



Vulnerable Beneficiaries

Using Trusts to preserve your family wealth *and* to protect your loved ones in the future



Estate
Planning
Solutions

PLANNING PROTECTION CERTAINTY

estplan.co.uk

' I was guided through the whole process in a helpful friendly yet professional manner. Thank You. '

Miss M. Birmingham

' The consultant was extremely knowledgeable about your services, very professional, offered good advice and he was not pushy (very important to us). He made the whole process easy and stress free. '

Mr & Mrs S. Norfolk

' Great professional service from EPS. We would definitely recommend to friends and family. '

Mr & Mrs K. Leeds

' Our consultant took the time to find out precisely what we wanted and explained our options in plain English! Very friendly professional service.'

Mr & Mrs L Wigan.

Index

Why is it so important?	4
The problems	5
Wills & Trusts	6
What can I do?	7
Guardianship	8
Making decisions	10
Benefits	12
What's next	13
About us	14

Why is it so important?

The purpose of this guide, is to provide parents and carer's with advice and guidance, in relation to their options about looking after the long-term interests of vulnerable beneficiaries, especially after the parents and carer's are no longer around to protect them. Planning for the future can make a huge difference, particularly once you are not here to look after your child.

A vulnerable beneficiary is defined as a person with a mental or physical disability or a learning difficulty that means they experience difficulty with everyday activities such as household tasks, socialising or managing money.



Main Questions to Consider

- Q Is a direct and absolute inheritance appropriate or does the vulnerable person need protecting?
- Q What have you done to protect your wealth and ensure you maximise what passes down to your family?
- Q Is being an appointee for benefits sufficient or will attorneys or a deputy be needed to make financial decisions in the future?
- Q Are best interest assessments appropriate and sufficient for your circumstances or do you need to consider a deputyship application for personal decisions?
- Q How do I get the best advice and who can I trust given how important it is to get it right?

Enclosed with this booklet is a list of useful contacts for advice and information relating to vulnerable beneficiaries.

The problems

Even a small lump-sum inheritance can affect your child's entitlement to benefits. Leaving an inheritance directly to a vulnerable beneficiary is not an option because:

- 1. Your child may not spend or manage their inheritance wisely** Failing to plan ahead may result in their inheritance being wasted or the need for an application to the Court of Protection for a Deputy to manage their inheritance. This means long delays, substantial legal fees and losing control to someone you do not know making decisions that may not reflect the vulnerable person's (or your) wishes.
- 2. Financial Abuse** Difficulty with managing finances is common for vulnerable beneficiaries, making it particularly hard to deal with their new found wealth. It leaves them open to financial abuse from others who wish to take advantage.
- 3. Loss of Benefits** Means tested benefits and support packages funded by local authorities may be lost, which in turn leads to inherited funds being used to pay for care.

Planning ahead avoids all these problems.



Wills & Trusts; Protecting your loved ones inheritance long-term

Everyone has fears for the future and a parent or carer of a vulnerable beneficiary yours might be how they will cope when you are no longer around. How will they cope financially? Will they still receive benefits? How can I minimise change in their life?

Wills and Trusts are vital if you wish to protect your child in the long-term. Trusts can protect your wealth from tax, care fees or future spouses or partners where family wealth can pass outside of your family to the taxman, local authorities or third parties. It is also very important that your inheritance from your parents is maximised, so it can be passed on to your chosen beneficiaries.

Planning now, can protect your child's future and provide you with peace of mind, that you have done everything possible for your child to secure a happy and fulfilling life. Making a Will and setting up a Trust are two of the most important things you will ever do for your child's future. Taking these steps now will safeguard their finances, minimise change in their life and enable them to continue doing the things that they enjoy.

Please call us on: 0800 781 6658 if you have any questions.

Wills and Trusts Whats the difference?

- **A Will** sets out your wishes for dealing with everything you own after your death
- **A Trust** is used to protect:
 - Your wealth, to maximise inheritance for your loved ones
 - Your beneficiaries, to minimise threats that could reduce their enjoyment of their inheritance
 - Your inheritance from your parents

So what can I do?

1. Make a Will

Your Will is the legal document which sets out your wishes for distribution of everything you own after you have passed away. Your Will can be used to maximise inheritance passing down the bloodline by minimising risks such as sideways disinheritance and long-term care fees, which can partially or totally disinherit your loved ones.

2. Set up a Trust

Your Trust is an arrangement where Trustees - (chosen by you, and including you) hold Assets (chosen by you) subject to some rules (decided by you). A Trust offers more protection than a Will because the Trustees have control over the Trust Fund and not the vulnerable beneficiary. Trusts should only be handled by a legal professional with experience in this area (STEP qualified).

3. Letter of Wishes

Your letter of wishes sits alongside your Trust and provides guidance for the Trustees. It states exactly how you wish the assets in the Trust to be used and may also set out their personal likes, dislikes and preferences.

What should I **not** do?

- Write a Will making no provision for the vulnerable beneficiary, thinking that the other children will take care of them
- Have no Will or make a Will that leaves the estate to the vulnerable beneficiary, who as a result will:
 - Lose their benefits
 - Need an application to the Court of Protection for a deputy to look after their affairs
 - Expose them to unnecessary risks and being taken advantage of

Always ensure those acting on your behalf are Will and Trust specialists, who have experience in this area and are STEP qualified. This is the Gold Standard and highest level of qualification available for Wills and Trusts.

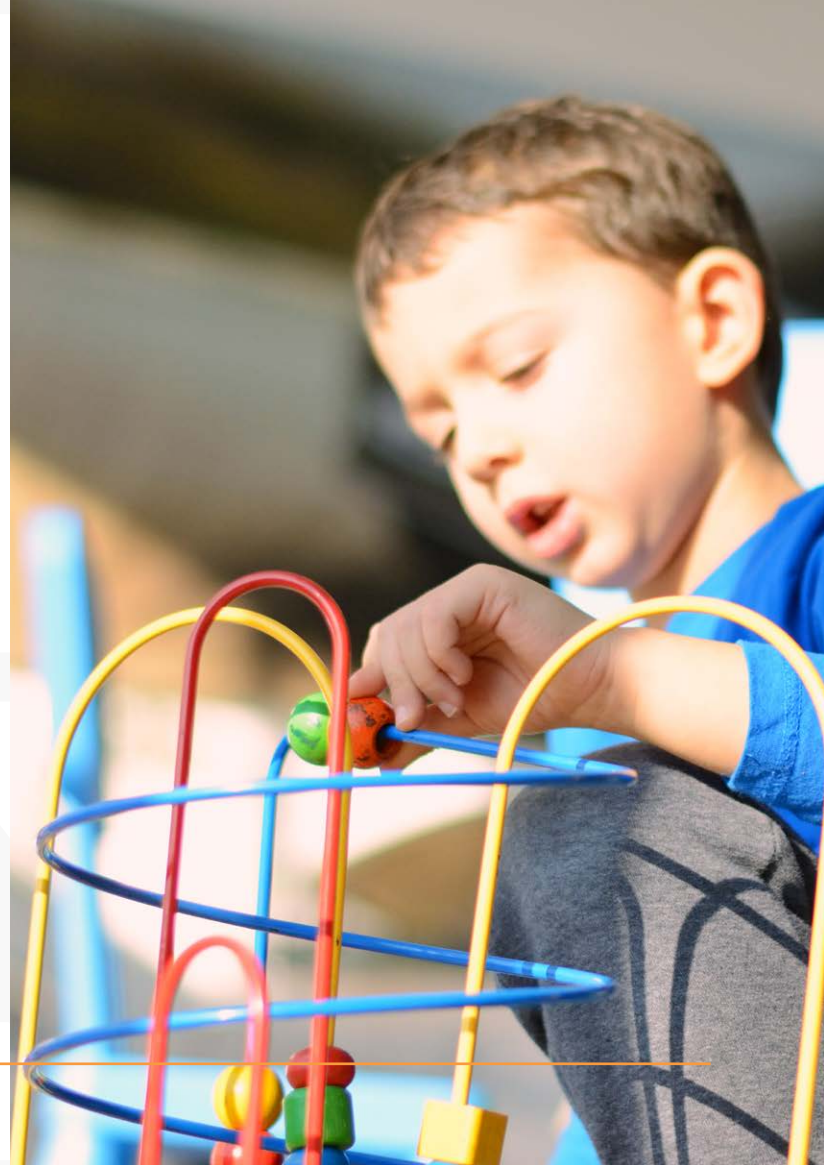
Guardianship

One of the most important steps you can take in making plans for your child is to appoint a Guardian. A Guardian is a person who will effectively 'step into the shoes' of a deceased parent and assume responsibility for the child.

Whilst a Guardian can be appointed in a written signed and dated statement, the best method of appointing a Guardian is to include it in your Will.

Making the appointment of a Guardian within your Will has the added benefit that related financial agreements (such as a Trust for your child) can be included in the same document.

If there is no surviving parent with 'paternal responsibility' and no appointment of a Guardian has been made, then the child becomes the responsibility of the Court, and until such time as the Court appoints a Guardian, the child may be taken into care.



Factors to consider when appointing a Guardian

When deciding who to appoint as a Guardian it may be helpful to bear in mind the following:

Practical

- Do you trust your Guardian to raise your child as you would have wished?
- Does your Guardian have children the same age and experience of parenting?
- Is your choice of Guardian known to your child? Do they get on well together?
- Does your choice of Guardian have a genuine concern for your child's welfare?
- Does your Guardian live locally? Would your child have to move school?
- Does your Guardian share the same values and beliefs that are important to you?
- Have you discussed the proposed Guardianship with your choice of Guardian, and established if they're willing to accept?
- Is your choice of Guardian aware of your child's likes and dislikes, favourite activities, foods, people and places?

Financial

- How will your child's upbringing be paid for?
- Is money to be held in the Trust for the child beyond the age of 18?
- Will your chosen Guardians also be the Trustees of your child's fund? If not can they work well with the Trustees?
- Do you wish to make a direct gift to the Guardian for their benefit?
- If you own a property is it to be sold after your death? If not how is maintenance to be paid?
- What can the Trustees spend your child's money on before he/she reaches 18?
- Have you written a letter of wishes to your Trustees and is this up to date?

Making Decisions

A vulnerable person may lack the capacity to make important decisions about their finances or personal decisions like medical treatment and where to live.

When an individual lacks capacity, then the first and most basic principle is that any decision must be made in their **best interests**. The Mental Capacity Act (MCA) is the statutory framework for people who may not be able to make their own decisions due to illness, disability or mental health problems. Strong emphasis is placed on supporting and enabling the individual to make everyday decisions.



What if a person is deemed to lack the capacity to make a personal decision?

If a person lacks capacity, then actions can be taken, or decisions made in that person's best interests on their behalf by a decision-maker. This is usually the carer responsible for the day-to-day care, or a professional such as a doctor, nurse or social worker.

For more information on 'best interest assessments' please go to:

<https://www.39essex.com/wp-content/uploads/2017/11/Mental-Capacity-Guidance-Note-Best-Interests.pdf>



If it is decided that a person lacks capacity, what actions can be taken on their behalf?

If a person has been assessed to lack capacity and it has been deemed that certain actions would be in their best interests, the Act allows people to legally carry out these actions in relation to a person's care or treatment.

Decisions are normally individual, but the Court of Protection can appoint a Deputy to make **financial** decisions on a person's behalf long-term. A Deputy will be accountable to the Court for any decisions they make.

There are three problems with applying to the Court of Protection for a Deputy to be appointed:

- **Costs.** Likely to be around £2,500 - £3,000
- **Delays.** It can take up to 12 months
- **Control.** Deputy appointed. This can be the solicitor making the application, so you **lose control** and pay heavily for every action they take



It makes sense to plan ahead to avoid all these problems.

Means tested benefits

The benefits system is complicated, and it can be very difficult to understand properly and to make sure you are receiving the correct benefits. Often people will not claim because:

- They are coping financially
- Because it's too difficult
- Fear of making a claim incorrectly and having to repay money in the future

It is important to realise, that if you don't claim benefits you are entitled to now, then in the future when you are no longer around, the local authority are far less likely to approve the benefit application. Their argument being that - *'you didn't need it/qualify back then so why give it to you now when nothing has changed?'*

Can I manage the benefits?

Yes, you can apply to become an 'Appointee for benefits' so that you are able to deal with the benefits of someone who is unable to manage their own affairs, due to mental incapacity or severe physical disability. Only 1 person can be appointed.

It is usually a parent or carer who applies to become responsible for making and maintaining benefit claims, this includes:

- Signing benefit claim forms
- Keeping the benefits office advised about changes
- Spending the benefit in the person's best interests (it is paid directly to the appointee)

The application to become an 'Appointee for benefits' is made to the DWP (Department for Work and Pensions) and there are different contact details to call for Attendance Allowance, Disability Living Allowance, Personal Independence Payment and State Pension. For more information go to:

www.gov.uk/become-appointee-for-someone-claiming-benefits

Contact details form, also enclosed.



Call us on: **0800 781 6658**

What's next? Things to consider:

- Q Will.** Is your Will up to date and fit for purpose?
 - Q Trust.** Would a Trust arrangement benefit your family?
 - Q** Is the best interest assessment process sufficient for the person's circumstances?
 - Q** Is an application for an LPA Property & Finance, LPA Health and Welfare or Advance Decision appropriate?
 - Q** Is an application for a Deputy for financial decisions necessary?
 - Q** Do I need to become an appointee for benefits?
 - Q** What is likely to happen if my child inherits absolutely?
-
- A** It always makes sense to plan ahead to avoid future problems.
 - A** By having the right planning in place, the vulnerable person can have all the benefits of their inheritance with none of the downsides.
 - A** By planning ahead, you can get peace of mind and make life easier for those left behind.

Why Estate Planning Solutions?

Estate Planning Solutions are an award winning independent Estate Planning company, specialising in protecting your wealth and your loved ones.

We strive to provide the highest possible level of customer service, which is delivered in a way that is professional, convenient, affordable and most of all friendly and jargon free.

We adhere to guidelines from STEP- the 'gold standard' for Wills and Trusts. We are members of the IPW (Institute of Professional Willwriters) who are approved by Trading Standards Institute. All our Estate Planning Consultants are fully qualified and undergo continuous professional development, in order to best serve our clients and provide the duty of care you deserve.

Please visit our website for further information on all our services and how we are here to help you protect your wealth and your loved ones' future.



Our Commitment to Quality Service

- No obligation consultation
- Face to Face, virtual or telephone consultations available
- Highly qualified consultants
- Ongoing client care service
- Regulated by IPW and TSI
- **Specialists in vulnerable beneficiary protection**

Estate Planning Solutions is the trading name of Holistic Estate Planning Solutions Ltd. (Registered in England and Wales 4321172)
Registered Office Address: Suite 2E, Manchester International Office Centre, Styal Road, Manchester M22 5WB

***Paul Dodsworth is a full member of the Society of Trust and Estate Practitioners (STEP) Membership No. 202808**





Estate
Planning
Solutions

PLANNING PROTECTION CERTAINTY

estplan.co.uk

Contact us today:

Estate Planning Solutions

T +44 (0) 800 781 6658

E enquiries@estplan.co.uk

For more information please call one of our dedicated team of legal professionals FREE on: **0800 781 6658**



Google ★★★★★ Google Reviews 4.9

