

SWWEPP Wills and Estate Planning Certificate Course

Introduction

The course is designed to be a practical introduction to will writing and estate planning which examines the following topics:

Day 1

- 1) The need for wills and estate planning in modern society.
- 2) Establishing what passes under the will and what items can pass without a will.
- 3) Understanding the concept of Land Law – this deals with understanding how property is held at the Land Registry and ensuring students know how to go through its process.
- 4) Establishing the roles in a will and understanding their legal duties -
 - A) Roles of Executor and Trustees when dealing with the administration of an estate. This topic also examines how this should be constructed in the will;
 - B) Guardians' roles and in building provisions to ensure minor children are protected within the will.
- 5) Understanding mental capacity and testamentary intention, ensuring the student evaluates and holds a firm understanding of the process.

In this area we cover:

- A) Testamentary Capacity under the Banks v Goodfellow case;
- B) The Mental Capacity Act 2005;
- C) The golden rule;
- D) A look at the issues which could occur on probate;
- E) Applying the above to practical situations.

6) The requirements of a valid will execution and ensuring a will meets the legal requirements of the Wills Act 1837 and the rules around who can be a witness in the document.

7) The need to plan appropriately to ensure that the circumstances of the testator are considered in regards to time scales in regards to will preparation, i.e. how urgent is the will? Also we help the consultant to reduce their liability by ensuring a process is put into place to reduce any potential liability.

8) Attestation of wills looking at the issues in regards of attesting wills by either:

A) Attestations which are supervised;

B) Attestations conducted remotely and helping the consultant reduce liability by putting a process into place.

9) Revocation of wills aims is to provide information to the student in which events will have an effect of revoking the will either partially or entirely. This section also looks at the use of codicils to alter a document and how to conduct effective destruction of a will on behalf of a client.

10) Succession plans across different jurisdictions. Discussions in this area of law in where cross boarder succession arises and how best to advise the client.

11) Types of gift which may fail or change in nature and how the estate handles these issues.

12) Consumer Rights – information the consultant is legally required to explain to their client.

Day 2

1) The first part of the morning section will be spent examining the use of the intestacy rules to make sure the student can explain the effect of this statutory distribution to their client and to use this as tool as a marketing device to highlight the importance of having a will.

2) Legacies within a will:

A) Types:

1) Specific Legacies;

2) General Legacies;

3) Pecuniary Legacies;

4) Right of selection;

5) Gift of Residue;

6) Mutual Wills and case law;

7) Proprietary estoppel.

3) An in-depth examination on the Inheritance (Family Provision for Defendants) Act 1975 and how this affects modern estate planning and the use of case law illustrates the paths an estate planner should consider when dealing with this issue and how you explain this topic to the client.

4) Examination of traditional and modern drafting tools. This topic compares the use of books against the use of software packages in constructing a will.

5) Basic inheritance tax model aims to deal with current IHT

1) Inheritance Tax thresholds;

2) Exemptions;

3) Worked case of determining tax on estates.

6) Life time gifts

1) Potentially exempt transfers;

2) Lifetime chargeable transfers; and

3) Gift with Reservation of Benefit (GROB) rules.

7) Trusts and understanding the basics type of trust what can be offered?

1) A discretionary trust;

2) A life interest trust (Immediate Post-Death Interest);

3) A Flexible Life Interest Trust.

8) Case studies using trusts.

9) Practical instruction taking a walk through using your instruction form to spot an opportunity and ensuring you make the required notes from the interview.

Day 3

1) Probate - the basic process – this allows the student to be able to identify the process and be aware of what needs to be completed.

2) Case studies to encourage practical learning and highlight the student's understanding from the course.

3) The exam structure and talking about the way students should tackle the questions and the process involved.

We have now introduced an optional 2 extra days. This will allow candidates to gain extra knowledge in the following areas:

Day 4 Estate Planning with Trusts (Optional day)

This course will follow on from the 3 day course and will run on a Thursday.

The fourth day is to enable students to get a better understanding of the way trusts are used and to ensure a student can successfully identify the needs of their clients and advise on the correct trust to fit their client.

The aim of the course is to be able to advise and explain the following advantages of each trust, any tax issues around these trusts identifying the differences between each trusts.

In the morning we look at will based trusts and use practical examples highlighting how these trusts work and enabling the student to be able to identify the correct path for their client.

This day will consider the use of:

A) Relevant Property Settlements:

- 1) NRB Trust and full discretionary trusts;
- 2) Business Property Relief Trusts;
- 3) Disabled Discretionary Trusts;
- 4) Bereaved Minors Trust;
- 5) Bereaved Young Persons Trust; and
- 6) Right to occupy.

B) Immediate Post Death Interest Trusts:

- 1) Plain IPDI Trusts;
- 2) Protective Property trusts; and
- 3) FLITs.

The session will be concluded by applying the use of different trusts to case studies to ensure a full understanding of will based trusts.

The afternoon is to bring a further understanding as to how life time trusts are used in estate planning

- a) Asset Protection Trusts - this section examines how these trusts are used and looks between the differences of tax mitigation and asset preservation.
- b) This part of the course looks at the way these trusts should be promoted so the rules established under the Charging for Residential Accommodation Guide (CRAG) are not seen to be breached.
- c) The use of pilot trusts and how these can be used in both life and death.
- d) How to conclude a successful fact find.

This will be followed up with practical case studies on a different sized estates and consideration of what plans should be used in these cases studies.

Day 5 - An Introduction to Lasting Power of Attorneys (Optional Day)

This course will follow on from the 3 and 4 day course and will run on the Friday of the week.

This course will be tutored by Law Society accredited solicitor and tutor Craig Ward. It can be taken as a stand alone course as well.

It is essential that estate planners have a working knowledge of Lasting Power of Attorney documents to be able to effectively advise clients on the need for one. This course is designed to give delegates an introduction to the field.

Delegates can expect to gain an understanding of Property and Finance LPA's as well as Health and Welfare documents. The tutor will go over the forms required to produce the document, and advise on how to 'sell' these to your clients. If this is not possible then deputyships might be required. These too, will be explained.