

Professional Capital

Advising Professionals Every Step of the Way

Charting your Financial Future



Legacy Planning, Gifting and Charitable Giving

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Introduction

A legacy is generally defined as leaving money or property to someone in a Will.

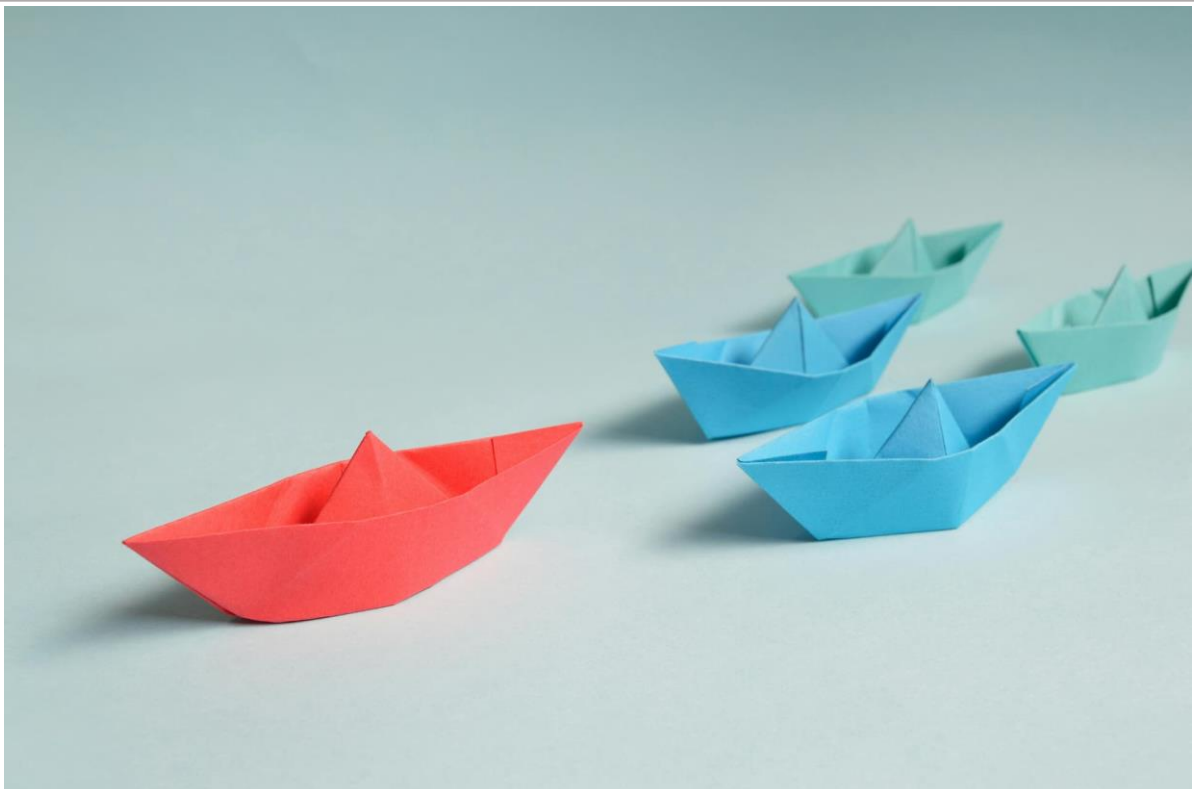
However, when we look at Legacy Planning this definition is worth widening.

As “One’s Legacy” can be considered much more than just the formal arrangement of a set of instructions in a Legal Document.

For millions of people in the UK, leaving a Legacy will typically include wanting to help the next generations for decades to come, protecting against long-term risks to family and leaving their mark after they have gone.

We need to consider what this means in practical terms and how, years in advance, people can take steps to arrange their affairs to build a legacy which will help their family, community and chosen causes.

“According to the Legacy Market Outlook 2018, gifts in wills now represent around 3.5% of all the money left in estates”



Wills

Many mortgage lenders will now make a Will a central requirement of loaning a mortgage to their borrowers. This highlights how important a Will is in terms of major financial commitments, regardless of the age of those entering into the transaction.

Put simply- a Will is a fundamental part of any financial planning, for just about everyone of adult age. Anyone married, with children, with property, with borrowing, with a pension plan, life assurance and so on, should have a Will.

As you might imagine that suggests most adults in the UK would have Wills. Yet, less than 50% have organised one.

Having a Will is crucial and Legacy Plans cannot really work without one.

More than this, regularly reviewing and updating Wills should be a central plank of such planning.

However, and this does not reduce the importance of having a Will, on its own instigating a Will is a limited form of Legacy Planning.

In other words, arranging – or having – a Will does not really ‘cut it’ in the context of most people’s requirements around a legacy.

The problem with a Will is that it represents a ‘one off’ moment when instructions are read and followed by executors and assets and affairs are then distributed and sorted.

Once done, everyone moves on.

Rarely, on its own, does a Will contain arrangements and protections for future generations.

Therefore, Will planning is not the same as Legacy planning.

“Recent research carried out by Royal London, YouGov, IRN Research and Orchard has revealed around 54% of adults in the UK do not have a will and 59% of parents do not have a will or have one that is out of date.”

What can Legacy Planning Achieve

Keeping it in the family

To highlight the greater breadth of Legacy Planning, let us consider a typical situation that arises.

A husband and wife have assets of £800,000, with Wills that leave everything on first death to each other, and then on second death equally to their two children.

The husband dies and the wife lives a further three years, at which point, she dies and leaves the Estate (their assets) to the two children.

Each of those children inherit £400,000 – assuming no Inheritance Tax is payable.

A year after the pay out one of the children is subject to a divorce.

It is probable the divorce settlement will lead to the £400,000 being split between the child (£200,000) and the ex-spouse of that child (£200,000).

Two years later the other child also divorces – the same thing happens, £200,000 goes to the exspouse.

The legacy is now splintered and is, in large part, outside the family.

Far-fetched? Over simplified?

Not today.

And this is just the threat of divorce, there are other social threats including for example care costs and bankruptcies. Other scenarios where family wealth can quickly be lost to third-parties.

A Will is not an effective mechanism to defend against these threats to the next generation.

Because, as stated earlier, a Will typically distributes assets on death and soon after, in most cases, those assets are now in the hands of the beneficiaries and are their assets.

Legacy Planning can include addressing such threats and can investigate methods of protecting against them. It goes beyond the Will and incorporates an individual's, or couples, wishes about ensuring wealth stays in the family, and especially within the bloodline.

Leaving a mark

This can include leaving instructions for money to be allocated to good causes, possibly through the Will or via a trust (see below).

This could be to charity or a local hospital or other cause. How best to set up and structure a wish to do something in this way would be a part of a legacy planning exercise.

Leaving a mark could involve other wishes, for example to pay for a grandchild's (or great grandchild's) education. Or to support a future property purchase.

There are many variations, but for many people their wishes are much broader than simply making sure their 'financial affairs are tidy' or the tax take is mitigated.

Looking at the legacy in this way can change the financial planning, it can even change the tax planning.

This balanced approach is important because it reflects what most individual's or couples are looking to achieve, which is to make a beneficial difference for many years to come.

Charitable Giving

There are incentives offered for leaving a charitable legacy as part of a Will.

This is tied in to the current rules on Inheritance Tax.

If you leave something to charity in your will, then the value of that asset or the monetary gift won't count towards the total taxable value of the estate.

Beyond this, there is a further enhanced value for any individual who leaves at least 10% of their 'net estate' to a charity. This would have the effect of reducing the Inheritance Tax rate on the rest of the estate from 40% to 36%.

These are valuable enhancements and can encourage more generous donations than may otherwise have been considered, in certain circumstances.

Utilising these incentives in tandem with Inheritance Tax Planning can be a central part of an overall Legacy Planning exercise.

However, it is worth pointing out that should a gift be made to charity in one's lifetime, gift aid may apply, and this can produce an even bigger enhancement.

These matters should always be looked at considering the Financial Planning objectives 'in the round' – balancing the wish to support a cause, with financial circumstances and tax positions.

"Legacies currently contribute 15% of all fundraised income and 6% of the total income received by British charities."

Trusts

There is a perception that this use of trusts is the domain of the very rich, or for families who have complex property arrangements or own large swathes of land.

The reality is that trusts are beneficial for just about anyone wanting to protect their family wealth and deal with those third-party threats mentioned in the section above.

There are many types of trust, but as a top-level explanation the benefit of a trust arrangement is that they can offer a protective wrapper to assets and are particularly helpful at keeping family wealth in the bloodline through future generations.

Trusts can survive well beyond the death of an individual.

A Will comes into effect and is relevant on death, but a trust can remain in place for generations to come. This means they are especially important and useful in the context of an individual's legacy planning.

The different types of trust can come into effect at different times, with different 'rules' applying to them and different tax implications.

They will often help with passing assets immediately on death, which avoids probate and potential delays, possibly court fees and other expenses.

They can also be extremely useful with situations where an individual or couple are wary of handing sizable sums on death to a younger beneficiary or one who may not be totally reliable with money.

The trust is controlled by trustees and this can be a useful mechanism in certain situations.

Too many people reject trusts as a viable part of an overall solution, due to the perceptions mentioned. This is a mistake and trusts should always be considered in a Legacy Planning exercise.



Lifetime Giving

A Legacy is generally thought of as a bequest on death, normally via a Will. Although technically the correct definition it does somehow focus the matter in the wrong area.

As before, it is vital to not just have a Will, but also one that fits in and is written in line with the wider financial and tax plans.

Yet there is no reason why everything should be concentrated on the point of death or, even, the years that follow. It is possible to do Legacy Planning in one's lifetime and there are often compelling reasons for doing so.

One reason is that anyone who makes arrangements or gifts in their lifetime can get to see the benefit of this with their own eyes.

A second, more financially practical reason, is that this can have beneficial tax outcomes.

As discussed with the charitable gifts, the benefits may be greater all-round for doing so.

This is also applicable for those who wish to save Inheritance Tax. There are significant lifetime gifting options which are attractive, such as:

- The annual gifting allowance of £3,000 per year:
- Gifts that can be made from income;
- Gifts on marriage;
- and the so-called Seven Year rule.

Nearly everyone would be content to have zero assets on death and to have distributed their wealth prior to death, if they knew when they were going to die, what their later life costs may or may not be and so on.

The desire to make lifetime gifts is therefore strong but normally gets derailed to some extent by this uncertainty.

There can be ways around this, for example some trust solutions might help, and this is something to explore carefully when thinking about Legacy wishes as many things might be achievable in one's lifetime.

Tax Planning

The most important point to make about tax planning is this: the tax system, rules and rates, are variable as to how one plans their affairs.

It is quite possible that two people in almost identical top-level positions (i.e. same rough wealth amount, same age, same family situation) end up paying completely different amounts of tax.

The low taxpayer may well have taken the same risks, or even conceivably lower risk, had no disadvantage to their lifetime income or disposed of any capital or wealth.

The low taxpayer would simply have arranged their financial affairs differently.

Tax planning is focused on the methodology of meeting income and spending needs, aligned to wider objectives and working out the best structure to provide this with the lowest tax take.

" There are significant lifetime gifting options which are attractive "

In the UK today, there are plenty of favourable tax schemes, including mainstream investment types such as ISAs, Pensions, VCTs and EISs.

There are rules relating to Business Relief and Agricultural Relief which can offer beneficial tax treatment.

In addition, there are variable allowances, such as the personal income tax allowance and the Capital Gains Tax Allowance which can lead to significant income payments with zero tax applied.

How all this is utilised will always be case dependent, what works for one might not work for another. It is true to say though that the extensive tax rule book which exists in the UK today represents as much opportunity to recue tax as it does to complicate matters!

Tax Planning will be a central part of any Legacy plan.

If nothing else, any monies saved in otherwise payable tax will be available to gift or invest for the benefit of future generations.

The Legacy Planning Exercise

This is a guide intended to help you with an understanding of what Legacy Planning really means, what it entails and the main factors that need to be brought into the exercise.

It is not meant as a detailed explanation of any one point or aspect. Part of the reason for this is that Legacy Planning is inherently circumstantial.

The outcome and, by definition, plans put into place are going to be determined by a combination of an individual's (or couples) wishes, their financial position, their wider family position and finally their tax position and aims.

"It is quite possible that two people in almost identical top-level positions (i.e. same rough wealth amount, same age, same family situation) end up paying completely different amounts of tax."

The exercise is one which must investigate all of these – with an expert adviser on hand to translate how this converts into a structured plan of action.

The problem with some conventional methods of dealing with this is that an individual part is dealt with in isolation.

For example, someone may want to put a Will in place, or update an existing Will, or alternatively may decide they want to avoid Inheritance Tax. If either of these are simply sorted on their own merits this may not tie in with the wider wishes or aims.

In addition, a competent expert will be as much interested in exploring the soft facts of your position as the hard ones. This is especially relevant to your wishes, your lifetime goals and those beyond your life.

Converting commonly held desires such as “we would love to make a difference to our grandchildren's lives” into meaningful financial plans with structure to them is the skill of the financial planner. In respect of Legacy Planning this could not be more important, as your wishes are such an important part.

Summary

A Legacy can be so much more than the words and instructions contained within a Will.

The use of lifetime gifts, trusts and bloodline planning can create a broader Legacy Plan which meets those wider wishes that so many people have.

The exercise involves considering a wide array of factors and objectives and is one that should be done with an expert involved.

A Will is, in effect, a 'one moment in time' document to provide clarity over one's wishes towards how wealth is distributed. However important this may be, and it is important, there is much more that can be done.

Actually conducting a specific Legacy Planning exercise can produce quite different outcomes than one which looks solely at Estate Planning and/or how best to structure a Will.

LEGACY PLANNING, GIFTING AND CHARITABLE GIVING

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