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Estate Planning

Objective

Asset and Estate planning helps you plan for the future to ensure you can control the ongoing ownership of your assets, and reduce risk. Planning the management and distribution of your assets both during your lifetime and after your death is important from four key perspectives:

- To ensure your estate is distributed in line with your wishes.
- To safeguard your assets from third parties (including relationship breakdown) during your lifetime.
- To manage your assets in accordance with your requirements in the event of physical or mental incapacity.
- To ensure that loved ones are not left with a large burden on your death and that they are adequately provided for.

The tools you can use include Wills, Enduring Power of Attorney, Trusts and other legal structures such as companies, partnerships and joint tenancies. To fully consider your estate planning needs you should consult a solicitor specialising in this area. Making a Will and Enduring Power of Attorney is important, but is not hard and doesn't have to cost a lot of money.

Wills
A Will is a statement by a person about how his or her personal affairs should be actioned after their death. It will contain directions which are not just limited to financial affairs but to other matters such as guardianship of children and desired funeral arrangements.

Enduring Power of Attorney
An Enduring Power of Attorney (EPA) is an essential part of your estate planning. If you were incapable of managing your own affairs because of sickness or mental incapacitation, an Enduring Power of Attorney ensures your personal, legal and financial affairs will continue to be conducted in an efficient and orderly manner by someone you have previously nominated. Having EPA's in place can result in considerable savings in time and expense.

There are two different types of Enduring Powers of Attorney that may be relevant for you. These are:

- Enduring Power of Attorney in relation to property

  This EPA would cover such activities as paying bills, preparing tax returns, managing investments and collecting rents

- Enduring Power of Attorney in relation to personal care and welfare

  This only comes into effect if you are no longer able to make important decisions for yourself concerning your personal care and wellbeing. You should appoint a family member or close friend who you trust completely

Trusts
A trust is an independent entity and is created and is governed by a trust deed which states the purpose of the trust and how it will operate. Establishing a trust is a way of protecting the

interests of those who you care about and providing future security for them. Reasons to consider establishing a trust:

- To protect your personal lifestyle assets from the risks associated with business.
- To provide for dependants such as children and grandchildren (i.e. for their education, if they have physical or other disabilities).
- To ensure the continuity of family ownership.
- To protect assets you bring into a marriage or relationship.
- To provide long-term support for charity.
- To protect and grow your investment assets and enable these to be passed onto your loved ones.

Joint Tenancy
In a joint tenancy, on death of any of the joint owners, the survivor(s) become the owner. It is common for a family home to be owned this way,. When the first party dies the survivor automatically becomes the sole owner. Ownership under a joint tenancy can simplify the estate administration process and save costs. It may also give quicker access to cash and ensure continuity of the personal financial process. But there can be untended consequences. The survivor therefore has full discretion as to how to manage those assets, and who to leave them to when they die. You may be comfortable with this situation, but what happens, for example, if they remarry? Their new spouse and family may have claims on what you considered your property.

Tenancy in Common
Tenancy in common allows for multiple ownership in specified shares – which can be equal or unequal. Your share of an asset held in tenancy in common does not pass by survivorship to the other owner(s). Therefore, when you die, ownership of your share is dictated by the terms of your will. For instance it can be settled in a trust, or left to a specified beneficiary. Therefore the surviving owner can have the use and benefit of your share of the asset(s) but does not own them or control what happens to them. The objective is to control the future ownership of your share of the assets and to protect it from attack. An additional benefit is that assets are not taken into account in determining eligibility for rest home subsidies for the surviving owner.

Analysis and Needs Identified

Are there Wills in place?	Yes / No
Are there any Guardianships of Children in place?	Yes / No
Are there Enduring Powers of Attorney in place?	Yes / No
Are there Powers of Attorney in place?	Yes / No
Is there are Trust in place?	Yes / No
Is Gifting to the Trust underway/completed?	Yes / No

Recommendations

Please seek advice from a specialist to ensure that your Estate Planning objectives are met.