Who we are and what we do?
Foresight Estate Planning is a specialist Will Writing and Estate Planning Company. We help our clients protect their wealth and ensure it is passed down to their chosen beneficiaries. We are fully qualified, insured and regulated by the Institute of Professional Will Writers, and approved by the Trading Standards Institute (formerly the Office of Fair Trading). Our greater strength comes from our association within our group of companies and we are proud partners of Insight Financial Associates who have a wealth of experience in advising clients on their pensions, investments and other financial service needs.

What is an Estate Plan?
An estate plan consists of three elements: -

1) **A Will**: everyone who has children or owns property should have a valid up-to-date Will. If you do not, your Will is determined by statute (the government) and is very unlikely to meet your wishes and in some cases could result in your assets passing to the wrong people.

2) **Lasting Powers of Attorney**: everyone should have Lasting Powers of Attorney “LPA”. There are two types; one that deals with property & finance matters and one that deals with health & welfare. For more information you can request our LPA Fact Sheet.

3) **Trusts**: are used to protect your wealth and ensure it goes to your chosen beneficiaries at the right time. There are two main types; those in your Will (Will trust planning) to give you some basic protection and certainty and one set up now (lifetime settlements) that provide you with the maximum protection and certainty.

An estate plan is something that grows and develops over time. Having a valid up-to-date Will and valid Lasting Powers of Attorney should be seen as the starting point. Our aim is to help you ensure that your estate plan reflects your current position and meets your current wishes and objectives. For example, “I do not want my house and savings to pass to another family if either of us re-married or co-habits in future years”, (bloodline planning).

We have clients who start with something basic and progress to partial or full estate planning later on and clients who proceed with full estate planning immediately. It is your choice – we merely facilitate you being able to make informed decisions about these very important matters.

Why do many people consider estate planning?
It was the MP Roy Jenkins who said inheritance tax is a ‘voluntary tax’. Similarly, family assets sometimes pass to the wrong people through a lack of planning and advice. Moreover it’s the most natural desire in the world – to pass on your hard-earned assets to your family and loved ones. But before that is possible there are legal costs and delays, tax authorities, potential former in-laws, creditors and local authorities eyeing up your estate.

People in general now have far more assets than ever before and at the same time families have become increasingly diverse and complicated and the threats to passing assets down our bloodline have increased; 100 years ago divorce and re-marriage was rare and people retired at 65. This combination of increased personal assets, together with the new threats of modern society means that estate planning should be a vital part of your financial planning toolkit if you own property and / or have children.

Simply having a basic Will is no longer likely to achieve your wishes

You can avoid all of the threats to achieving your wishes by putting in place a bespoke estate plan for you and your loved ones. The foundations are the Will and Lasting Powers of Attorney on top of which you can build your estate planning (to protect and preserve your wealth).

A will ONLY administers what you have WHEN you die and this maybe nothing. If a spouse remarries your will may not even guarantee that your children or beneficiaries will even inherit! If long term care is required, with average fees around the £800-1000 a week a lifetimes possessions and property can be drained to almost zero within 4-5 years.

Remarriage, Care, Alzheimer's or Dementia are all part of everyday life and yet very few people deal with these until they are faced with them at which point it may be too late. Here at Foresight we are urging everyone to consider the impact of how people are living their lives today and how it affects what they can pass on to their children and their bloodline.

In this pack you will find all the information you need to protect yourself if you were to lack capacity, require care or if a spouse remarries. By acting on this advice you will always have who you trust making decisions if you cannot. There will be an estate to leave and that your monies will pass to your chosen beneficiaries not to someone else's.

What is a Lasting Power of Attorney?

A Lasting Power of Attorney is a legal document that allows you to appoint one or more people to make decisions on your behalf during your lifetime. The people you appoint to manage your affairs are called the Attorneys. A Lasting Power of Attorney is a completely separate legal document to your Will although many people put them in place at the same time as getting their Will written, as part of wanting to plan for the future.

Why is a Lasting Power of Attorney So Important?

Once you have a Lasting Power of Attorney in place you can have peace of mind that there is someone you trust to look after your affairs if you became unable to do so yourself during your lifetime. This may occur, for example, because of an illness or old age or an accident.

Having a Lasting Power of Attorney in place can allow your attorney to have authority to deal with your finances and property as well as make decisions about your health and welfare. Your Lasting Power of Attorney can include binding instructions together with general preferences for your attorney to consider. Your Lasting Power of Attorney should reflect your particular wishes so you know that the things that matter most would be taken care of.

You can only put a Lasting Power of Attorney (LPA) in place whilst you are capable of understanding the nature and effect of the document i.e. you have the required legal capacity. After this point, you cannot enter into a LPA and no one can do so on your behalf.

Many people don't know that their next of kin has no automatic legal right to manage their spouse's affairs without a Lasting Power of Attorney in place, so having to make decisions on their behalf can become prolonged and significantly more expensive.

The best solution is for couples to have 'Mirror' (identical) Lasting Powers of Attorneys because these documents would allow them to appoint each other to make decisions about each other's financial affairs and health issues; should one of them lose capacity to do so.

What Happens Without a Lasting Power of Attorney?

Without a Lasting Power of Attorney (LPA) in place there is no one with the legal authority to manage your affairs, for example, to access bank accounts or investments in your name or sell your property on your behalf. Unfortunately, many people assume that their spouse, partner or children will just be able to take care of things but the reality is that simply isn't the case.

In these circumstances, in order for someone to obtain legal authority over your affairs, that person would need to apply to the Court of Protection and the Court will decide on the person to be appointed to manage your affairs. The person chosen is appointed your 'Deputy'. This is a very different type of appointment which is significantly more involved and costly than being appointed attorney under a LPA.

If you wish to have peace of mind that a particular person will have the legal authority to look after your affairs and you want to make matters easier for them and less expensive, then you should strongly consider getting a Lasting Power of Attorney in place.

Types of Lasting Power of Attorney Explained

Two types of Lasting Power of Attorney are available under English law:

- Health and Welfare Lasting Power of Attorney
- Property and Financial Affairs Lasting Power of Attorney

A Health and Welfare Lasting Power of Attorney (LPA) allows you to name Attorneys to make decisions about your healthcare, treatments and living arrangements if you lose the ability to make those decisions yourself. Unlike the Property and Financial Affairs LPA, this document will only ever become effective if you lack the mental capacity to make decisions for yourself.

If you can't communicate your wishes, you could end up in a care home when you may have preferred to stay in your own home. You may also receive medical treatments or be put into a nursing home that you would have refused, if only you had the opportunity to express yourself; and this is when your attorney, appointed by the Lasting Power of Attorney, can speak for you.

A Property and Financial Affairs Lasting Power of Attorney (LPA) allows you to name Attorneys to deal with all your property and financial assets in England and Wales. The Lasting Power of Attorney document can be restricted so it can only be used if you were to lose mental capacity, or it can be used more widely, such as if you suffer from illness, have mobility issues, or if you spend time outside the UK.

LPAs for Sole Traders & Business Owners

- What would happen to your business if you lost the ability to deal with your own business affairs and make decisions?
- What if you have a business bank account in your name as a sole trader or joint bank accounts with other business owners which require the signatures of all the named account holders?
- How would your business finances be managed on a daily basis in the event of an accident or illness?

A number of problems could arise such as the impact on your customers being unable to access your products or staff or creditors not being paid.

Before a Lasting Power of Attorney can be used by your attorney it must be registered with The Office of the Public Guardian (OPG). They charge a registration fee of £82 per Lasting Power of Attorney. However, there can be an exemption for people who receive certain means-tested benefits, and a 50% fee reduction may be available based on the applicant's financial circumstances or a reduction based on the applicant receiving Universal Credit. For details see Office of the Public Guardian fees.

Life Interest Trust Wills

When making a Will, it's possible to include a Trust which gives someone a life interest in your property or other assets, without those assets actually leaving your Estate. For example, if you include a Life Interest Trust in your Will and your home is placed into this Trust, then the person with a life interest could continue to live in the property for the rest of their life, but on their death it would then be distributed in line with the terms of your Will. A Life Interest Trust can be an effective way of ensuring that a loved one is provided for during their lifetime, while also protecting the value of your assets for future generations.

What Are Life Interest Trust Wills Used For?

When making their Wills together, many couples will leave everything they own to the other person, with it then passing on to their children when the second person dies. This is fine in theory, but can potentially cause issues in the future, and result in the Estate not being distributed in the way that they had hoped.

For example, if one person dies and the other then goes into care, then the value of their collective Estate could easily be swallowed up in care fees. Alternatively, if the second person goes on to remarry and fails to make a Will (or makes a Will leaving everything to their new spouse) then the children could end up with very little, or nothing at all. This is called the sideways disinheriting. A Life Interest Trust Will can help to protect your assets against care home fees and the sideways disinheriting.

Protecting Your Assets from Care Fees

In England and Wales, if everything a person owns is worth less than £23,250, then the Local Authority will offer financial support to help with the cost of care fees. If they own assets that are worth more than this, then they will be responsible for covering their own care fees. Let's use an example to illustrate how a Life Interest Trust can help to protect wealth from being swallowed up in care fees:

Mr and Mrs Smith are married with one daughter. They have made Mirror Wills which leave everything to the other person, with it then passing to their daughter on the second person's death. Their only substantial asset is their home, which they own outright and is worth £400,000.

When Mrs Smith dies, everything passes into Mr Smiths' sole name. Mr Smith becomes unwell and moves into a residential care home, where he stays until he passes away 12 years later.

The care home fees come to £40,000 per year. As Mr Smiths' Estate is worth £400,000, he is responsible for covering these fees himself. Over the 12 year period, his Estate is completely swallowed up by care fees. In the tenth year of his care home residency, his Estate drops below the £23,250 threshold and the Local Authority steps in to offer financial support.

In the end, Mr Smiths' Estate drops below £14,250, at which point he becomes eligible for the maximum financial support from the Local Authority. When he dies, this £14,250 passes to his daughter, as the sole beneficiary of his Estate.

If Mrs Smith had included a Life Interest Trust in her Will, she could have ring-fenced her 50% of the property value by placing it into a Trust, while giving her husband a life interest in the property. This would entitle Mr Smith to continue living in the property for the rest of his life, or sell it to buy a new property to live in, or receive all of the property or sale proceeds outright if required.

In this scenario, when Mr Smith moves into the care home his personal assets amount to 50% of the property, at a value of £200,000. The other 50% of the property is held in a Trust. In the fifth year of Mr Smiths' residency in the care home, the value of his assets drops below £23,250 and then falls to £14,250. For the final 7 years of his life, the Local Authority provides financial support for his care home fees.

When Mr Smith dies, the £200,000 value of the property that is held in Trust is passed on to his daughter, as the sole beneficiary of this Trust. She also inherits the remaining £14,250 in Mr Smiths' Estate. So by including Life Interest Trusts in their Wills, Mr and Mrs Smith would pass on £214,250 to their daughter, as opposed to £14,250.

Avoiding the Sideways Disinheritance Trap

Understandably, many couples like to keep things straightforward when it comes to making a will. Typically they will want to just leave everything to their spouse or partner when they pass away. This is so they can make sure that their partner can continue to live in their house and access their finances. They probably consider everything they have to be jointly owned with their partner, even if some of the assets only belong to one of them. Sideways Disinheriting occurs when someone who has children from a previous relationship remarries after the death of their partner or spouse, inadvertently disinheriting their children.

We'll use Mr and Mrs Smith again to illustrate how this could happen and how a Life Interest Trust can help. Again, Mr and Mrs Smith have made Mirror Wills, leaving everything to each other, with it then passing to their daughter on the second person's death.

In this scenario, after Mrs Smith dies, Mr Smith remarries and he and his new wife, Ms Goldigger, live in the property that Mr Smith owns outright. He is aware of the fact that remarriage revokes a will, so he makes a new Mirror Will with his new wife, in which they again leave everything to each other and then evenly between his daughter and his wife's two sons (from her previous marriage).

When Mr Smith dies, his entire Estate passes to his new wife, Ms Goldigger, in line with the terms of his Will. She then makes a new Will which disinherits Mr Smiths' daughter, leaving everything instead to her two sons. Mr Smiths' daughter inherits nothing from her parents' Estate.

An increase in blended families has highlighted this issue, with a growing number of children being born to parents not legally married and the high proportion of marriages ending in divorce. If you are in this situation, you'll probably want to leave something to your children when you die but this can be complicated if you also want to provide for your new spouse if you die before them.

You can protect your children simply by making a new Will once you remarry. This simple action can help you to avoid the situation where you disinherit your children but in reality the majority of people will forget to write this New Will or will trust the new partner to do the right thing but unfortunately the Law does not recognise Love or trust. After someone has died monies can change an individuals reasoning.

There are legal solutions you can put in place to protect your new spouse or civil partner. Using your Will to leave your assets into a Trust can be a great way to protect your children and also help to protect your new partner.

One option is to include a Life Interest Trust in your Will which means that when you die, all of your assets go into a Trust instead of being directly given to your spouse or partner. This Life Interest Trust, managed by Trustees that you appoint, will ring-fence your assets and name your 'Life Tenant'. The person you name as your as Life Tenant will be allowed to live in your property and gain any income generated by your ring-fenced assets for the rest of their lifetime or, if you prefer, until they remarry.

Once your spouse dies or remarries, all your assets held in the Trust will be passed to your children. A Life Interest Trust in your Will can help to protect your children from accidental or enforced sideways disinheritance. If Mrs Smith had included a Life Interest Trust in her Will, she could have ring-fenced her share of the property in a Trust, giving her husband a life interest in it. This would mean that he could continue living in it for the rest of his life, but on his death, Mrs Smiths' share in the property would still pass down to her daughter.

Property Ownership

Many people in don’t realise that you can own property with other people in different ways. Furthermore, the way you own your property can have a significant impact when writing your Will. There are two main ways of owning a property jointly. These are known as Joint Tenants and Tenants in Common.

Joint Tenants vs. Tenants in Common Explained

If you own your property with someone as Joint Tenants it means that, upon death, the ownership of the property passes to the remaining owners that are alive and it does not pass under the terms of your Will. However, if you own your property with someone as Tenants in Common, it means that you own a specific share of the property so that, upon death, the share of the property that you own can be included in your Will and go to the beneficiaries you choose.

How Do I Know if I'm Joint Tenants or Tenants in Common?

There are a couple of ways to check this. If the ownership of your property is not registered at the Land Registry then you will need to inspect the Title Deeds to the property to see how you own it. Alternatively, if the ownership of the property is registered at the Land Registry, they will have a record of how it is owned.

Can I Change the Way I Own a Property?

Yes, that is possible and we can make it easy for you. For example, you may own a property as Joint Tenants but you want to leave your share of the property to someone other than the joint owner. In that case, we can help you change the way you own the property to Tenants in Common. We will prepare all the necessary documentation for you to sign and where necessary deal with the Land Registry for you.

Reasons to Change from Joint Tenants to Tenants in Common

Changing how you own your property is sometimes required when writing a Will. You may want to leave your share of the property to someone other than the joint owners. There are a number of reasons why you might want to do this this, for example, you may want to leave your share of the property outright to someone else or place the property into a Trust.

Leaving shares of property in a Trust is commonly seen where you want to protect against it being used to pay potential care home fees or if you want to allow your spouse/partner to live in your share for their lifetime but, upon their death or subsequent re-marriage, the property passes to your children. These types of arrangements are dealt with through Trust Wills.

What Type of Trust should I Use?

Because a Trust is a legal structure which can be included as part of your Will and can offer increased asset protection for your loved ones. These types of Wills are called Trust Wills. We would always recommend that you consider the benefits of setting up a Trust as part of your Will.

They are most commonly seen in the following circumstances:

- You wish to protect your estate against possible care fees in the future.
- You have a spouse or partner but children from a previous relationship.
- You wish to leave some of your estate to a vulnerable or disabled person.

How Do Trust Wills Work?

Usually, when making a Will, you name people that you would like to receive your estate when you die, known as your Beneficiaries. However, there may be circumstances where you would prefer that your estate doesn’t go directly to the beneficiaries when you die, but rather, that it is held on behalf of those beneficiaries in a particular way.

The people holding the assets on behalf of the beneficiaries are known as your Trustees. Trustees are nominated within the Will to administer the Trust on your behalf.

The most common reasons for setting up a trust relates to ensuring that your assets are distributed the way you want. If your children are young, for instance, you can have a trustee manage money when you are gone to make sure they live comfortably, receive a good education and use the funds for specific purposes.

Families also use trusts to ensure a smooth transfer of wealth from one generation to the next. A trust can establish rules about how family money should be used and distributed, which helps to ensure that wealth is preserved and that your legacy can last for generations. Trusts also come in useful when you want to protect what you own, for example, when family disputes arise.

With family relations growing increasingly complex and disagreements or divorces becoming more common, putting assets in a trust can protect them from difficult situations. Parents can buy a home for a child, for example, and protect against the risk of family feuds or divorce by keeping the property outside of the child's assets. It is often more difficult for people to challenge a trust than to challenge the validity of a will.

Types of Trust Wills

We offer the following types of Trust Wills to assist in different circumstances:

- Property Trust Will
- Life Interest Trust Wills
- Discretionary Trust Wills

Property Trust Wills

A Property Trust Will, sometimes referred to as a protective property trust, can provide greater peace of mind if you own a property and wish to best protect its value for future generations. Benefits of a Property Trust Will:

- Guarantees who benefits from your share of the property if your surviving partner:
- Remarries after you die (marriage automatically invalidates any existing Wills)
- Writes a new Will after your death, changing their original wishes.
- Can help reduce the potential impact of residential care fees on the property value for the benefit of future generations.

Who Can Benefit from a Property Trust Will?

- Anyone who owns property with someone else, whether married, unmarried or in a civil partnership and:
- Wants to protect the property value for specific loved ones in the future.
- Wants to protect the property value from the potential future risk of residential care fees should this be required for the surviving partner.

Flexible Life Interest Trust Wills

A Flexible Life Interest Trust Will can help if you have significant assets or investments as well as property, and wish to protect their value for future generations.

Benefits of a Flexible Life Interest Trust Will

- Guarantees who benefits from cash assets and investments as well as property if your surviving partner:
- Remarries after your death (marriage automatically invalidates any existing Wills)
- Writes a new Will after your death, changing their original wishes.
- Allows a nominated person to benefit from the income generated from your investments if you die, whilst protecting the capital value for future generations.

Who Can Benefit from a Flexible Life Interest Trust Will?

- Anyone who holds cash assets and investments in their sole name and:
- Wishes to take care of a nominated person such as a surviving spouse, but help protect the capital value of investments for specific loved ones in the future.
- Wants to protect the value of the investments for future generations.

Discretionary Trust Wills

A Discretionary Trust Will allows you to appoint trustees to manage inheritance on behalf of vulnerable loved ones who require assistance.

Benefits of a Discretionary Trust Will

- Guarantees that vulnerable people are given assistance in the management of their inheritance.
- Reduces the risk of state benefit entitlements being compromised by the receipt of inheritance.
- Potentially helps unmarried couples with Inheritance Tax planning.

Who Can Benefit from a Discretionary Trust Will?

- Anyone who wishes to leave inheritance to:
- Loved ones who lack the mental or physical capacity to look after their own affairs.
- Loved ones who have a disability and run the risk of having their state benefit entitlements compromised by the receipt of inheritance.
- Beneficiaries who are in a vulnerable position. e.g. someone with learning disabilities, undergoing a divorce, struggling financially.

Family Trust Planning

To underpin the wealth acquired by our clients, Foresight provide a range of trust solutions designed to meet a variety of client needs to ensure generational planning, asset direction and wealth protection for families. Bloodline Planning ensures that your assets reach your children, grandchildren and other relatives, rather than ending up in the wrong hands!

When assets are distributed via your Will (if you have one) to your chosen beneficiaries, these assets are then considered to be part of the beneficiary's estate and would be at risk of attack from any future divorce settlements, creditors and/or taxation. With the strategic use of Trusts, you can ensure that your children and grandchildren are able to benefit completely from the inheritance you want them to receive and at the same time offer protection of the family home and other assets from being lost to attack from any future divorce settlements, creditors, taxation and the costs of Long Term Care.

Beneficiary Protection Trusts

This type of trust has been specifically designed to deliver lifetime and residual estate wealth preservation benefits to families for estate values typically from £400,000. Importantly the planning is effective in dealing with the new Residential Nil Rate Band ("RNRB") tax allowance in an effective, flexible manner. Clients who plan to gift assets to their children and/or leave their assets directly to a spouse and then to their children when they die may benefit from this planning.

Additional Settlements (Trusts) can be added for individual beneficiary groups (children). The trusts may hold lifetime transfers as well as residual estate legacies. The plan addresses the shortfalls of most common wills which leave assets to each other and then to children directly. The framework can protect assets on the death of the first spouse and delivers next generation control and protection. Additional trusts for specific beneficiaries are recommended.

In order to realise the full benefits of this planning continuity of advice is essential. Therefore periodic reviews are required and on death we encourage clients to consult their financial adviser and use Foresight to assist with probate and/or post probate administration.

The key advantages of the planning include:

- Optional protection of the assets of the first to die from social impact.
- Avoids generational erosion of wealth - legitimately avoids next generation inheritance tax equating to £40,000 for every £100,000 directed to the trust.
- Potential protection of trust assets given to beneficiaries from social impacts e.g. their children divorcing.
- Flexible approach to claiming any required RNRB tax allowance where applicable.
- Protection of assets gifted during lifetime, creating additional next generation tax and protection benefits.
- Funds can be retained within the trust for up to 125 years providing benefits for generations to come.

The planning delivers a high level of flexibility and does not require a client to lose control of assets. Most assets only pass on death. The trusts used are developed and maintained in conjunction with Solidus and Mills & Reeve LLP, the largest private client legal group in England and Wales. The plan always includes one or more pilot trusts (established as part of the planning and does not rely on the actions of a probate solicitor on death). Our Trusts have been comprehensively designed to cover the requirements of most family circumstances and are regularly updated.

The Benefits of Bloodline Planning

If assets and wealth are protected in a bloodline trust then they remain within the family unit. Without a bloodline trust assets are vulnerable to:

- Divorces in future generations of a family
- Bankruptcy or other financial issues
- Inheritance tax
- Other taxes

Bloodline trusts ensure that money can only be accessed and used by your children, your grandchildren or other generations directly related to you – those who have married into a family have no access to funds. You work hard to build up your wealth and it is important to think equally hard about protecting it from erosion through the generations because of unnecessary tax payments. We believe inheritance should be a 'True Legacy' allowing each generation to benefit not just one.