their death. The Competition and Markets Authority is currently consulting on draft consumer advice law for UK care home providers on the charging of fees after a resident's death.

When somebody dies, the Executor of their estate must collect in details of all their assets and liabilities at the date of the person's death. If you are an Executor and would like advice please contact Alexandra on 01604 463342 or [click here](#) to email Alexandra.

Many people are concerned about all their savings being

spent on care home fees. Not all "solutions" recommended in the press or by flyers through your door will work. If you would like advice on protecting your assets for your loved ones, please contact Rachel Hawkins on 01604 463165 or [click here](#) to email Rachel.



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Advice should be sought from a solicitor in the Private Wealth Team at Hewitsons in respect of any information contained in this Update that affects any matter with which you may be concerned. All legal references made within the above legal update are made in reference to the law at the time of publication.

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