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### Surge in Will and LPA instructions in midst of COVID-19

The press has reported a surge in demand for Wills and Lasting Powers of Attorney (LPAs) since the outbreak of COVID-19. This is not fake news – the Hewitsons Private Wealth team has experienced a sharp increase in the number of instructions for these documents.

The outbreak of COVID-19 has focused people's minds on the stark reality that anybody can become seriously ill, or die, with little or no warning. With over half the UK population not having made a Will, and fewer still having LPAs in place, taking action now is essential for many.

As a result of current rules on social-distancing, and to ensure we are protecting both our clients and our team, we are currently unable to see clients face-to-face to take instructions for Wills and LPAs, or to meet in person to sign and witness the documents. However, in order to ensure that our clients can still get these crucial documents in place (and that they are valid), we are conducting meetings by telephone or video-conference (Skype, Facetime, Zoom etc). We are also giving clear advice to help clients ensure that their Wills and LPAs are correctly signed and witnessed, whilst maintaining social-distancing.

It is more important than ever to seek help from a suitably qualified professional, who can put your mind at rest and make sure you and your family are protected against all eventualities. For more information about the importance of making a Will, please [click here](#). For information about why you need Lasting Powers of Attorney, please [click here](#). Alternatively, please get in touch with one of the team below for some bespoke advice.

Rachel Hawkins on 01604 463165 or [click here](#) to email.  
Alexandra Francis on 01223 447422 or [click here](#) to email.

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## COVID-19 costly for engaged couples

Many weddings have been postponed as a result of the outbreak of coronavirus and the Government's restrictions on public gatherings. The Government announced on 23rd March that it was stopping all weddings for three weeks, and it is uncertain how long these restrictions will continue.

Added to the emotional distress and direct financial loss associated with wedding postponements, couples should also be aware that they are now missing out on the tax benefits which come with marriage. This could prove to be very costly for some couples, particularly if one of them dies before the wedding can take place.

Unmarried couples also stand to suffer if one partner dies without making a Will, as the surviving partner is not entitled to receive anything under the intestacy laws (which apply if a person dies without a Will). This could leave them in a very difficult position financially, including the possibility of losing their home.

If you need advice about protecting your partner prior to your marriage, please contact one of our team below.

Ciara Wanstall on 01604 463101 or [click here](#) to email.  
Kelly Wardell on 01223 461155 or [click here](#) to email.

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## A silver lining to COVID-19?

Whilst the Coronavirus crisis has been bad news for the global stock markets, the drop in share values could present a good opportunity to make a gift to friends or family.

Gifts within seven years of death can be subject to inheritance tax. This means that if a gift of shares is made while the value is lower this could reduce your inheritance tax bill if unfortunately you pass away within the seven years.

It is often overlooked that a gift is treated as a sale for Capital Gains Tax purposes. The "sale" price is the market value – so naturally a lower gain if the gift is made while the markets are still depressed. It may not be possible, however, to use paper losses on gifts to offset other gains earlier in the year.

If you are considering making such a gift, please call a member of our team below as we can advise you on making gifts in a tax efficient way.

Hauke Harrack on 01604 463131 or [click here](#) to email.  
Emma Satterly on 01223 461155 or [click here](#) to email.

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## Entrepreneurs' Relief slashed

In the March 2020 budget, the new chancellor, Rishi Sunak, announced a large reduction in the lifetime allowance for Entrepreneurs' Relief ('ER') from £10 million to £1 million

ER reduces the rate of Capital Gains Tax (CGT) to 10% on the disposal of all or part of a business, if certain criteria are met. It was originally aimed at incentivising people to create new businesses, but was widely viewed as failing in this aim. The Prime Minister's view is that ER was helping the "staggeringly rich" to become even richer.

Nonetheless, some businesses will suffer as a result of this change, which applies to business sales and disposals made on or after 11 March 2020. There are specific provisions for contracts entered into before that date.

If you are planning to dispose of all or part of your business (either by selling it or giving it away) and would like help in understanding how these changes might affect you please contact one of the team below.

Eric Wardle on 01604 463110 or [click here](#) to email.

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



## Advice from our colleagues in Real Estate and Employment Law

Our colleagues across the firm are busy providing clients with helpful advice in relation to their specialist areas of the law. We know that lots of our readers are also landlords or tenants – please [click here](#) to download some particularly useful suggestions from our Real Estate team. And our Employment Law update - COVID-19 special – will be invaluable in bringing you up to date with the raft of recent changes – please [click here](#) to download your copy now.



## Gift or Loan? Recent Case Highlights the Importance of Documenting Payments to Family Members

Mr Kelly was a successful builder and property developer and owned a number of properties. In 2001, at the time of his son's marriage, Mr Kelly purchased a property for around £750,000 and put this in his son's name.

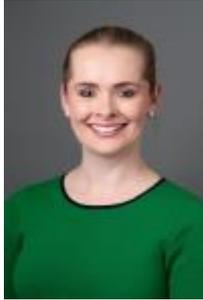
Father and son fell out in 2010 and Mr Kelly subsequently took his son to court, claiming that the purchase money for the property had been a loan. Unsurprisingly, Mr Kelly's son claimed it was a gift.

When a parent gives money to their child, unless there is evidence to the contrary, the court will presume that this is a gift, rather than a loan. In the case of Mr Kelly, there was no documentation to back up his claim that there was an agreement for the money to be repaid. The court therefore said it should be treated as a gift and dismissed Mr Kelly's claim.

If you are considering making a gift or loan to a family member, our team can help to ensure it is properly documented to achieve the result you desire. It is equally important to take specialist tax advice if trying to convert a loan into a gift as this often fails when done incorrectly. Worse still: it may work for one purpose but not for another, so that the family can end up with the worst of both worlds. For more advice, please contact one of our team below.

Kerri Woodrow on 01604 463350 or [click here](#) to email Kerri.  
Katherine Hague on 01223 532749 or [click here](#) to email Katherine.

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## Renowned Judge Breaks His Own 'Golden Rule'

In order for a Will to be valid, the person making the Will (known as the testator) must have sufficient mental capacity at the time of giving the Will instructions. If the testator is "elderly or unwell", the 'Golden Rule' (established in a 1975 case) is that the professional making the Will should recommend obtaining a medical opinion confirming the testator's capacity – not least to avoid future disputes.

A recent challenge to the Will of the eminent deceased judge, Lord Templeman, arose from this issue. Ironically, it was Lord Templeman himself who established the Golden Rule in the 1975 case.

Lord Templeman's Will, made when he was aged 88, left a property to his late wife's stepdaughters. This was contrary to an earlier Will, which had left the property to his own children.

Lord Templeman's children argued that their father had suffered from memory loss in his later years and had forgotten about the provisions of his previous Wills. They therefore claimed that he lacked mental capacity and that the Will was invalid. Lord Templeman had failed to follow his own Golden Rule, and there was no medical evidence relating to his mental capacity at the time of making the Will.

After a costly dispute, the Court ruled that Lord Templeman's memory lapses did not mean that he lacked the capacity to make a Will and the Will was therefore deemed to be valid. Those costs could have been saved if his own advice had been followed.

For more information, or if you are seeking to contest a will, please contact Tiffany Benson on 01604 463340 or [click here](#) to email Tiffany.

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This Legal Update is produced by Hewitsons LLP for clients and contacts of the firm to provide them with a useful summary of recent cases, journal reports, developments in the law and dates to be aware of. It is not a definitive statement of the law in any area. Advice should be sought from a solicitor in the appropriate specialist team at Hewitsons in respect of any information contained in this legal update that affects any matter with which you may be concerned. While the articles and opinions expressed in this publication are summations of current general legal matters the firm can take no responsibility for their application to specific situations in which specialist advice is required.

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