



## **ADVISING THE ELDERLY**

### **Advising the Elderly**

Records indicate that the firm of Thomas Flavell & Sons was founded in Hinckley back in 1809 by William Cowdell. Thomas Flavell & Sons has, therefore, a wealth of experience of serving the local community in Hinckley and the surrounding areas. With our main office situated in Hinckley town centre we also have branch offices in Earl Shilton and Market Bosworth to serve the needs of our Clients.

The firm's established and traditional private client department can offer a complete and confidential service to Clients. The department takes considerable pride in the efficient and personal service provided and in our understanding of the particular needs of elderly and disabled clients.

The services offered by Thomas Flavell & Sons in this area include:

1. Preparation of Wills
2. Acting as Executors and Trustees
3. Administration of Estates
4. Tax Advice and Tax Planning
5. Powers of Attorney including Lasting Powers of Attorney
6. Court of Protection Receiverships
7. House Sales

You can contact us at our Hinckley office on 01455-610747, at our Earl Shilton office on 01455-842297 or at our Market Bosworth office on 01455-290203 or by e- mail at [law@thosflavell.co.uk](mailto:law@thosflavell.co.uk)

### **Wills**

If you die without having made a Will you will be said to die "Intestate" In this event, rules made by Parliament will govern how your money, property and possessions are divided between your family. These rules are mostly inflexible and can often produce financial difficulties for those you leave behind at a time when such problems are least wanted.

Therefore anyone who has a specific intention about providing for his or her immediate family, a charity or for anyone else after their death needs to make a Will. The making of a Will will give you peace of mind.

### **Executors**

Making a Will allows you to choose your own Personal Representatives - who, if appointed, are called "Executors" - to wind up your estate and distribute it according to your wishes. If the Will is very simple only one executor need be appointed, but it is generally better to appoint at least two persons. A spouse can be appointed; so can friends or relatives who are reasonably businesslike. You may also consider appointing solicitors or accountants such as the partners of Thomas Flavell & Sons.

The appointment of professional advisers has the advantage of ensuring that the administration is dealt with by experts. Their knowledge, together with their knowledge of estate administration and probate practice, may be invaluable when the estate is complex, or where the Will creates a trust.

Professional advisers do not charge merely for being appointed, and although a charge will be made for the work carried out by them, this will not add significantly to the overall cost if professional help would have been needed in any case.

Executors, however, have no role to play until after your death. Choosing Executors needs careful thought, and you should make sure before you appoint them that they are willing to act.

## **Trustees**

If a Will creates a trust it should appoint Trustees as well as Executors. Trust Gifts require your Trustees to hold property on continuing trusts and several different kinds of trust exist.

There are trusts for young children under which the Trustees have power either to accumulate income or use it for their benefit. In such cases Capital will not generally pass until those children reach at least 18.

There are life interest trusts, which arise for example when a beneficiary gets a right to live in a house, or a right to take income from residue, for his or her lifetime. There are also discretionary trusts which give the Trustees power to distribute income and capital among a class of beneficiaries.

If any of your beneficiaries are handicapped or financially vulnerable or have any other particular problems and needs, special trusts can be set up to cover these difficulties.

Executors can have a lot of work to do (and even more if they are Trustees). Non- professional ones, though they can claim their expenses, are not paid for this work. You might consider leaving them something in recognition of their trouble.

## **Administration of Estates**

The burden of administering a person's estate on death and complying with all the legal requirements can be a very daunting task for anybody, particularly at such a distressing time.

The specialist private client department at Thomas Flavell & Sons has considerable experience in dealing with these matters and they will be able to guide and assist you on the different aspects of administering an estate to whatever extent you require.

## **Tax Advice and Tax Planning**

Thomas Flavell & Sons offers clients confidential and impartial advice on tax planning, family protection mortgages and retirement planning.

We are familiar with all aspects of capital and income tax legislation, and we will show you how you can arrange your financial affairs to take maximum advantage of all your allowances and exemptions.

## **Powers of Attorney including Lasting Powers of Attorney**

Physical infirmities can present difficulties in signing not only cheques but generally in dealing with your financial affairs and your health and welfare. You can appoint an Attorney, most obviously a member of your own family, to deal with these matters on your behalf.

A Lasting Power of Attorney ("LPA") is a Power of Attorney which, subject to certain conditions and safeguards continues in force even after the maker of the Power (called "the Donor") becomes mentally incapable of handling his or her affairs, thus enabling your Attorney to continue to do so on your behalf.

The execution and registration of an LPA may be very important and requires considerable care. In its absence a Court of Protection Deputyship Application will probably be necessary which would involve the interference by the Court in your private affairs and increased costs.

If you execute a Power of Attorney, it does not necessarily mean that you will be unable to control your own affairs. You are still free to continue to deal with matters yourself for as long as you feel able and are willing to do so.

Subject to complying with the requirements of the Office of the Public Guardian, you can cancel or change the Power at any time while you still retain sufficient mental capacity.

If you wish we can act as your Attorney, particularly if your affairs are complex, or if there is no other obvious person to trust with the administration of your financial affairs.

## **Court of Protection - Deputyship**

The appointment of a Deputy by the Court of Protection is generally necessary when a person is incapable, by reason of his or her mental incapacity, of managing or administering his or her property and affairs and that person has failed to create a valid Lasting Power of Attorney.

The Deputy may be a spouse or other near relative, Solicitor or other professional adviser, Officer of the Local Authority, friend, neighbour or any other suitable person.

The Deputy is appointed by the Court to deal with the day- to- day management of the Patient's financial affairs. If there is no one else suitable or willing to act, a partner in the firm of Thomas Flavell & Sons may be willing to be appointed in this capacity.

### **House Sales**

For one reason or another the reorganisation of your financial affairs may involve the sale of your freehold or leasehold property.

The specialist conveyancing department at Thomas Flavell & Sons will ensure that the sale is dealt with efficiently and professionally, and the department will act as a single point of contact for you during the transaction, which will allow us to keep you informed of progress, respond to any queries you may have and guide you through the process.

### **How Much Will it Cost?**

Some types of work undertaken can be dealt with on a fixed fee basis whilst others will be charged by reference to the time spent dealing with that matter and its complexity. We will be happy to give you an estimate of the costs involved before any work is undertaken.