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Welcome

Welcome to the latest edition of the Diamond Client Focus, a newsletter for members of the George Davies Diamond Client Service.

In this edition we examine what happens when someone who has made a power of attorney dies – can the attorneys distribute the assets? Over the page we outline a common scenario that can arise when relatives live together and offer some advice on avoiding this sort of tricky situation.

You may recall we featured a travel insurance article last time. If you are struggling to get travel insurance you may want to check out the June edition of Which? Magazine where there is a useful article on travel insurance for the over 60s.

Finally, we are supporting our former colleague Matthew O'Neill who is running the BUPA Great Yorkshire Run in October to raise money for the Alzheimer's Society. If you would like to support Matt too please send a cheque made payable to the Alzheimer's Society c/o George Davies.

Yours sincerely

Stephen McCann
Partner

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Power of attorney – **still valid** after death?

Ruth, a client of the firm, rang the office wanting a bit of advice. Her father-in-law Jim had been in a Rest Home in Kent for the last seven years. Ruth and her husband had a Power of Attorney so they had been able to look after Jim's finances. The Power of Attorney had been prepared by Jim's solicitor down in Kent and it had worked really well.

Sadly, Jim died in April this year. Ruth was telephoning as Jim still owned a house and they wanted to sell it. She wanted to know if we would act in the sale? We asked Ruth if the solicitors in Kent had dealt with probate for Jim's estate. There was a silence at the end of the phone. Ruth then said "Oh, there was no need, I have distributed the money in the bank and the building society to the family as per Jim's Will,

that has all been sorted. All we need to do is sell Jim's home".

We explained to Ruth that the authority to act as attorney ends when a person who gave the Power of Attorney dies. On Jim's death, the authority that she and her husband had as attorneys, finished. The fact that they also happened to be the executors of Jim's Will was irrelevant.

Continued overleaf



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A Grant of Probate should have been obtained following Jim's death and we are now sorting that out for them. There are various reasons for this, one of which is that Her Majesty's Revenue and Customs always want to know when someone dies to make sure there are no outstanding income tax liabilities, and also to establish if there is any inheritance tax to pay.

Ruth asked us to write this article to help other members who thought they could carry on using a Lasting Power of Attorney, Enduring Power of Attorney or General Power of Attorney after someone has died.

For further information or if you need any help when using a Power of Attorney please contact Stephen McCann using the details overleaf.

Disclaimer

The contents of this newsletter do not constitute legal advice. You should always consult a suitably qualified lawyer for professional advice about any specific legal matter of concern to you. George Davies Solicitors LLP, its partners and staff do not assume any responsibility for information contained within this document and disclaim all liability relating to such information.



'Living together' agreements – not just for young couples in love

Picture the scene... Maureen's husband Stan passes away. Maureen doesn't want to live alone having lived with Stan for the last fifty years so she agrees to move in with her daughter Sarah who has recently divorced. Maureen sells her house and uses the proceeds to help fund Sarah's mortgage and maintenance to her house. Sarah does not transfer the house into joint names and Maureen feels too embarrassed to ask her to do so. Two years later Sarah meets a new man and wants him to move in. Maureen isn't keen but she has used most of her savings on Sarah's house so she doesn't have enough money to move out. She doesn't know if she is entitled to anything from Sarah as she isn't on the deeds.

Unfortunately lots of people who cohabit together, whether it be relatives; friends; or significant others, do not think about what will happen if they fall out, lose mental capacity or if one wants to sell and the other one doesn't. The situation is very different for married couples, but unmarried couples or others sharing a house are left trying to agree what should happen or have to ask the court to decide for them.

If Maureen had taken legal advice when she moved in with her daughter, she would have been advised to write down who owned what proportion of the property. But that may not have helped in her the scenario above, for example:

- What *actually* happens with the house? Does it have to be sold? Would Maureen's daughter get 'first refusal'?

If not sold, how is it valued? Who has to move out?

- Maureen has paid more off the mortgage for her daughter, how is that dealt with?
- Maureen has paid for a new fitted kitchen in the house – what happens to this?

A 'Living Together' agreement can deal with all of the above questions, and more. It provides certainty and peace of mind for everyone who is sharing the house, and anyone else who may be financially dependant on them. We offer an initial free consultation to see how we can help you with this.

For further advice please contact Robin Charrot using the details overleaf.

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