

Hague Lambert Solicitors



Information Sheet

DEEDS OF VARIATION

WHAT IS A DEED OF VARIATION?

It may seem like a strange concept but after an individual has died it is possible to change their Will

The only person, however, who can change the Will is the individual who would otherwise inherit under the existing Will. This person has the ability to decide not to inherit and instead change the Will so that other individuals of their choice inherit instead. When the Deed is completed it is as if the deceased left his estate to those named in the Deed of Variation not those named in the original Will.

The Deed must be executed within two years of the date of the individual's death.

WHY ARE DEEDS OF VARIATION A GOOD IDEA?

You may ask why should I not simply take the inheritance under the existing Will and then if I want gift it, for example, to my children later on I can do that when I am ready?

a) The Nil Rate Band

If you take receipt of the funds yourself they will pass into your estate. This could have inheritance tax implications for you. An individual is entitled to leave a maximum of £312,000 free of tax (up to a possible to £624,000 for a married couple). If receiving an inheritance would increase your estate to over this level a Deed of Variation may be a good idea.

(May2011)

b) Gifts

If you take receipt of the funds and then gift the funds elsewhere you would need to live for a period of seven years for the gift not to be included as part of your estate in the calculation of inheritance tax.

c) To reduce inheritance tax

Gifts to charities for example are exempt from inheritance tax. Therefore in order to reduce IHT payable a Deed of Variation could be made in order to increase the charitable gifts left.

SOME WORDS OF CAUTION

Giving funds away will mean that you will not be able to rely on them at a later date if your circumstances were to change.

If you execute a Deed of Variation now and then enter into a nursing home in the near future, there is the potential for the Local Authority to claim against you stating that you have deliberately deprived yourself of assets because at the time the Deed of Variation was made, you knew or suspected you would enter into a nursing home and you made the Deed of Variation in order to give assets away which would otherwise have been used to pay for nursing home fees. The burden of proof in this instance is on the Local Authority.

HOW MUCH WILL IT COST?

For a straightforward Deed of Variation we charge a fixed fee of £300 plus VAT, plus disbursements. For a more complicated Deed of Variation we will charge between £300 and £750

