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### In this issue...

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- Video witnessing of Wills to be allowed
- OPG launches digital Lasting Power of Attorney system
- First decline in charitable estates in a decade
- New CGT rules for residential property sales now being enforced
- Verbal agreement creates Constructive Trust
- Court finds deceased did not know or approve contents of Will



### Video witnessing of Wills to be allowed

English law currently requires two witnesses to be physically present when someone signs their Will. Social distancing measures during COVID-19 have made this much more challenging.

The government announced on 25th July that it would introduce secondary legislation from September to allow for the witnessing of wills by video link after widespread calls for this rule to be relaxed.

You can read more about the upcoming changes and the challenges that they raise [here](#).



### OPG launches digital Lasting Power of Attorney system

The Office of the Public Guardian (OPG) has launched a new digital system which replaces the need to provide physical copies of lasting powers of attorney to financial institutions or healthcare providers. It is hoped that this will reduce delays caused by posting documents back and forth and therefore speed up the process when important decisions need to be made on a person's behalf.

You can read more about the new service and some of the issues it raises [here](#).



## First decline in charitable estates in a decade

A recent report by [Smee & Ford's Legacy Trends](#) shows the first decline in a decade in the number of estates leaving gifts to charity.

According to the report, charities received £2.9 billion from estates this year, down from £3 billion per year reported in 2018 and 2019. The number of estates which left charitable legacies also fell from 37,637 in 2018 to 33,120 in 2019.

This comes at a time when charities are already struggling, with [reports](#) suggesting that the Covid-19 pandemic has left a £10 billion hole in the charity sector's finances for the remaining part of 2020.

As well as benefiting a deserving cause, leaving a legacy to a charity in your Will can significantly reduce the amount of Inheritance Tax payable on your estate.

If you would like to discuss leaving a legacy to charity in your Will, please contact a member of our team below.

Alexandra Svennevik on 07769 217791 or [click here](#) to email.

Alexandra Francis on 01223 447422 or [click here](#) to email.

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## New CGT rules for residential property sales now being enforced

Lockdown restrictions have begun to ease this month leading many people to consider selling their properties.

From April 6th this year, capital gains arising on the sale of residential property in the UK must be reported online and paid within 30 days of completion. Previously, gains were declared on annual tax returns and submitted either by 31st October (for paper returns) or 31st January (for electronic returns). The tax did not need to be paid until the 31st January after the end of the tax year in which the gains arose.

Properties which are wholly covered by the Principle Private Residence exemption (which broadly covers your main home) are exempt from the reporting requirements. However, this protection may not apply if you have owned another home at the same time, let it out at any point, or not moved in promptly.

The new requirements are very strict and HMRC has introduced a new form for the purpose of declaring gains. Penalties and interest may also be charged if the requirements are not met on time.

If you are selling residential property in the UK which is not your main residence from 6 April 2020 and need help meeting the new CGT reporting requirements, please contact one of the Tax and Trust team below.

Elaine Morgan on 01604 463120 or [click here](#) to email Elaine.

Alan Taylor on 01223 532740 or [click here](#) to email Alan.

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## Verbal agreement creates Constructive Trust

A recent High Court appeal demonstrates how a verbal agreement can create a 'Constructive Trust' over a property. Constructive Trusts can arise in certain circumstances when someone holds the legal title to an asset, but it would be unconscionable for them to deny another person a beneficial interest in it.

John Archibald, Brenda Archibald and Patsy Alexander are siblings. In 1997, their late mother purchased a house in Bromley in the joint names of Patsy and herself. After their mother's death, Patsy claimed sole ownership of the house, but this was challenged by Brenda and John.

Brenda and John claimed that shortly before the house was purchased, the three children and their mother held a meeting and agreed that the house would be purchased in the joint names of their mother and one of the siblings. Patsy was chosen for practical reasons. This was apparently done with the intention of protecting the children from a claim by a future partner if their mother remarried as well as to reduce Inheritance Tax.

Brenda and John argued that the verbal agreement caused Patsy to hold the house on a 'Constructive Trust' for the three siblings in equal shares.

Patsy claimed that the alleged meeting never took place and her mother had always intended for her to inherit the entire property.

The case was first heard in the County Court where the judge ruled that Patsy's account was 'manufactured and her evidence untrustworthy' and so concluded that the property was held on a constructive trust for the three siblings in equal shares.

Patsy appealed to the High Court, but that appeal was dismissed. The three siblings will therefore have an equal share in the property.

Trusts can be a very effective tool for protecting assets and passing them down the generations. However, relying on oral agreements is a risky strategy! Taking advice from a solicitor is the best way to ensure that using a Trust will achieve your goals and to ensure that any Trust set up is safe from challenge.

If you are considering setting up a trust please speak to a member of our team using the details below.

Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.

Kerri Woodrow on 01604 463350 or [click here](#) to email Kerri.



## Court finds deceased did not know or approve contents of Will

Mrs Cole made a Will in 2004 which left her estate equally to her 5 children in the event that her husband died before her. After her husband died in 2014, Mrs Cole visited a company called 'The Will Centre' (the second defendant in the case) to discuss a new Will. She was accompanied on her visit to the Will Centre by her grandson, Nicholas.

The new Will gave the majority of Mrs Cole's estate to her daughter Linda (Nicholas' mother), whilst the other four children received relatively small cash gifts.

Mrs Cole died in 2016 and the four siblings who were set to miss out sought to revoke the Will on the grounds that their mother did not know and approve its contents.

The court heard that certain family members had made attempts to obtain Mrs Cole's Will from the Will Centre in 2015, events which the judge described as "bizarre" and "curious".

The judge also said that he found some of Nicholas' conduct in relation to his grandmother's finances to be "at the very least suspicious" but stopped short of finding that he was responsible for any wrongdoing.

The court determined that the 2014 Will was invalid because Mrs Cole did not know or approve its terms and signed it because it was put in front of her by a family member. It also found that she had a history of signing important documents in this way over the last few years of her life.

If you feel that you have been unfairly left out of a Will or would like help in preparing a Will to avoid such disputes, please contact our team using the details below

Hauke Harrack on 07584 015602 or [click here](#) to email.

Tiffany Benson on 07584 015573 or [click here](#) to email.

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