

An introduction to our Vulnerable Client Services



Womble Bond Dickinson at a glance

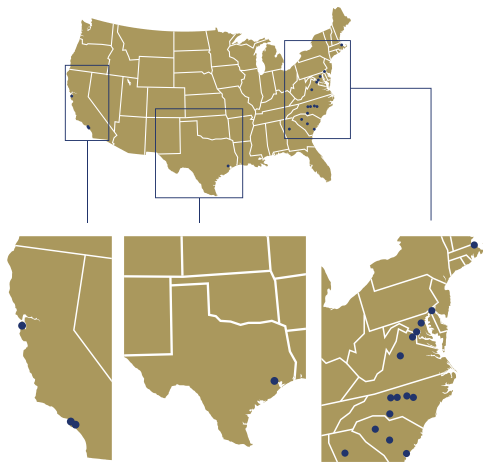


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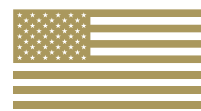
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Introduction

None of us likes to think about what might happen if we lose the ability to manage our own affairs due to physical or mental incapacity, either suddenly or over a period of time. But we should do so because the impact on family, friends and business can be devastating if the right arrangements are not put in place.

Some of our clients' affairs are straightforward, but many of our clients have complex family relationships and/or own different types of assets, not only in the UK but in one or more other countries.

For those who have a key role in business, a sudden loss of capacity may mean that time-critical transactions cannot be completed, board dynamics could be negatively affected and in some cases the existence of the business itself could be threatened.

We know that for many of our clients relinquishing control of their financial affairs is frightening, but if they don't choose the people who will manage their affairs if they can no longer do so, that decision will be taken out of their hands.

Our clients, therefore, need to think carefully about who will make decisions if they no longer have the mental or physical capacity to do so themselves, whether on a temporary or permanent basis. This applies not just to decisions about property, financial and business affairs, but also about their health and welfare.

Planning for end of life decisions is often overlooked too. Clients who have strong views about being kept alive when they have no quality of life, nor any prospect of any improvement,

should consider setting them out in a binding Advance Decision and/or a non-binding Advance Statement. These documents can give detailed guidance about a person's wishes, providing invaluable assistance to family and friends at what can be a very stressful and unhappy time. They can also help to avoid the need for expensive and distressing Court applications that we hear about all too often in the press.

Our Vulnerable Client Services team has many years of experience dealing with all of these issues. We provide highly personalised and strategic advice, ranging from putting in place the right documents ahead of time, to the complete management of our clients' affairs if they lose capacity. This includes, if required, dealing with tax affairs and investment management (either in-house or working with their existing advisers), the day-to-day payment of bills, advice in relation to residential care or care at home and assisting with the resolution of disputes that can arise when a family member becomes more vulnerable or loses capacity. We can also provide the support that they, their families and friends may need in relation to decisions about health and welfare and, if appropriate, about end of life decision making.



“.....people will live on average into their late 80s by 2030 compared with their early 80s now.....higher rates of life expectancy is associated with higher rates of dementia.”
Office of the Public Guardian

Our services



Lasting Powers of Attorney (LPAs)

- Preparation of Property and Financial Affairs and Health and Welfare LPAs
- Registration applications



Attorney Services

- Acting as a professional attorney
- Providing a 'full service' for lay attorneys or advice on discrete issues



Deputy Services

- Advice to deputies on discrete issues
- Applications to appoint or remove a Deputy
- Acting as a professional Deputy
- Applications to sell/purchase property/ make gifts
- Statutory Will Applications
- Applications relating to health and welfare decisions (including contact, medical treatment, residence, and withdrawal of life-sustaining medical treatment).
- Where appropriate, acting as a relevant persons representative in Deprivation of Liberty application.



Deputy and Attorney Management Services

- Full review and management of property and financial assets of the vulnerable person.
- Where appropriate, **investigating and tracing missing money** and taking steps to recover any misappropriated funds.
- **Instructing local agents to deal with any overseas assets.**
- Ensuring the **vulnerable client has access to sufficient funds for day to day expenses** and that all eligible benefits are claimed.
- **Monitoring all Local Authority care and financial assessments**, and eligibility for Continuing Health Care funding.
- **Keeping the vulnerable client and appropriate family members informed and involved in key decisions.**



Court of Protection Disputes relating to:

- Statutory Will or gift applications
- Suitability of a Deputy
- Decision-making capability
- Challenges to registration of an LPA
- Property and/or finances
- Challenges to 'best interests' decisions.



Advance Decisions and/or Statements

- Advising on the implications of making an Advance Decision and/or an Advance Statement
- Preparation of Advance Decisions and Advance Statements
- Advice on decisions to refuse medical treatment and the withdrawal of life-sustaining medical treatment, including in relation to Do Not Resuscitate orders (DNRs).

Case studies

Our clients' affairs are important to us and need to remain private. So that we can preserve anonymity for all concerned, these case studies represent a collection of client experiences covering issues that we regularly come across.

Nicola and David

Nicola and David's daughter Alice, who is 18, was injured during birth resulting in severe learning difficulties and physical disability. She was awarded a significant financial settlement as a result of a successful medical negligence claim. The settlement provided financial support for Alice. Our team:

- assisted Nicola and David in relation to their application to be appointed Deputies to look after Alice's property and financial affairs.
- provided straightforward advice to Nicola and David about their obligations in relation to the management of the settlement funds.
- advised in relation to the investment of the settlement funds and the application of capital and income to meet Alice's needs.
- as Nicola and David wanted to employ carers directly we arranged employment contracts and ensured that insurance and employer obligations were met as well as dealing with tax compliance.
- advised on and made an application for a Statutory Will for Alice once she reached 18.

Alan

Alan, who is 58, is a successful self-made entrepreneur with assets in England, France and Spain. He has made a Will, Lasting Powers of Attorney, an Advance Statement and an Advance Decision and reviews his estate planning every two years to keep his affairs up to date. Sadly, Alan was recently diagnosed with Motor Neurone Disease and was told that he should expect to live no more than another 2 years. Our team:

- reviewed Alan's existing documents.
- advised on options in relation to Alan's business, including succession arrangements for the business or a possible sale.
- assisted Alan's family to understand their obligations when making decisions as his attorneys and the interaction and operation of his Lasting Powers of

Attorney, Advance Statement and Advance Decision.

- advised Alan to replace his existing Property and Financial Affairs Lasting Power of Attorney with separate documents, one to appoint particular people as attorneys in relation to his business and the other to appoint attorneys in relation to his other assets.
- advised on the taxes payable on his death in England.
- liaised with lawyers in France and Spain in relation to the succession to his properties in those countries, the taxes payable on his death and the preparation of the equivalents to Lasting Powers of Attorney in those countries.
- robustly dealt, on Alan's behalf, with a dispute that arose in his business, which was resolved in a cost effective way using mediation.

Alexandra

Alexandra, who is 40, has a job that frequently puts her in dangerous situations. She has strong views about what should happen if she were to suffer catastrophic injuries, partly as a result of her religious beliefs. She therefore wanted to put arrangements in place to make sure her wishes were carried out if she became completely incapable of participating in decisions about her health care and treatment. In those circumstances, she particularly wanted to make sure that any treatment aimed only at prolonging or sustaining her life, or postponing the actual moment of her death, would be refused.

Our team:

- advised Alexandra to put in place a Health and Welfare Lasting Power of Attorney. This document appointed two close family members to make decisions on her behalf were she to become unable to do so.
- prepared comprehensive Advance Statement and Advanced Decision documents
- explained to Alexandra and her attorneys how the various documents would work in conjunction with each other.

Duncan

Duncan, who is 60, is married to Annabel and has three adult children from a previous marriage. For generations his family have been landowners of an extensive estate comprising tenanted farms and commercial properties. Duncan neglected estate planning. He suffered a serious stroke and was left unable to make decisions about his property and financial affairs. He is dependent on Annabel and his carers for his basic personal needs. Annabel successfully applied to the Court of Protection to be appointed as Duncan's deputy, but was finding it difficult to deal with the complexity of managing the estate. Duncan's children also believed that

Annabel was dissipating estate funds through mismanagement, possibly for her own financial benefit. Our team:

- advised Annabel that we could support her in her role as property and finance Deputy or if she felt that it would be better for an independent deputy to be appointed, we could make an application to the Court of Protection for our in-house Trust Corporation to be appointed in her place.
- advised Annabel in relation to the allegations of financial mismanagement. We defended Annabel from the children's allegations, and arranged

a mediation to address and resolve their concerns.

- suggested and implemented strategies and solutions to improve the day-to-day and longer term management of the estate and Duncan's other assets. This included involving our Agriculture, Farms and Estates team to advise on the farm tenancies and commercial arrangements that were in place.
- advised on an application for a Statutory Will for Duncan and Gift applications so as to minimise the impact of IHT and minimise the chance of part of the Estate having to be sold on Duncan's death.

Pam

Pam was a successful businesswoman, who had made a Property and Financial Affairs Lasting Power of Attorney appointing her two daughters to act as her attorneys. Pam became unable to deal with her financial affairs and, unfortunately, her daughters could not agree on how best to manage her affairs. One of the most contentious issues was deciding where Pam should live, and whether her house should be let on the rental market, or sold. In addition, each daughter alleged that the other had been financially abusing Pam. In recent years, Pam had made two different Wills with different solicitors, with each Will favouring a different daughter. Both daughters complained to the Office

of the Public Guardian about each other. The Court subsequently removed both daughters as attorneys on the basis that they had failed to discharge their duties and the Court appointed our Panel Deputy in their place. Our team:

- undertook the general financial management of Pam's assets.
- liaised with the daughters and social services to place Pam in a residential care home that was acceptable to all involved.
- applied to the Court of Protection for an order authorising a sale of the property, having first prepared an illustration on the financial outcome if the property were either let or sold.

- reviewed the paperwork relating to Pam's business and financial interests, taking account of the allegations of financial abuse made by each of the daughters, and thereafter resolved the dispute between them.

- made an application to the Court of Protection for a Statutory Will which benefitted both daughters equally, but which also appointed a professional executor given that the daughters were incapable of working with each other.
- opposed an application made by one of the daughters for permission to be appointed Health and Welfare Deputy.

Why choose Womble Bond Dickinson?

At Womble Bond Dickinson we keep our clients at the centre of everything we do. Our objective is to develop a clear understanding of each client's priorities so that we can deliver a bespoke solution aimed at their particular needs.

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Our national presence enables us to assist our clients and their families across the length and breadth of the country. We have a strong national and international reputation for excellence. We hire the best people and invest in them to ensure that they have the skills, experience and attitude that provides the standard of service our clients have come to expect.

Our Vulnerable Client Services Team acts for clients all over the UK. It comprises solicitors, paralegals and support staff, and includes two solicitors who each bring more than 20 years of experience as Court of Protection appointed panel

Deputies. We are a full service law firm which means that our team can (and regularly do) draw on the expertise of colleagues in the firm's other departments, to deal with matters as varied as employment advice, corporate law, agricultural property and investment management.

We can look after our clients' everyday financial and welfare needs while co-ordinating a team of specialist advisers, such as accountants, land agents, business advisers and property managers where required for a particular client. There are not many issues that have not come across our desk before.

The members of our team are highly skilled and technically astute, but are also very friendly and down to earth. We are always up front with our clients about how we charge for the work we do and aim to deliver a personal and efficient service.

"I'm full of admiration for them. Their work is excellent quality. Their range of knowledge is very good, their expertise is of the highest quality."

Chambers High Net Worth Directory 2019

What others say about us



Deborah Jude advises high net worth clients on wills and trusts, and she is particularly well known for handling Court of Protection work. “She has a good, round knowledge of private client work, particularly complicated succession planning and Court of Protection work,” observes a source.



George Lyall advises on trust and tax matters, and sources note his international experience and his handling of domicile matters. “If I’ve got something on domicile, I send it to him. He’s an expert for that, he’s the top man on that,” says a source, and another interviewee states: “George is a great lawyer. If you’re looking at domicile issues, international issues, you just cannot beat George.”



Helen Tavroges is head of the private capital team. She assists wealthy clients with asset protection and tax matters. She also provides advice on wills, trusts and probate. A source describes her as “astute, thorough and technically exceptional.” Another interviewee says that “she’s technically outstanding, commercially very savvy and has an incredible eye for detail,” and adds: “I’d trust her to do any work. I’d be happy to go to her.”



Richard Pike advises individuals, financial institutions and fiduciaries on trusts and estates disputes. A fellow lawyer says that “he’s technically very, very good, he just understands the main issues,” adding: “He’s very good with clients, they react really well to him.” Another interviewee states that Pike is “affable, constructive” and “very good with people.”



Susan Maxey is described as “a fantastic practitioner,” according to a solicitor, who also says that “she’s very, very capable.” Maxey advises individuals, families and fiduciaries on tax and estate planning, including asset protection matters.



Neil Long heads the team from London and is also noted as being ‘imaginative, innovative and determined’.

Quotes for Deborah, George, Helen, Richard and Susan are from Chambers High Net Worth Directory 2019. Quotes for Neil are from Legal 500 2019.

Our people



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Notes

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“every 90 seconds, someone is admitted to hospital in the UK with a brain injury: traffic or contact-sports are examples of what can go wrong and hamper our ability to make decisions temporarily or permanently.”
Office of the Public Guardian

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