

Dying Matters Awareness Week

11-17 May 2020
Dying to be heard



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DYING MATTERS AWARENESS WEEK

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Writing your final chapter – 5 simple questions

This week is Dying Matters Awareness Week, and in the light of the fear and uncertainty caused by Covid-19 as well as the soaring number of deaths reported daily around the world, we would be forgiven for shying away from writing, reading or talking about death anymore.

Yet in the face of this Global Pandemic, this is arguably the time to having conversations about death, and to start to plan for the inevitability which will befall us all at some point.

Although a bold statement, irrespective of your religious or other beliefs, death is not the end. Following your death, your loved ones will have to carry on without you, charities and causes which you supported will continue, and all of the things you owned will still be here.

So with that in mind, we should all choose to write our own final chapter (a postscript if you like) so that whilst you may be gone, those left behind know that you were thinking of them and left them a blueprint of what to do once you are gone.

It may seem like an impossible task, to look your own mortality in the eye and put down your thoughts about what will happen in a world without you, so here are 5 questions to help start the process:

1. Who will deal with everything when you are not here?

From arranging your funeral, to arranging for your clothes to be given to charity, your house to be sold and bank accounts to be closed, all of these things need to be dealt with. By deciding now who will do this, it can avoid a lot of uncertainty for family members and

friends who may not want to 'step on each other's toes'. It can also be a reassuring 'green light' to allow someone to undertake what can seem like such an intrusive thing to do.

2. *What will happen to your body?*

One of the most daunting things to do is to arrange a funeral without any idea of what the person wanted. With so many things to think about, setting out even simple instructions for your funeral can be of great comfort for those left behind. Decision such as, organ donation, burial or cremation, a religious or non-religious service and who is to be involved or invited can all be of huge significance for those left to make such arrangements.

3. *Who will look after your young family?*

Any parents' biggest fear is leaving behind young children and the heart breaking thought of having someone else look after them and do all of the things that you should be able to do. Deciding who this should be, and speaking with them about it and discussing what you would want for your children in such unthinkable circumstances, is arguably one of the most important things you could ever do.

4. *What will happen to all of your things?*

It is not materialistic to think about what will happen following your death to your home, your bank accounts, your personal items, your business or any other things that you own. Everyone works hard to be able to have such things, and making sure they are looked after and used properly after your death is just as important as how you look after them during lifetime. Making sure your assets are available to a surviving spouse, young or grown up children or a charity or cause you have supported during lifetime is a huge consideration. Give yourself time to think about this and make the right decision by trying to answer these questions when you are well, not when an illness, operation or condition cast their long shadow over you.

5. *Is there anyone you have missed out?*

This could be an unintended oversight, such as a fur baby who needs to be provided for or a family heirloom which needs to pass to a specific family member. Trying to remember everything which is so important in your life takes time and a somewhat methodical process. However, there may be some people in your life that you would not want to be involved in dealing with your affairs, in attendance at your funeral or to benefit from your estate. In such cases it is arguably just as important to record this to make sure that everyone knows where they stand and your reasons for [this.it](https://www.this.it) can avoid so many arguments and bad feeling amongst those who are left behind if this is done in the right way.

Whilst they may be simple, you may have noticed that they may not necessarily be easy questions to answer. But there you have it, within 5 simple questions you have the foundations of a Will, which is no more than a legally binding version of that so important final chapter of your life – a 'p.s.' for those left behind.

I have these conversations almost daily, so please feel free to contact me on 0191 227 6747 or via email at richard.marshall@hay-kilner.co.uk to talk about this further. No cost, no catch, just an initial chat.

Making your final journey

What does it mean when people use the term “a good death”. The idea has changed over the centuries, from a glorious death on the battlefield to being surrounded peacefully with all of your loved ones, and it no doubt has a different meaning in many different cultures.

Whatever your views are about it, it is worth giving it some consideration and thinking about how your final weeks, days and moments may be before death.

If you have a terminal illness, then this may be something you can discuss with the medical professionals involved in your care, so that they can be aware of how you would like to be cared for, where you would like to be cared for and who you would like to be with you. The latter, of course, has invoked some of the most heart breaking moments so far during the Global Pandemic in which we find ourselves, where many people have been unable to be with loved ones in their final moments.

There are, however, circumstances where you may not be able to have such discussions with the medical professionals involved in your care. For example, illness through something unexpected like a stroke or accident, or suffering some form of mental incapacity from something like Dementia, can leave you unable to communicate your wishes.

In such circumstances it can be worrying, frustrating and extremely upsetting for family members and friends to try to work with medical professionals if, for example, your wishes about such things are unknown to family and friends, or if such wishes cannot or will not be followed by medical professionals.

When you are well enough to think about it, it is therefore worth considering who you would trust to make decisions about your medical treatment and general welfare if you were ever unable to articulate this yourself. Having thought about this, it is equally as important to then let that person know what your wishes would be in such circumstances.

There could also be circumstances where care needs to be paid for, whether this is private health care, domiciliary care or residential nursing care. Again, if you were ever unable to manage your own finances, then it is hugely important to have thought about who you would trust to manage your finances and make sure your money is spent in your best interests.

People who are given such authority, to make decisions about your healthcare and finances, are called Attorneys. You can give them legal authority to deal with such matters under a Health and Welfare and Property and Financial Affairs Lasting Power of Attorney.

By having this in place, it can ensure that whatever the circumstances, the plans you have for your final journey can be fulfilled as far as possible and that those left to deal with such things can do so in the full knowledge that they are fulfilling your wishes.

For healthcare decisions, you can also make a Living Will (often referred to as Advanced Decisions) which set out the type of treatment you may wish to receive (or refuse) in certain circumstances.

Ensuring Attorneys have the correct legal authority to deal with matters on your behalf is so important, so please feel free to contact me on 0191 227 6747 or via email at richard.marshall@hay-kilner.co.uk to talk about this further. No cost, no catch, just an initial chat.

A Thought for the Bereaved

When you lose someone you love, it leaves an irreplaceable hole in your life. The initial days can be a complete blur, whilst the following weeks and months can be a numb walk through a dense fog. There is often an expectation that something has to be done following the death of a loved one, and having something to do can be a welcome distraction.

Registering the death and arranging the funeral are usually the first two things to be done following a death. They are well 'sign posted' and seem to flow following that moment when someone dies. Even in the current circumstances, great effort has been made to ensure Registrars can be contacted in line with social distancing and that funerals can take place with as much normality as possible.

But what then? Did the deceased leave a Will, and if so will there be a reading of the Will? If there is no Will then who can make sure the deceased's wishes are fulfilled? What did the deceased own, to whom did they owe money, where did they keep all of their personal papers and who can try to sort all of this out?

The technical bit

This is what is commonly referred to as the administration of an estate, and it can seem like an impassable mountain to climb. Who can deal with the administration of the estate and what they need to do very much depends on whether or not the deceased made a Will, and what they owned.

Often, in order to act in the administration of an estate, the Court will need to be involved in order to verify or appoint someone in the administration of the estate which is often referred to as 'Probate'.

For the Court to do this, a declaration is usually needed to confirm the value of the estate and whether any Inheritance Tax is payable. This depends on the value of the assets owned by the deceased as at the date of their death, and if any Inheritance Tax is payable it some of it must be paid within 6 months of the date of death. The Court usually cannot grant Probate until Inheritance Tax which is due has been paid.

The practical bit

In the face of all of these questions following someone's death, the initial steps to be taken (aside from registering the death and arranging the funeral) are to ensure any property is securely locked up and insured, obtain as much information as possible from the deceased personal papers (such as bank and investment account statements, life insurance policies, pensions, home and contents insurance) and try to find any documentation relating to the existence of a Will (such as the Will itself or a copy, a letter from a solicitor regarding the making of the Will, or a registration certificate from Certainty, The National Will Register).

Not all steps at this stage may necessarily be urgent, although it is always beneficial to inform organisations of someone's death as soon as possible to avoid any potential fraud on accounts. Informing insurance providers of the change of circumstances and particularly about the unoccupancy of any property is also very important.

Whilst the formal process for dealing with the administration of an estate is largely the same for everyone, the complexity of what is involved differs for every individual depending on their family and financial circumstances. If you find yourself lost in the fog at the foot of this seemingly impassable mountain, please feel free to contact me on 0191 227 6747 or via email at richard.marshall@hay-kilner.co.uk to talk about this further.

Protecting those left behind

For many, starting a new job and buying a new house are some of the most exciting and nerve-racking experiences of our lives. They are also times when we make decisions about the future, which seem so far in advance they are quickly forgotten, namely life insurance (in particular mortgage protection), income protection, pensions and death in service benefits.

With all of these things it is essential to obtain appropriate financial advice to ensure that insurance policies are adequate and pensions are set up correctly. However, beyond the initial advice these things can often be seldom thought about in the normal course of life, let alone reviewed on a periodical basis.

If you have a terminal illness and have time to plan then it is essential to review life insurance, pensions and death in service benefits (if any). Not only could some of these things have additional benefits (such as critical illness or income protection insurance), but it is also important to ensure that they provide the right people with the protection and benefit they offer.

For example, with life insurance policies the proceeds can be assigned to someone else and death in service benefits can usually be nominated to someone. If this was done many years ago, personal circumstances could have changed so that the initial nomination is not appropriate. This is particularly the case if a marriage has broken down, as an ex-spouse could be named to benefit from such a policy, which may no longer be appropriate.

If a child is to benefit from such a policy and they are under the age of 18, then you may also wish to consider how any monies payable on death would be dealt with – who would look after them and could anyone use them before the child reaches the necessary age of entitlement? In such circumstances it may be necessary to create a Trust during lifetime into which monies payable on death can be paid. The Trust can stipulate at what age young children will benefit, and whether monies can be used during their minority, which can be useful to pay for things like school fees, trips, uniforms and such.

Similarly, if no such arrangement has been made, will the payment of such monies into your estate cause problems. For example, will it increase the value of your estate resulting in an Inheritance Tax liability, or will the delay in having to obtain Probate in order to access the monies result in financial hardship for the beneficiaries.

There can be circumstances where you feel that a payment cannot be nominated for the benefit of just one person due to complex family circumstances (such as a second marriage). Similarly, an outright benefit to a spouse could result in a ‘bunching effect’ and result in considerable Inheritance Tax on their subsequent death. In such circumstances it can again be helpful to consider creating a Trust during lifetime, into which life insurance proceeds and/or death in service benefits can be paid.

The nature of the Trust can be flexible to allow you to list a number of people who could potentially benefit from the Trust, but for the Trustees (those in charge of looking after the money) to decide who will benefit, when and in what share. The wide discretion which such a Trust gives normally prompts the person creating the Trust to write a letter to explain their wishes to the Trustees. This in itself can also be flexible, for example it could say “if X survives me I wish for them to receive Y, but if they do not survive me then I wish for A, B and C to receive Y”.

There are of course circumstances where people do not receive notice of their impending death, and in such circumstances if there is no opportunity to undertake planning then those who may need the protection of such things as life insurance and death in service benefits may be left in a vulnerable position. It is therefore important to regularly keep such things under review to ensure they are as up to date as possible.

Trusts can seem very Dickensian, and life insurance, pensions and death in service benefits can all seem as equally mysterious. If you have any queries in relation to these things please feel free to contact me on 0191 227 6747 or via email at richard.marshall@hay-kilner.co.uk to demystify the opportunities. No cost, no catch, just an initial chat.

For those who feel alone

Some of the most difficult conversations I have are with those who feel they are alone.

Be it a widow or widower with no children, or a bachelor or spinster with no surviving family members. When discussing the concept of estate planning the conversation about Wills often leads to “well I don’t have anyone to leave it to”, and about Lasting Powers of Attorney ends with “well no one will want to have to look after me.”

The message is a very simple one, you are not alone. You are not alone in the sense that there are many people in a similar position, and in the sense that there is always someone who is willing to help, and likewise there is always a worthy cause to benefit.

For lifetime planning, there is often a concern that the authority given under a Lasting Power of Attorney should not be given to anyone unless you trust them implicitly. It is often family members who fall most naturally into this category, so when no such family members are to hand it is understandable that people can feel a little lost when it comes to this type of planning. This can invariably lead to a sense of apathy and no provisions being put in place in order to ensure matters can be dealt with if someone were to lose mental capacity in the future.

In such circumstances the appointment of a professional attorney to deal with property and financial affairs can be an ideal option. It ensures that someone is appointed to make sure that monies are available to pay bills, buy shopping and personal items and arrange care, if required. However, it also ensures that the attorney can be held accountable for their actions and have professional standards to adhere to.

Whilst there are cost implications for having a professional attorney act for you, this can be outweighed by the benefit which having such support and the peace of mind this will bring.

For planning on death, if there are no immediate family members or friends to whom you wish to leave your estate, then philanthropic giving under the terms of your Will can be a fantastic way of ensuring that the benefit of your assets pass to causes which are either close to your heart or which you deem to be worthy. It can also be a fitting way to leave your own legacy long after you are gone. With so many worthwhile charities and causes the choice can, however, be a tough one.

Again, without an obvious path for succession within a family, people can often feel dismayed at trying to decide to whom they should leave their estate, and in the end decide not to make a Will. For those who die without a Will and no known family members, their affairs in the first instance are passed to the Treasury Solicitor, on the basis that if they have no surviving family members then their estate will pass to the Crown (referred to as 'Bona Vacantia'). Before this can be done, however, their name is posted in a list of Bona Vacantia estates so that tracing can be undertaken to ascertain if any surviving family members do exist who can benefit under the Intestacy Rules. This can lead to distant cousins in far off lands receiving notification out of the blue that they are to benefit from an unknown relative's estate.

To avoid such uncertainty, it is therefore worthwhile considering whether there are any individuals or charitable causes you wish to benefit under the terms of your Will.

These conversations are never easy, and often need more thought than others to ensure the appropriate people are on hand to help and that estate assets pass in the right way. However, they do ultimately give peace of mind and comfort in the long run. Feel free to contact me on 0191 227 6747 or via email at richard.marshall@hay-kilner.co.uk to start the conversation. No cost, no catch, just an initial chat.