

1 00:00:12:08 00:00:14:22
Welcome to the later life
planning session

2 00:00:14:24 00:00:18:05
and thanks for taking the time
to join us this morning.

3 00:00:18:07 00:00:20:08
First, some housekeeping points.

4 00:00:20:10 00:00:24:02
We are recording this session
for on-demand replay purposes.

5 00:00:24:04 00:00:25:24
We're just going to
put a slide up now

6 00:00:26:01 00:00:28:06
which has some important
disclaimer notices

7 00:00:28:08 00:00:30:03
which I'll give you a minute to read.

8 00:00:31:14 00:00:34:03
Today's session is
for structured CPD,

9 00:00:34:05 00:00:36:19
it's accredited by the CII
and the CISI.

10 00:00:36:21 00:00:38:04
You'll leave this session

11 00:00:38:06 00:00:41:09
with an understanding of
the following learning objectives.

12 00:00:45:14 00:00:47:10
This is a presentation session,

13 00:00:47:12 00:00:49:22
but we're keen to have your input
as we go,

14 00:00:49:24 00:00:52:07
so we'll be asking you
some polling questions

15 00:00:52:09 00:00:54:02
to gather your views
as we go along,

16 00:00:54:04 00:00:55:20
so please do participate.

17 00:00:55:22 00:00:59:00
On the right side of your screen
you'll see a tab for the poll,

18 00:00:59:02 00:01:01:13
just click on this area
and submit your response.

19 00:01:01:15 00:01:04:07
Now I'm going to hand over
to our presenter,

20 00:01:04:09 00:01:06:15
one of our business development
managers here at Prudential,

21 00:01:06:17 00:01:08:07
Cat McInally.

22 00:01:09:11 00:01:13:00
Thanks very much
and a warm welcome from myself,

23 00:01:13:02 00:01:16:15
again in sunny Scotland, we did this
last week and the sun was shining,

24 00:01:16:17 00:01:18:17
so obviously a bit lucky today.

25 00:01:20:08 00:01:24:09
Hopefully on this slide you will see
the title asset preservation.

26 00:01:24:11 00:01:26:03
This morning,
I hope you've all had a chance

27 00:01:26:05 00:01:27:16
to read those learning objectives.

28 00:01:27:18 00:01:30:08
This is all around about
later life planning.

29 00:01:30:10 00:01:35:07
Later life planning is considered to
be the starting point of retirement,

30 00:01:35:09 00:01:38:08
this is typically where your clients
transition from being

31 00:01:38:10 00:01:40:10
in the accumulation phase
of their lives

32 00:01:40:12 00:01:42:17
into the decumulation phase
of their lives.

33 00:01:42:19 00:01:45:16
As the UK population
is getting older and, indeed,

34 00:01:45:18 00:01:49:11
the most elderly cohort is
the fastest-growing segment of all,

35 00:01:49:13 00:01:51:06
I'm going to assume that

36 00:01:51:08 00:01:55:12
the majority of your clients
will sit in this sort of area.

37 00:01:55:14 00:01:58:02
What this does is,
later life planning,

38 00:01:58:04 00:02:00:02
it throws out a whole new set
of challenges

39 00:02:00:04 00:02:04:04
on how you balance life needs
and aspiration needs.

40 00:02:04:06 00:02:06:15
Commonly, what we tend to find

41 00:02:06:17 00:02:09:23
is that we focus more
on estate planning,

42 00:02:10:00 00:02:13:02
which, actually,
will only arise much later on.

43 00:02:13:04 00:02:15:01
Potentially, by doing that,
we overlook

44 00:02:15:03 00:02:17:23
some of the more pressing priorities
that clients may face

45 00:02:18:00 00:02:21:01
in the earlier stages
of their retirement.

46 00:02:21:03 00:02:23:22
This later life planning
that we're talking about,

47 00:02:23:24 00:02:26:07
it encompasses so much more
than we have time

48 00:02:26:09 00:02:28:11
to really cover
in this session today.

49 00:02:28:13 00:02:31:20
For example, just a couple of things
we need to think about,

50 00:02:31:22 00:02:33:18
looking at the return portfolios

51 00:02:33:20 00:02:36:16
will give you an order to
pay for their retirement,

52 00:02:36:18 00:02:39:14
how to best manage volatility
so you can see the returns,

53 00:02:39:16 00:02:41:09
the most tax-efficient vehicles.

54 00:02:41:11 00:02:44:01
Also vulnerability plays in here
as well,

55 00:02:44:03 00:02:47:19
as we get more elderly,
we tend to find that clients

56 00:02:47:21 00:02:51:11
can verge on being on
that more vulnerable sector,

57 00:02:51:13 00:02:53:09
we need to consider that.

58 00:02:53:11 00:02:57:06
Then and only then,
once we've done the life needs,

59 00:02:57:08 00:03:01:02
should we really be considering
the aspirational needs,

60 00:03:01:04 00:03:03:13
moving the money
down a generation.

61 00:03:03:15 00:03:07:10
We always say that it's the cost of
life before the cost of death.

62 00:03:07:12 00:03:10:11

What do we need to consider here?

63 00:03:10:13 00:03:12:08

We've put a couple of points up on this slide.

64 00:03:12:10 00:03:14:21

Will writing and power of attorney,

65 00:03:14:23 00:03:18:21

that has had a massive focus last year, just given Covid.

66 00:03:18:23 00:03:23:21

A lot of people have diseases and such on their minds

67 00:03:23:23 00:03:26:06

and want to ensure that they are taking care.

68 00:03:26:08 00:03:27:22

Inheritance tax, pensions,

69 00:03:27:24 00:03:30:17

which is a subject in its own right, not for today.

70 00:03:30:19 00:03:33:17

Planning for long-term care and gifting for others.

71 00:03:33:19 00:03:35:20

We will have a look at those angles.

72 00:03:35:22 00:03:39:08

But to have a look at the power of attorneys first.

73 00:03:39:10 00:03:42:07

What I've done here is just put a couple of things

74 00:03:42:09 00:03:45:05

to remind ourselves about power of attorneys.

75 00:03:45:07 00:03:48:09

You will see here we've got enduring power of attorneys

76 00:03:48:11 00:03:50:17

and then the lasting power of attorneys,

77 00:03:50:19 00:03:53:20

either property and financial or health and welfare.

78 00:03:53:22 00:03:56:13
Mentioning enduring
power of attorneys,

79 00:03:56:15 00:04:00:11
you've not been able to take
one of these out from about 2007,

80 00:04:00:13 00:04:02:19
but they are still out there

81 00:04:02:21 00:04:06:15
and you will have clients that still
have enduring powers of attorney.

82 00:04:06:17 00:04:10:04
They are still valid
and can still be registered.

83 00:04:10:06 00:04:12:17
Lasting power of attorney

84 00:04:12:19 00:04:15:06
came in off the back of
the Mental Capacity Act

85 00:04:15:08 00:04:20:06
and, in effect, just brought things
up to speed a little bit.

86 00:04:20:08 00:04:22:23
They don't have to be registered

87 00:04:23:00 00:04:26:08
and for the health and welfare one,
for example,

88 00:04:26:10 00:04:30:12
can only be registered
once that person has lost capacity,

89 00:04:30:14 00:04:32:17
we need to act on their behalf.

90 00:04:32:19 00:04:34:00
The property and financial one

91 00:04:34:02 00:04:35:18
can be used
as soon as they are registered

92 00:04:35:20 00:04:39:11
and they don't have to have lost
capacity before you use that one.

93 00:04:39:13 00:04:42:00
Just, obviously, to cover off,

94 00:04:42:02 00:04:44:14
we will have advisers from
all over the country, hopefully.

95 00:04:44:16 00:04:46:15
We will cover off the situation
in Scotland

96 00:04:46:17 00:04:49:09
and then have a look at
the situation in Northern Ireland.

97 00:04:49:11 00:04:53:08
It is slightly different in Scotland.
Terminology is slightly different.

98 00:04:53:10 00:04:54:19
Rather than being a donor,

99 00:04:54:21 00:04:58:00
the person setting up a power of
attorney is called a grantor.

100 00:04:58:02 00:05:02:05
And the difference in Scotland it is
possible to combine both powers.

101 00:05:02:07 00:05:06:20
But the rules do still apply to each
type of welfare, it can only be used,

102 00:05:06:22 00:05:10:02
for the health one,
once they have lost capacity.

103 00:05:10:04 00:05:12:12
The majority of power of attorneys
in Scotland

104 00:05:12:14 00:05:14:19
are actually that
combined power of attorney

105 00:05:14:21 00:05:16:11
that you see at the bottom there.

106 00:05:16:13 00:05:20:15
In Northern Ireland,
it's a little bit different again.

107 00:05:20:17 00:05:22:14
They only have enduring
powers of attorney

108 00:05:22:16 00:05:25:00
and that's for property
and financial affairs only.

109 00:05:25:02 00:05:27:14
Welfare is solely dealt with
by the court

110 00:05:27:16 00:05:30:20
and so controllers
that are appointed by the court.

111 00:05:30:22 00:05:35:01
The enduring power of attorney
will take effect immediately

112 00:05:35:03 00:05:37:18
unless the wording says otherwise.

113 00:05:37:20 00:05:40:20
But what do we do, regardless of
where we are in the UK,

114 00:05:40:22 00:05:44:00
what do we do if we don't have
a power of attorney in place

115 00:05:44:02 00:05:47:12
and then we have the awful situation
that they lose capacity

116 00:05:47:14 00:05:50:21
and all of a sudden you need to
appoint a power of attorney?

117 00:05:50:23 00:05:53:15
Well, if that's the case,
it's down to the court to do that.

118 00:05:53:17 00:05:59:06
You can see there on this slide the
different language that we would use.

119 00:06:01:04 00:06:02:12
The terminology differs,

120 00:06:02:14 00:06:04:19
but generally,
the principles of the same.

121 00:06:06:09 00:06:08:23
Basically, in England,
it's the Court of Protection

122 00:06:09:00 00:06:11:17
and they will order a deputyship

123 00:06:11:19 00:06:13:09
and then it's the court

124 00:06:13:11 00:06:17:00

that will then decide
what powers that person has.

125 00:06:17:02 00:06:18:15
In Scotland it's a guardian,

126 00:06:18:17 00:06:22:01
and again, the court will decide
what powers the guardian has.

127 00:06:22:03 00:06:24:15
In Northern Ireland
it's a controller.

128 00:06:24:17 00:06:28:05
It can be set for
specific periods of time

129 00:06:28:07 00:06:31:01
or it could be just for specific
one-off decisions.

130 00:06:31:03 00:06:34:05
It can be financial affairs
and it can also be for welfare.

131 00:06:34:07 00:06:38:02
But what is quite important
that we get across here

132 00:06:38:04 00:06:40:00
is that the powers
that the person has

133 00:06:40:02 00:06:42:06
will be explicitly outlined
by the court.

134 00:06:42:08 00:06:44:05
What we say is it's preferable

135 00:06:44:07 00:06:48:04
to have a power of attorney in place
before you lose capacity.

136 00:06:48:06 00:06:51:10
It's far more straight forward,
it's far cheaper

137 00:06:51:12 00:06:52:20
and it also means that

138 00:06:52:22 00:06:56:05
you can have your wishes granted
a little bit better

139 00:06:56:07 00:07:00:02
than the court deciding

what's right for you and what isn't.

140 00:07:01:03 00:07:05:02
And what we've actually started to see
in the past few years

141 00:07:05:04 00:07:08:11
is a lot more court action against
power of attorney misuse.

142 00:07:08:13 00:07:12:11
The title there saying that
it's reached its highest ever level.

143 00:07:12:13 00:07:16:20
There were over 700 cases in 2018-19

144 00:07:16:22 00:07:21:16
where attorneys had shown
some sort of poor behaviour.

145 00:07:21:18 00:07:24:19
If you have a look into those cases,

146 00:07:24:21 00:07:29:22
it's suggested that financial
misconduct is most common

147 00:07:29:24 00:07:32:22
amongst attorneys
that are behaving poorly.

148 00:07:32:24 00:07:36:01
Making improper gifting
has been mentioned

149 00:07:36:03 00:07:39:21
and also not acting in
the best interests of the person

150 00:07:39:23 00:07:42:09
whose money you're looking after,

151 00:07:42:11 00:07:45:11
That is the main reason that
attorneys get removed

152 00:07:45:13 00:07:47:18
or court action
taken against them.

153 00:07:48:23 00:07:51:11
What's interesting is,
I made that last point there,

154 00:07:51:13 00:07:53:03
it's just the tip of the iceberg.

155 00:07:54:22 00:07:56:19
They only take action
against attorneys

156 00:07:56:21 00:07:58:24
that are still managing
financial affairs,

157 00:07:59:01 00:08:01:08
a lot of the issues
don't come to light

158 00:08:01:10 00:08:03:21
until after the donor's
actually dead.

159 00:08:03:23 00:08:08:05
And that's the issue that you have
is a lot of this is uncovered

160 00:08:08:07 00:08:10:16
once that person has passed away,

161 00:08:10:18 00:08:15:02
perhaps it's time to read the will
and all of a sudden you find out

162 00:08:15:04 00:08:16:15
that the persons
acting on their behalf

163 00:08:16:17 00:08:18:00
have actually spent all the money.

164 00:08:18:02 00:08:24:03
Lots of cases of wrongdoing usually
come a little bit too late.

165 00:08:24:05 00:08:27:01
That, obviously,
creates a little bit of questions

166 00:08:27:03 00:08:28:24
from the adviser's point of view

167 00:08:29:01 00:08:33:07
because a lot of the issues that you
will get involved it is IHT planning,

168 00:08:33:09 00:08:36:22
estate planning, gifting money away
into certain assets.

169 00:08:36:24 00:08:41:12
I suppose we need to ask the question
can you actually gift?

170 00:08:41:14 00:08:43:13

If you think about it,

171 00:08:43:15 00:08:46:08
the attorney's overriding
responsibility

172 00:08:46:10 00:08:49:00
is to act in the best interest
of the donor,

173 00:08:49:02 00:08:50:15
not to benefit themselves,

174 00:08:50:17 00:08:53:23
to perform their role looking after
the donor's property.

175 00:08:54:00 00:08:58:09
Providing advice on things
such as IHT mitigation,

176 00:08:58:11 00:09:00:18
quite tricky because, logically,

177 00:09:00:20 00:09:04:13
what you are trying to do
is give that person's money away

178 00:09:04:15 00:09:07:05
and that's the polar opposite of
looking after it.

179 00:09:07:07 00:09:11:03
We will have a quick look now just
at the rules around about gifting

180 00:09:11:05 00:09:13:00
and what you can and cannot do.

181 00:09:13:02 00:09:16:00
I will just build this slide up
for you before we go on.

182 00:09:16:02 00:09:17:09
What is a gift?

183 00:09:17:11 00:09:21:24
Most of us will be quite familiar
with what a gift actually is.

184 00:09:22:01 00:09:24:20
You can see some examples there,
cash, property, investments,

185 00:09:24:22 00:09:27:16
possessions, presents and the likes.

186 00:09:27:18 00:09:31:18

But things that you might not be aware
that are classed as gifts

187 00:09:31:20 00:09:35:05
are things such as
making interest-free loans,

188 00:09:35:07 00:09:36:15
creating a trust,

189 00:09:36:17 00:09:40:12
so if you recommend that an attorney
sets up a gift trust, a loan trust,

190 00:09:40:14 00:09:43:00
even a probate trust,
that is a gift.

191 00:09:43:02 00:09:46:00
Selling an asset,
for example their house,

192 00:09:46:02 00:09:49:00
but you are selling it
to another relative,

193 00:09:49:02 00:09:51:19
so you sell it below market value,

194 00:09:51:21 00:09:54:03
the difference between
the actual value of the house

195 00:09:54:05 00:09:55:12
and the amount paid is a gift.

196 00:09:55:14 00:09:59:01
Also deeds of variation,
so if you are varying a will,

197 00:09:59:03 00:10:02:03
then again,
that would be classed as a gift.

198 00:10:02:05 00:10:06:11
The first place you have to look
around about gifting

199 00:10:06:13 00:10:10:00
is the power of attorney,
that deed itself.

200 00:10:10:02 00:10:11:09
So, have a look at the wording.

201 00:10:11:11 00:10:13:14
It might be that the person
who has set this up

202 00:10:13:16 00:10:17:09
has allowed some exceptions
that you can give gifts.

203 00:10:17:11 00:10:20:12
But if there is nothing
in the wording there that suggests,

204 00:10:20:14 00:10:25:08
then what we have to do is
go back to can you make gifts?

205 00:10:25:10 00:10:29:12
The rules are slightly different again
in England and Wales and Scotland,

206 00:10:29:14 00:10:31:01
I will just quickly cover this off.

207 00:10:31:03 00:10:32:16
Apart from some exceptions,

208 00:10:32:18 00:10:36:06
the law states that you must not
make gifts from a person's estate.

209 00:10:36:08 00:10:39:12
Now, there are exceptions around
about reasonable amounts,

210 00:10:39:14 00:10:43:14
family, friends, charities, customary
occasions, weddings and the likes,

211 00:10:43:16 00:10:45:21
but what you have to be mindful of

212 00:10:45:23 00:10:49:03
is would the client have done that
themselves?

213 00:10:49:05 00:10:51:24
Would this be in character
with what they would have done

214 00:10:52:01 00:10:54:20
had they been able to
make that decision for themselves?

215 00:10:54:22 00:10:58:08
There are some rules
around about de minimis exceptions,

216 00:10:58:10 00:11:00:11
if they've got less than
five years to go,

217 00:11:00:13 00:11:03:06
you've got rules and regulations
around about that.

218 00:11:03:08 00:11:06:03
Gifts in excess of that will require

219 00:11:06:05 00:11:09:11
some sort of approval
before you do that.

220 00:11:10:19 00:11:15:11
An issue here is in states that gifts
must be of reasonable value.

221 00:11:15:13 00:11:18:04
What is reasonable to me
and what is reasonable

222 00:11:18:06 00:11:21:01
to, say, my sister-in-law,
completely different.

223 00:11:21:03 00:11:23:14
How do you then determine
what is reasonable?

224 00:11:23:16 00:11:25:24
That is going to be
on a case-by-case basis.

225 00:11:26:01 00:11:27:21
It's not helpful.

226 00:11:27:23 00:11:29:15
With enduring powers of attorney,

227 00:11:29:17 00:11:31:24
there is slightly different wording
as well.

228 00:11:32:01 00:11:36:13
Customary occasions
is special occasions and the likes.

229 00:11:36:15 00:11:41:00
Again, check the wording
is effectively the point there.

230 00:11:41:02 00:11:43:07
In Scotland,

231 00:11:43:09 00:11:45:16
slightly different again in that

232 00:11:45:18 00:11:49:22
depending on what the wording
of the actual document itself says,

233 00:11:49:24 00:11:53:02
you may be able to make
substantial gifts,

234 00:11:53:04 00:11:58:20
but you would have to check what the
actual documents and clauses said.

235 00:11:58:22 00:12:00:11
Excess gifts need approval,

236 00:12:00:13 00:12:03:01
it's the same situation
in England and Wales

237 00:12:03:03 00:12:06:11
that you would need approval
if you are making excess gifts.

238 00:12:06:13 00:12:08:20
Slightly easier in Scotland
if you want to do

239 00:12:08:22 00:12:11:20
some sort of estate planning,
depending on the wording,

240 00:12:11:22 00:12:13:24
but that's the starting point.

241 00:12:14:01 00:12:16:18
If it's a court-ordered
power of attorney,

242 00:12:16:20 00:12:20:11
if the power of attorney has been
put in place by the court,

243 00:12:20:13 00:12:22:05
then go with the example of

244 00:12:22:07 00:12:25:02
you won't have the authority
to make gifts,

245 00:12:25:04 00:12:28:06
that's the starting point,
you would have to then seek advice

246 00:12:28:08 00:12:30:07
from the court
if you wanted to do that.

247 00:12:31:04 00:12:34:14
Suppose you might be here left thinking,
"Well, can I gift or not?"

248 00:12:34:16 00:12:36:06
Can we do IHT planning or not?"

249 00:12:37:19 00:12:41:06
We are actually starting to see
slight changes in legislation

250 00:12:41:08 00:12:42:24
in the law around about this.

251 00:12:43:01 00:12:48:04
There is a very recent case where a man
who was in an irreversible coma,

252 00:12:48:06 00:12:52:24
his family had obtained approval
to make substantial cash gifts.

253 00:12:53:01 00:12:57:12
Now, he was exceptionally well off,
he had an estate of over 17 million.

254 00:12:57:14 00:13:02:08
He was in a coma, so he was being
looked after by the NHS,

255 00:13:02:10 00:13:05:03
we will come onto this when we
talk about long-term care planning,

256 00:13:05:05 00:13:09:02
his care was free
because care under the NHS is free.

257 00:13:09:04 00:13:10:11
He had all this expenditure,

258 00:13:10:13 00:13:12:23
all this money coming in
that he didn't actually need

259 00:13:13:00 00:13:14:19
and the court actually agreed that

260 00:13:14:21 00:13:17:04
they could do
some substantial HDD planning

261 00:13:17:06 00:13:20:24
to reduce the amount of IHT that
this man would have had to have paid.

262 00:13:21:01 00:13:23:00
Again, it's on a case-by-case basis

263 00:13:23:02 00:13:26:01
and I accept that I know
that's a fairly large estate.

264 00:13:29:19 00:13:32:05

Next slide.

Planning for long-term care.

265 00:13:32:07 00:13:35:15

I hinted that I was going to mention
long-term care.

266 00:13:35:17 00:13:39:23

The issue with long-term care is
it is an absolute minefield.

267 00:13:40:00 00:13:44:03

Anybody who has been in
this situation with a family member

268 00:13:44:05 00:13:47:09

or a client or a friend,
you will fully appreciate that

269 00:13:47:11 00:13:52:17

trying to get
any sort of common answer

270 00:13:52:19 00:13:54:09

can be something of a challenge.

271 00:13:54:11 00:13:58:23

The issue with this is that most
people never really consider care

272 00:13:59:00 00:14:01:22

until that family member
develops a need.

273 00:14:01:24 00:14:07:08

You find yourself in a situation
where you need help very urgently

274 00:14:07:10 00:14:10:14

and then it's always a rush
to try and find the answers

275 00:14:10:16 00:14:13:23

and you tend to find you get passed
from pillar to post,

276 00:14:14:00 00:14:15:19

you will get advice
from the hospital

277 00:14:15:21 00:14:19:04

saying, "This person cannot go back
to their home, they are not fit."

278 00:14:19:06 00:14:20:21

You will have the social worker

279 00:14:20:23 00:14:23:06
who has gone out to visit them
in the hospital

280 00:14:23:08 00:14:25:19
and on that particular day
they have managed to eat their food

281 00:14:25:21 00:14:28:05
so all of a sudden the local authority
say they can go home.

282 00:14:28:07 00:14:30:14
It is such a minefield.

283 00:14:30:16 00:14:34:20
What we say, again, it is useful to know
a little bit about this area

284 00:14:34:22 00:14:37:00
so that you can help your clients.

285 00:14:37:02 00:14:39:21
And the sad reality is people
don't know where to go for advice.

286 00:14:39:23 00:14:42:13
The first bit of confusion,

287 00:14:42:15 00:14:44:21
the distinction between social care
and health care.

288 00:14:44:23 00:14:48:15
I sort of indicated to that in the last
case about the man in the coma.

289 00:14:48:17 00:14:52:15
Healthcare, where the need
is a medical issue,

290 00:14:52:17 00:14:54:14
is the responsibility of the NHS

291 00:14:54:16 00:14:57:04
and, in theory,
is free at the point of need.

292 00:14:57:06 00:15:00:23
Social care, which is described
as those daily living, eating,

293 00:15:01:00 00:15:02:23
dressing, mobility, et cetera,

294 00:15:03:00 00:15:05:13
that is the responsibility of

the local authority

295 00:15:05:15 00:15:07:19
and that is what
is a means-tested benefit.

296 00:15:07:21 00:15:09:18
That's where we would have to

297 00:15:09:20 00:15:12:24
start looking at clients' assets
and the likes.

298 00:15:13:01 00:15:15:18
I've titled this one
postcode lottery.

299 00:15:17:17 00:15:20:22
Unfortunately, as I've just said,
it's down to the local authority.

300 00:15:20:24 00:15:24:04
You have, in England,
over 152 local authorities

301 00:15:24:06 00:15:28:11
and it's up to them what care
or if that person pays for that care.

302 00:15:28:13 00:15:31:17
There are different rules applying
to different areas

303 00:15:31:19 00:15:32:23
and that makes it challenging,

304 00:15:33:00 00:15:35:14
especially if you've got parents
living in a different local authority

305 00:15:35:16 00:15:36:16
and you are like myself,

306 00:15:36:18 00:15:38:16
my mum and dad don't live in
my local authority area,

307 00:15:38:18 00:15:40:19
should I have to go through
that issue

308 00:15:40:21 00:15:44:02
then I have to be familiar with
their rules and regulations,

309 00:15:44:04 00:15:45:04
not just my own.

310 00:15:45:06 00:15:48:07
It's up to the local authorities

311 00:15:48:09 00:15:51:14
to decide whether or not a person
has to pay for their care.

312 00:15:51:16 00:15:54:12
The overarching principle

313 00:15:54:14 00:15:56:16
is that people
should only be required

314 00:15:56:18 00:15:58:12
to pay for what they can afford.

315 00:15:58:14 00:16:01:24
As I said, the local authority
actually has the discretion

316 00:16:02:01 00:16:03:19
whether they charge or not.

317 00:16:06:03 00:16:08:15
That decision is done
after an assessment

318 00:16:08:17 00:16:11:13
of determining
the requirements of that person

319 00:16:11:15 00:16:14:09
and it differs whether they are
getting care in their home

320 00:16:14:11 00:16:16:15
or in an actual care home.

321 00:16:16:17 00:16:20:04
Only in care homes is where
the financial assessment identifies

322 00:16:20:06 00:16:23:00
a person's resources exceed
certain capital limits

323 00:16:23:02 00:16:24:24
will they have to pay for that care.

324 00:16:25:01 00:16:28:24
As I've said, it is different
in all the different areas.

325 00:16:29:01 00:16:32:05
I have put this slide in for you
to look at in your own time,

326 00:16:32:07 00:16:33:22
it is more of a reference slide.

327 00:16:33:24 00:16:34:24
You can see there,

328 00:16:35:01 00:16:37:00
there are different rules
and regulations

329 00:16:37:02 00:16:39:08
depending on what part
of the country you sit in.

330 00:16:39:10 00:16:43:13
In Scotland, for example,
it is slightly different.

331 00:16:43:15 00:16:45:07
You don't have to pay,

332 00:16:45:09 00:16:50:08
I think they split it into hotel,
accommodation and care costs

333 00:16:50:10 00:16:55:05
and you only have to pay for
the hotel costs.

334 00:16:55:07 00:16:57:04
It does differ, so please,
when you get a chance,

335 00:16:57:06 00:16:59:09
you can have a look at that
in a little bit more detail.

336 00:16:59:11 00:17:02:20
But the bit that you are probably
more interested in

337 00:17:02:22 00:17:05:03
is the treatment of capital assets

338 00:17:05:05 00:17:08:01
for that purpose
of financial assessment.

339 00:17:08:03 00:17:11:03
Here you can see what will be taken
into consideration.

340 00:17:11:05 00:17:15:14
Buildings, land, OIECS, investment,
trusts, cash in the bank, ISAs,

341 00:17:15:16 00:17:17:21
all those things

will be considered

342 00:17:17:23 00:17:22:01
when determining whether a person
has to pay for their care or not.

343 00:17:22:03 00:17:24:21
Any personal possessions
are excluded,

344 00:17:24:23 00:17:27:20
so even they have a Monet
on the wall at home,

345 00:17:27:22 00:17:30:05
that is excluded,
that is a personal possession.

346 00:17:30:07 00:17:33:24
Any life insurance policies
are excluded.

347 00:17:34:01 00:17:36:00
I'm going to come on to talk about that
in a second

348 00:17:36:02 00:17:38:01
because we do get asked
an awful lot of questions

349 00:17:38:03 00:17:39:10
about that here at Prudential.

350 00:17:39:12 00:17:41:02
The treatment of income, then.

351 00:17:41:04 00:17:43:11
This, again,
can get slightly complicated,

352 00:17:43:13 00:17:45:15
but I will keep it at
a fairly high level.

353 00:17:45:17 00:17:47:18
The income only comes into play

354 00:17:47:20 00:17:49:20
where a person is in need of care

355 00:17:49:22 00:17:52:21
and have capital assets
below the threshold.

356 00:17:52:23 00:17:54:01
We were on that slide earlier

357 00:17:54:03 00:17:55:19

that you can have a look at
in your own time.

358 00:17:55:21 00:17:57:21
Where they don't have
the capital assets,

359 00:17:57:23 00:17:59:14
they will then look at the income.

360 00:17:59:16 00:18:01:21
If you have clients that have
a joint income,

361 00:18:01:23 00:18:04:12
they are deemed to have
an equal share of that income.

362 00:18:04:14 00:18:07:03
Whether or not it is equal,
they have an equal share.

363 00:18:07:05 00:18:12:02
There are certain types of income
that is disregarded for this purpose.

364 00:18:12:04 00:18:15:21
Some of them are there, I will have
a quick chat through some of them.

365 00:18:15:23 00:18:18:11
Employed and self-employed earnings.

366 00:18:18:13 00:18:22:07
Unlikely to happen,
but let's just use the example of

367 00:18:22:09 00:18:25:05
you have an elderly client
in a care home

368 00:18:25:07 00:18:28:08
that are pretty nifty
with a set of knitting needles

369 00:18:28:10 00:18:31:18
and have become an eBay millionaire
knitting cardigans

370 00:18:31:20 00:18:34:07
for small dogs
or whatever the example is.

371 00:18:34:09 00:18:38:22
That is self-employed income
and that is completely disregarded.

372 00:18:38:24 00:18:41:16

However, what I would say is that
if they are in a care home,

373 00:18:41:18 00:18:43:13
they are probably not spending money.

374 00:18:43:15 00:18:45:23
It is turning into capital,
they are falling foul of those rules.

375 00:18:46:00 00:18:47:06
If they are giving it away,

376 00:18:47:08 00:18:50:14
they will fall foul of the deliberate
deprivation of assets rules.

377 00:18:50:16 00:18:52:16
They are probably not going to
get away with that one.

378 00:18:52:18 00:18:55:13
There is such a thing as
notional income.

379 00:18:55:15 00:18:56:22
In certain circumstances,

380 00:18:56:24 00:19:00:11
a person might be treated as having
income that they don't actually have.

381 00:19:01:21 00:19:03:24
Perhaps they are entitled
to claim benefits

382 00:19:04:01 00:19:05:17
but are not claiming those benefits,

383 00:19:05:19 00:19:09:10
they will be deemed
to be able to claim those benefits.

384 00:19:09:12 00:19:12:11
The pensions freedom,
so if they've got a drawdown

385 00:19:12:13 00:19:15:02
but they are not taking an income
from that,

386 00:19:15:04 00:19:17:17
I think the rules around about
that is the local authority

387 00:19:17:19 00:19:22:00
would look to see
how much would they be able to get

388 00:19:22:02 00:19:24:02
if they had an annuity-style contract

389 00:19:24:04 00:19:28:19
and therefore that income would be
taken into consideration as well.

390 00:19:28:21 00:19:32:20
I said I would come back to look at
investment bonds because, as I said,

391 00:19:32:22 00:19:34:18
it's a really interesting topic

392 00:19:34:20 00:19:37:03
and we get asked this a lot
at Prudential.

393 00:19:37:05 00:19:41:19
An investment bond has
lots of benefits in planning.

394 00:19:41:21 00:19:45:09
There are many, many, many, many
good reasons to write a bond

395 00:19:45:11 00:19:49:01
in later life planning, control,
flexibility, use of trusts,

396 00:19:49:03 00:19:50:03
I could go on.

397 00:19:51:08 00:19:55:04
Purely writing a bond
to get assets outside the estate

398 00:19:55:06 00:19:58:15
for long-term care
is probably not a good idea.

399 00:19:58:17 00:20:01:00
If you put that down
in the reasons why letter,

400 00:20:01:02 00:20:03:21
you will fall foul of
the deliberate deprivation rules

401 00:20:03:23 00:20:06:00
and it will be taken into consideration.

402 00:20:06:02 00:20:09:02
A lot of people get stuck on
this investment bonds,

403 00:20:09:04 00:20:11:01

it has to be an investment bond.

404 00:20:11:03 00:20:14:08
If you read the rules
around about this,

405 00:20:14:10 00:20:18:07
it is not the bond itself
that is not considered,

406 00:20:18:09 00:20:22:24
it is the life insurance element
that is not considered.

407 00:20:23:01 00:20:28:14
Any type of policy that has
a life insurance element attached to it

408 00:20:28:16 00:20:31:02
should not be used
or taken into account

409 00:20:31:04 00:20:34:05
for the treatment of assets
for long-term care.

410 00:20:34:07 00:20:37:04
If you've got a pen and paper
and you want to write that bit down,

411 00:20:37:06 00:20:41:08
it is schedule 10 of the Income
Support General Regulations 1987 Act

412 00:20:41:10 00:20:43:23
and it talks about capital
that is to be disregarded

413 00:20:44:00 00:20:47:24
and it specifically states,
paragraph 15 if I remember correctly,

414 00:20:48:01 00:20:51:14
the surrender value of any policy
of life assurance.

415 00:20:51:16 00:20:55:13
If, for example, you happen to have
a very popular fund

416 00:20:55:15 00:20:59:14
that sits in a ISA that has a life
insurance element attached to it,

417 00:20:59:16 00:21:01:17
according to the rules
and regulations,

418 00:21:01:19 00:21:04:06
that should not be included
for long-term care.

419 00:21:04:08 00:21:07:20
Obviously, I fully appreciate that
the local authorities differ,

420 00:21:07:22 00:21:11:08
but you've got the rules
and regulations there

421 00:21:11:10 00:21:15:19
should you fall into any difficulty
around about that one.

422 00:21:15:21 00:21:19:13
Into the next part of
this presentation now.

423 00:21:19:15 00:21:21:24
Hopefully you will all find
this bit interesting,

424 00:21:22:01 00:21:23:19
it is going to be fairly pacey.

425 00:21:23:21 00:21:27:04
I am going to get the audience
to do a little bit of guessing

426 00:21:27:06 00:21:28:16
as to what happens here.

427 00:21:28:18 00:21:31:03
This is around about
later life planning

428 00:21:31:05 00:21:35:05
and what happens when life isn't
as simple as it looks

429 00:21:35:07 00:21:37:00
like with this happy family
on the screen there.

430 00:21:37:02 00:21:41:09
We all know it's ideal that
you live happily ever after,

431 00:21:41:11 00:21:44:06
everyone talks to each other,
everyone gets along

432 00:21:44:08 00:21:46:09
and you can pass your money
to the next generation

433 00:21:46:11 00:21:50:12
and have no worries
that it's going to be misused

434 00:21:50:14 00:21:52:16
or abused or the likes or people
aren't going to fall out.

435 00:21:52:18 00:21:55:14
We all know that
that just doesn't happen these days.

436 00:21:57:01 00:22:00:22
The way that we live is changing.

437 00:22:00:24 00:22:03:14
Just a couple of stuff here.

438 00:22:03:16 00:22:06:01
This is actually from
our intergenerational planning guide

439 00:22:06:03 00:22:07:05
which will be out soon.

440 00:22:07:07 00:22:12:16
60% of the population currently
in the UK living as a couple.

441 00:22:12:18 00:22:16:01
If you fast forward about 10-15 years,
apparently that is changing

442 00:22:16:03 00:22:19:15
and we will all live as singletons
in the next 10-15 years.

443 00:22:19:17 00:22:23:09
How we will ever afford housing
as a singleton I have no idea.

444 00:22:23:11 00:22:26:21
The majority of people living
together at the moment are married,

445 00:22:26:23 00:22:28:18
but we are seeing this changing.

446 00:22:28:20 00:22:32:19
We are seeing just now about
one in five couples cohabit

447 00:22:32:21 00:22:34:20
and in the younger generation

448 00:22:34:22 00:22:37:22
that's about 70% of
younger couples cohabit.

449 00:22:37:24 00:22:39:16
But that is all fine, again,

450 00:22:39:18 00:22:44:16
but what happens
when your son or your daughter decide

451 00:22:44:18 00:22:46:08
that they are going to live
with their partner.

452 00:22:46:10 00:22:49:03
Perhaps you put the deposit down
for the house

453 00:22:49:05 00:22:51:20
or you help fund the house
because clearly it is that difficult

454 00:22:51:22 00:22:53:24
to get a mortgage
as a youngster these days,

455 00:22:54:01 00:22:55:15
and then it all goes wrong.

456 00:22:55:17 00:22:58:15
Now you've got the situation of
they're not married,

457 00:22:58:17 00:23:01:04
do you have any ability
to get that money back

458 00:23:01:06 00:23:03:11
or is that just put down to a loss?

459 00:23:03:13 00:23:05:16
Lots and lots of issues
around about cohabiting

460 00:23:05:18 00:23:07:10
and we will come into this

461 00:23:07:12 00:23:10:16
when we talk about some of the cases
later on.

462 00:23:10:18 00:23:14:05
Things that we need to consider
when love goes wrong.

463 00:23:14:07 00:23:16:19
As they say, when love goes wrong,
nothing goes right.

464 00:23:16:21 00:23:18:21

If you know who sung that song,
put it in the comments

465 00:23:18:23 00:23:20:03
and we will have a look later on

466 00:23:20:05 00:23:22:11
to see if any of you are old enough
to remember that song.

467 00:23:23:20 00:23:26:14
Here we go, these are just
a couple of topics for discussion.

468 00:23:26:16 00:23:29:07
The children, we will come onto
that one just now.

469 00:23:29:09 00:23:32:09
Pensions, as I said,
probably a topic in itself,

470 00:23:32:11 00:23:35:08
but even simple things like
updating your nominations

471 00:23:35:10 00:23:38:07
should be considered
if you are going through divorce.

472 00:23:38:09 00:23:41:10
Division of assets,
this is a really interesting one.

473 00:23:41:12 00:23:45:09
Obviously, in marriage,
if the marriage breaks down,

474 00:23:45:11 00:23:47:09
we will have to go around that
horrible process

475 00:23:47:11 00:23:49:07
of dividing the assets.

476 00:23:49:09 00:23:52:16
Just an interesting case that came
through the courts recently,

477 00:23:52:18 00:23:57:01
much to my dismay, actually,
bit disappointed in this one.

478 00:23:57:03 00:24:00:11
A lady alleged that her husband

479 00:24:00:13 00:24:03:00
shouldn't get

his financial remedy award,

480 00:24:03:02 00:24:06:04
about 40%, the court awarded him,

481 00:24:06:06 00:24:09:09
because he had a negative
contribution to the marriage

482 00:24:09:11 00:24:10:11
and she claimed that

483 00:24:10:13 00:24:13:13
because he didn't actually pull
his weight whilst they were married

484 00:24:13:15 00:24:17:07
that he wasn't deserving of
40% of her assets.

485 00:24:17:09 00:24:18:18
Quite an interesting one.

486 00:24:18:20 00:24:20:08
The court threw that one out,
by the way.

487 00:24:20:10 00:24:22:09
So if any of you are
thinking about trying that one out,

488 00:24:22:11 00:24:23:11
it's not going to work.

489 00:24:23:13 00:24:26:07
Business assets,
that is a massive one.

490 00:24:26:09 00:24:32:15
When you have businesses involved,
then that can cause issues.

491 00:24:32:17 00:24:35:10
There was another case that went
through where the husband claimed

492 00:24:35:12 00:24:38:12
that he should have the businesses
because of his special contribution.

493 00:24:38:14 00:24:42:01
I'm not quite sure
what that special contribution was.

494 00:24:42:03 00:24:44:20
And then you've got wills,
power of attorney and trusts.

495 00:24:44:22 00:24:46:09
If your marriage breaks down

496 00:24:46:11 00:24:49:14
and you've got your power of attorney
set up with your wife in charge,

497 00:24:49:16 00:24:52:01
opportunity now to get that updated,

498 00:24:52:03 00:24:55:10
especially if it is not so harmonious
as a divorce.

499 00:24:55:12 00:24:58:13
An interesting one that we found,
I'll just mention this one

500 00:24:58:15 00:25:00:14
because it has been
a massive U-turn,

501 00:25:00:16 00:25:04:18
a massive change in the law
around about

502 00:25:04:20 00:25:09:17
people enabling to inherit
their spouse's estate

503 00:25:09:19 00:25:12:24
when they've actually been accused of
murdering them.

504 00:25:13:01 00:25:15:00
There was a woman
who won her appeal

505 00:25:15:02 00:25:17:20
against a conviction
for murdering her husband

506 00:25:17:22 00:25:20:10
that she could actually
inherit his estate.

507 00:25:20:12 00:25:21:12
Be aware, obviously,

508 00:25:21:14 00:25:23:24
if you are thinking of
murdering your other half,

509 00:25:24:01 00:25:26:16
which, in lockdown,
could possibly be the case...

510 00:25:28:01 00:25:30:07

..you have to forfeit their estate,
you cannot benefit.

511 00:25:30:09 00:25:31:19
But we are seeing some cases,

512 00:25:31:21 00:25:34:17
there have been two now
that have gone through the courts,

513 00:25:34:19 00:25:38:01
where the other half has actually
managed to inherit that estate.

514 00:25:38:03 00:25:40:01
That meant a massive saving in IHT

515 00:25:40:03 00:25:43:02
because it then went to the wife
rather than the sons,

516 00:25:43:04 00:25:47:21
who could benefit from
the spousal exception for IHT.

517 00:25:49:07 00:25:52:20
What about inheritance?
What about if it's not divorce?

518 00:25:52:22 00:25:54:10
What about inheritance?

519 00:25:54:12 00:25:57:05
A lot of us on this call

520 00:25:57:07 00:25:59:24
will not have
straightforward family situations.

521 00:26:00:01 00:26:04:14
It might be that you do not want
one of your children to inherit,

522 00:26:04:16 00:26:07:04
you might think that
they have got their own issues,

523 00:26:07:06 00:26:10:23
maybe you have not had
any contact with them.

524 00:26:11:00 00:26:15:18
You might have children from previous
marriages or previous relationships,

525 00:26:15:20 00:26:19:03
again, that you might not have had
any contact from.

526 00:26:19:05 00:26:22:00

It might be, if you have been
catching up with

527 00:26:22:02 00:26:23:14

popular television on Sunday nights,

528 00:26:23:16 00:26:27:05

that you didn't even know this child
existed until the partner died.

529 00:26:27:07 00:26:30:20

I know this sounds a little bit
out there, but trust me,

530 00:26:30:22 00:26:33:08

when we go through
some of these cases,

531 00:26:33:10 00:26:36:21

we start to realise that
this actually is more common

532 00:26:36:23 00:26:38:18

and we are seeing it more and more

533 00:26:38:20 00:26:42:09

in estates that aren't worth
millions and millions of pounds.

534 00:26:42:11 00:26:45:05

In one of the recent cases,
the court upheld

535 00:26:45:07 00:26:48:05

a mother's decision
to disinherit her daughter

536 00:26:48:07 00:26:49:20

and in the statements of reasons

537 00:26:49:22 00:26:51:17

it was because her daughter
was unkind

538 00:26:51:19 00:26:54:16

and that daughter actually
failed to overturn the will made.

539 00:26:54:18 00:26:58:02

The will was only made
a few months before she died

540 00:26:58:04 00:27:00:17

and she tried to claim
that her mother had lost capacity,

541 00:27:00:19 00:27:02:21
but the court upheld that one.

542 00:27:02:23 00:27:05:23
So what are the rules?
Where do we stand

543 00:27:06:00 00:27:11:05
if you want to exclude
a family member from your will?

544 00:27:11:07 00:27:15:00
That little title
on the man's newspaper there,

545 00:27:15:02 00:27:17:23
"We are now a nation of
inheritance vultures."

546 00:27:18:00 00:27:20:12
I think that's fairly strong,
that was from The Times.

547 00:27:20:14 00:27:23:20
But society is moving on,
attitudes are shifting

548 00:27:23:22 00:27:26:15
and we are hearing more and more
stories of contested wills.

549 00:27:26:17 00:27:30:22
As I said, not amongst millionaires,
but normal work day families.

550 00:27:30:24 00:27:35:08
Inheriting used to be regarded as
that sort of thing

551 00:27:35:10 00:27:38:07
that people,
aristocratic families did,

552 00:27:38:09 00:27:42:17
but now, owner-occupation,
high house prices are meaning that

553 00:27:42:19 00:27:46:10
even the most ordinary estate
is now worth fighting over.

554 00:27:46:12 00:27:50:06
Acquiring some bog-ordinary
three-bedroom terraced house

555 00:27:50:08 00:27:54:02
could represent financial independence
to a lot of people.

556 00:27:54:04 00:27:57:24

It actually now may be worthwhile pursuing this.

557 00:27:58:01 00:28:01:01

Again, that rise in blended families that we are seeing,

558 00:28:01:03 00:28:06:00

children from several partnerships, has added further fuel to the fires.

559 00:28:06:02 00:28:07:20

If we have a look at the law in this case,

560 00:28:07:22 00:28:10:23

again, we are going to have to separate Scotland and England here.

561 00:28:11:00 00:28:13:13

In England, it's the Inheritance Provision

562 00:28:13:15 00:28:15:19

for Family and Dependants Act 1975

563 00:28:15:21 00:28:17:10

and this enables the court

564 00:28:17:12 00:28:20:15

to vary the distribution of a deceased person's will

565 00:28:20:17 00:28:23:04

contrary to their wishes if a will was made

566 00:28:23:06 00:28:25:12

or intestacy if there was no will,

567 00:28:25:14 00:28:27:14

for certain family members and dependents

568 00:28:27:16 00:28:30:08

who have been either left out of the will entirely,

569 00:28:30:10 00:28:32:18

left out as a result of intestacy

570 00:28:32:20 00:28:34:19

or left less than they required to

571 00:28:34:21 00:28:37:19

so they are not happy with

what they've been left.

572 00:28:37:21 00:28:39:23
In Scotland,
it is slightly different.

573 00:28:40:00 00:28:43:00
We are actually a little bit ahead
of the game here in Scotland.

574 00:28:43:02 00:28:45:24
We have got
the Succession Scotland act in 2016

575 00:28:46:01 00:28:48:21
and that has actually enacted
a lot of reform

576 00:28:48:23 00:28:51:16
to take into account
these societal changes,

577 00:28:51:18 00:28:57:01
so things like the Civil Partnership Act
and the Family Law Scotland Act.

578 00:28:57:03 00:28:59:07
We certainly are
a little bit ahead here.

579 00:28:59:09 00:29:01:23
In Scotland, under the laws
of succession,

580 00:29:02:00 00:29:05:00
there is a basic protection
from disinheritance.

581 00:29:05:02 00:29:10:02
Simply put, a surviving spouse,
civil partner, child, grandchild

582 00:29:10:04 00:29:12:21
can claim part of
the deceased's estate

583 00:29:12:23 00:29:14:20
no matter what you've written
in your will.

584 00:29:14:22 00:29:17:17
You cannot
write them out of your will.

585 00:29:17:19 00:29:18:24
The only difference here,

586 00:29:19:01 00:29:20:18

and it is called legal rights
in Scotland,

587 00:29:20:20 00:29:25:00
and it only relates to
the movable estate.

588 00:29:25:02 00:29:29:13
In effect, anything
that is not land or buildings.

589 00:29:29:15 00:29:30:23
That is why, in Scotland,

590 00:29:31:00 00:29:33:20
you might hear cases of people
doing deathbed planning

591 00:29:33:22 00:29:37:10
where they suddenly get all of their
assets and pour it into property

592 00:29:37:12 00:29:41:03
if they have got a spouse or a child
that they don't want to inherit.

593 00:29:41:05 00:29:44:04
It is only movable estate.

594 00:29:44:06 00:29:48:24
If we then take a look at
some of the wordings

595 00:29:49:01 00:29:52:10
of some of the examples
that have gone through the court

596 00:29:52:12 00:29:54:12
if you are thinking about
challenging this.

597 00:29:54:14 00:29:57:22
There are two main quotes
that we use here

598 00:29:57:24 00:29:59:02
if you are looking to exclude

599 00:29:59:04 00:30:01:04
or you have got a client
that is looking to exclude.

600 00:30:01:06 00:30:03:04
If you have got a client
who is looking to exclude,

601 00:30:03:06 00:30:06:10
you need to get them to seriously

consider and think about this

602 00:30:06:12 00:30:09:07
because, obviously, you have got
these protections in place.

603 00:30:09:09 00:30:11:15
If we take that first quote
from Lady Hale.

604 00:30:11:17 00:30:15:14
"A respectable case could make for at
least 3 very different solutions."

605 00:30:15:16 00:30:17:24
And those 3 different solutions are -

606 00:30:18:01 00:30:21:22
no provision, limited provision
and generous provision.

607 00:30:21:24 00:30:26:14
Now, Lady Hale is actually very,
very well-known in this field.

608 00:30:26:16 00:30:27:16
She retired last year,

609 00:30:27:18 00:30:30:04
she was the first female president
of the Supreme Court

610 00:30:30:06 00:30:33:21
and she has made massive railroads
in the legal sector

611 00:30:33:23 00:30:38:15
challenging this old, archaic
legal system that we have.

612 00:30:38:17 00:30:41:06
A lot of the laws have been in place
for hundreds of years

613 00:30:41:08 00:30:46:01
and just are not appropriate
for current family conditions.

614 00:30:46:03 00:30:49:11
The other one there,
"Claims under the act

615 00:30:49:13 00:30:51:03
are inherently difficult to predict

616 00:30:51:05 00:30:53:22
even when the factual matrix
is clear."

617 00:30:53:24 00:30:59:16
That's from, again,
a very, very well-known member

618 00:30:59:18 00:31:03:03
of the legal facility
called Hugh Cumber.

619 00:31:03:05 00:31:05:02
And I think that is an excellent name

620 00:31:05:04 00:31:07:23
if you say it quick enough,
that's a fantastic name.

621 00:31:08:00 00:31:11:23
And Hugh has actually been
the leading lawyer

622 00:31:12:00 00:31:14:23
in a lot of the cases that
we are going to go on to discuss.

623 00:31:16:08 00:31:18:01
As we said, who can claim?

624 00:31:18:03 00:31:21:04
Adult children, infant children,
cohabitees and spouses.

625 00:31:21:06 00:31:25:06
So, there's got to be an element of
maintenance required.

626 00:31:25:08 00:31:28:09
If you're thinking you've maybe got
a client who's been left out

627 00:31:28:11 00:31:29:16
and they want to claim,

628 00:31:29:18 00:31:33:20
then you have to think through
did they require maintenance?

629 00:31:33:22 00:31:36:10
I think that's usually
the sort of word

630 00:31:36:12 00:31:37:20
that we'll use around about this.

631 00:31:37:22 00:31:42:21
The first case we're going to
have a look at is Melita.

632 00:31:42:23 00:31:46:21

Melita, basically,

633 00:31:46:23 00:31:51:02
left her daughter, she cut her daughter,
who was Heather,

634 00:31:51:04 00:31:53:05
out of her will completely.

635 00:31:53:07 00:31:58:08
They had no relationship,
effectively Heather had moved out

636 00:31:58:10 00:32:01:07
when she was a teenager,
she eloped with her boyfriend,

637 00:32:01:09 00:32:04:03
which her mother disagreed with
when she was a teenager.

638 00:32:04:05 00:32:06:17
She was now married to that husband.

639 00:32:06:19 00:32:11:22
She left her completely out of the will
and instead left her money,

640 00:32:11:24 00:32:15:17
it was just under half a million pounds,
to three animal charities.

641 00:32:15:19 00:32:17:11
What I'm going to do now is

642 00:32:17:13 00:32:21:08
I'm going to ask the advisers
to tell me what they think.

643 00:32:22:08 00:32:28:10
Do you think that the court
left limited, generous

644 00:32:28:12 00:32:31:06
or no provision at all to Heather?

645 00:32:31:08 00:32:35:15
While we see the results coming up
of that one,

646 00:32:35:17 00:32:41:02
we'll just give you a little bit more
information on this case.

647 00:32:41:04 00:32:45:05
Effectively,
what we saw happen here is that,

648 00:32:45:07 00:32:50:01
this is the Ilott case for anyone
who's aware of this case.

649 00:32:50:03 00:32:53:04
You can see here most of you think
that it was limited provision.

650 00:32:53:06 00:32:58:13
And indeed you would be... It's gone
up a bit. 70% say limited provision.

651 00:32:58:15 00:33:01:00
So, obviously Heather went to court

652 00:33:01:02 00:33:05:10
to say she felt that she was requiring
some money from her mother.

653 00:33:05:12 00:33:08:02
The court awarded her £50,000

654 00:33:08:04 00:33:11:00
even though she was an adult
living independently

655 00:33:11:02 00:33:12:14
and had no relationship,

656 00:33:12:16 00:33:16:13
it was found that the mother, Melita,

657 00:33:16:15 00:33:19:05
had acted in an unreasonable,
harsh way

658 00:33:19:07 00:33:21:04
and such an award was justified.

659 00:33:21:06 00:33:23:13
Heather then said,
"Well, that's not enough.

660 00:33:23:15 00:33:25:20
£50,000 is not enough, I want more."

661 00:33:25:22 00:33:30:18
So the court of appeal
increased the award to £143,000,

662 00:33:30:20 00:33:33:16
allowing her to buy her council home

663 00:33:33:18 00:33:37:22
and other money, I think
she had some debts to pay off.

664 00:33:37:24 00:33:39:00

They did it in a way

665 00:33:39:02 00:33:42:08
so that it wouldn't alter
her state benefits and the likes.

666 00:33:42:10 00:33:45:18
Then the animal charities decided to
say, "Hang on a minute,

667 00:33:45:20 00:33:48:13
that's not quite right.
We don't agree on that."

668 00:33:48:15 00:33:53:12
The charities appealed and Mr Hugh
Cumber came to the decision that

669 00:33:53:14 00:33:56:08
no, she wasn't entitled to £143,000

670 00:33:56:10 00:34:02:00
and they reversed the decision to,
I think, back to the £50,000.

671 00:34:02:02 00:34:06:01
If we can click onto the next slide,
the next slide's coming up.

672 00:34:07:13 00:34:09:04
Go back a bit.

673 00:34:09:06 00:34:10:07
Here we go.

674 00:34:10:09 00:34:14:09
The award was 10.28%
of Melita's estate.

675 00:34:14:11 00:34:16:24
Now, bear that figure in mind

676 00:34:17:01 00:34:19:05
when we go on to have a look at
this next one.

677 00:34:19:07 00:34:21:14
I'm not going to ask you to vote
on this one,

678 00:34:21:16 00:34:23:15
I'll just trot through it quickly.

679 00:34:23:17 00:34:26:18
It is really important because
it followed on from that Ilott case.

680 00:34:26:20 00:34:28:06

Here we have Stanley.

681 00:34:28:08 00:34:31:17
Stanley was a little bit of
a miserable old man

682 00:34:31:19 00:34:37:18
and he had a relationship with a lady
and they had a child, Elena,

683 00:34:37:20 00:34:41:14
but they split up when Elena
was only about two years old

684 00:34:41:16 00:34:45:20
and he had had no relationship
with Elena since that.

685 00:34:45:22 00:34:51:10
When he came to die,
Stanley left his estate to Stephen.

686 00:34:51:12 00:34:54:07
Stephen was a friend of his
and he felt that

687 00:34:54:09 00:34:58:07
he didn't want any of his family
to benefit from his wealth

688 00:34:58:09 00:35:02:00
because they had had no contact
for about 18 years.

689 00:35:02:02 00:35:04:21
He left a statement of reasons
in his will,

690 00:35:04:23 00:35:07:07
which is really important
that you do if you're excluding,

691 00:35:07:09 00:35:09:13
as to why he was doing that.

692 00:35:09:15 00:35:12:24
What actually happened in that case
is that Elena, again,

693 00:35:13:01 00:35:15:11
had quite a lot of debt
so she was trying to become

694 00:35:15:13 00:35:18:15
a veterinary nurse and better herself
and the court actually said,

695 00:35:18:17 00:35:25:04

"Yes, we think you deserve." And they left her 11.3% of Stanley's estate.

696 00:35:25:06 00:35:29:09
So, 10% in the first one,
11% in the second one.

697 00:35:29:11 00:35:33:24
You might begin to see that there's
a little bit of a pattern forming here.

698 00:35:34:01 00:35:37:12
So, let's take this one,
the last one about adult children.

699 00:35:37:14 00:35:41:12
Here we have Earl.
Now, Earl had a £1.3 million estate.

700 00:35:41:14 00:35:43:14
He had a daughter,
he had several children,

701 00:35:43:16 00:35:45:06
but he had a daughter
called Tara.

702 00:35:45:08 00:35:50:10
He decided that he only wanted to
give Tara £20,000 out of his will.

703 00:35:50:12 00:35:54:02
So, again, I'm going to
ask the audience to tell me

704 00:35:54:04 00:35:57:13
what they think happened in this one.

705 00:35:57:15 00:36:02:23
Did the court give her none,
limited or generous?

706 00:36:03:00 00:36:07:07
We'll get the polling up and
you can all decide on that one.

707 00:36:07:09 00:36:10:05
And whilst you're deciding
on that one,

708 00:36:10:07 00:36:12:13
I'll tell you a little bit more
about this case.

709 00:36:12:15 00:36:14:22
Now, some of you might be aware of
this case, actually.

710 00:36:14:24 00:36:18:07

The claim was brought
by Ms Tara Wellesley

711 00:36:18:09 00:36:22:21

against the estate of her father,
who is the seventh Earl of Cowley.

712 00:36:24:10 00:36:26:23

Tara's the oldest daughter
of the late Earl

713 00:36:27:00 00:36:30:15

and if any of you follow the royals,
you'll know that Tara was often seen

714 00:36:30:17 00:36:34:14

out gallivanting with
Camilla Parker-Bowles in the days.

715 00:36:34:16 00:36:37:12

And, basically,
they had no relationship.

716 00:36:37:14 00:36:40:12

They'd had little contact
for over 35 years.

717 00:36:40:14 00:36:46:21

Basically, Earl didn't agree with
her party lifestyle

718 00:36:46:23 00:36:49:19

and it also showed that Tara
had rejected

719 00:36:49:21 00:36:52:12

the late-earl's
aristocrat values.

720 00:36:52:14 00:36:55:05

So, she was a bit of a wild child.

721 00:36:55:07 00:37:01:09

What she argued is that, actually,
"I'm deserving of more."

722 00:37:01:11 00:37:03:22

And what her lawyer said,
in that case,

723 00:37:03:24 00:37:06:00

if you have a look at the Ilott case

724 00:37:06:02 00:37:09:23

and you have a look at the other cases,
it's around about 10%.

725 00:37:10:00 00:37:11:14
If we put the slides back up,

726 00:37:11:16 00:37:15:03
I've noticed the results there,
47% said limited provision.

727 00:37:15:05 00:37:19:12
Actually, what the court said
in this one is, well, "No.

728 00:37:19:14 00:37:23:02
That's your lot, you're getting
no more", in that example.

729 00:37:23:04 00:37:26:19
She argued, based on other cases,
that she deserved 10%,

730 00:37:26:21 00:37:28:15
but in this one
the court actually said,

731 00:37:28:17 00:37:30:13
"No, 20 grand is absolutely fine.

732 00:37:30:15 00:37:33:02
That's all that you're getting
in this one."

733 00:37:33:04 00:37:36:12
Let's have a look at infant children.

734 00:37:36:14 00:37:40:08
This is a really unfortunate case

735 00:37:40:10 00:37:42:10
and it's quite complicated
to get our heads around

736 00:37:42:12 00:37:44:05
so I've done this by a timeline.

737 00:37:44:07 00:37:45:23
Meet Ubbi.

738 00:37:46:00 00:37:50:20
Ubbi met Susan in the early 1990s
and fell madly, deeply in love.

739 00:37:50:22 00:37:53:15
In 1994, they had their first child.

740 00:37:53:17 00:37:56:18
In the late-1990s,
they had their second child.

741 00:37:56:20 00:37:58:18

In 2000, they got married.

742 00:37:58:20 00:38:05:04
In 2010, Ubbi drafted his will
and left his entire estate to Susan.

743 00:38:05:06 00:38:09:11
In 2014, Susan asked for a divorce.

744 00:38:09:13 00:38:12:16
Now, you might be wondering,
"Why did Susan ask for a divorce?"

745 00:38:12:18 00:38:15:23
Meet Ubbi number two.
Same man.

746 00:38:16:00 00:38:19:16
Met Bianca in 2007 and fell in love.

747 00:38:19:18 00:38:23:00
In 2012, he had his first child
with Bianca

748 00:38:23:02 00:38:25:17
and in 2013, he moved in with Bianca

749 00:38:25:19 00:38:29:02
and had their second child in 2014.

750 00:38:29:04 00:38:34:03
In 2015, he suddenly dies,
leaving an estate of 3.3 million.

751 00:38:34:05 00:38:38:22
Where he found the time to develop
an estate of 3.3 million I have no idea.

752 00:38:38:24 00:38:43:16
In 2016, Bianca made a claim
on behalf of her children

753 00:38:43:18 00:38:47:16
that they deserved
some of his fortune.

754 00:38:47:18 00:38:49:17
As you can see, this man was
leading a double life,

755 00:38:49:19 00:38:54:12
but notice that in 2010
he drafted his will

756 00:38:54:14 00:38:56:24
leaving his entire estate to his wife,

757 00:38:57:01 00:38:59:13

bearing in mind that
he'd actually started

758 00:38:59:15 00:39:01:22
a double life with Bianca in 2007

759 00:39:01:24 00:39:04:23
and, by that point, had already been

760 00:39:05:00 00:39:08:04
in the throes of starting to
have children with Bianca.

761 00:39:08:06 00:39:10:08
So, go for it, then.

762 00:39:10:10 00:39:12:02
What do we think?

763 00:39:12:04 00:39:16:08
What did the court decide to award
the children?

764 00:39:18:07 00:39:22:02
No provision, generous provision
or limited provision?

765 00:39:23:16 00:39:26:02
Once again,
whilst we're putting this up,

766 00:39:26:04 00:39:29:15
I'll just give you a little bit more
information about the case.

767 00:39:29:17 00:39:32:16
Susan tried to argue,
that's the first wife,

768 00:39:32:18 00:39:35:01
she tried to argue that
the illegitimate children

769 00:39:35:03 00:39:37:06
shouldn't receive anything
from the estate.

770 00:39:37:08 00:39:39:24
You might think that's
particularly mean of Susan

771 00:39:40:01 00:39:40:19
because, ultimately,

772 00:39:40:21 00:39:42:23
the children are innocent victims
at the end of the day,

773 00:39:43:00 00:39:44:24
however, her two children,

774 00:39:45:01 00:39:48:03
her adult children
who both lived at home,

775 00:39:48:05 00:39:50:11
this case just gets
even more horrific.

776 00:39:50:13 00:39:55:00
One of her children had suffered
a really severe, horrific attack

777 00:39:55:02 00:39:59:04
and, as a result of that,
needed full-time care.

778 00:39:59:06 00:40:03:19
The other child suffered from
an illness, which, basically,

779 00:40:03:21 00:40:07:02
they were paralysed and had
lots of learning difficulties.

780 00:40:07:04 00:40:10:15
She was claiming that
she needed all that money

781 00:40:10:17 00:40:13:12
and that those children
shouldn't benefit.

782 00:40:13:14 00:40:16:01
Most of you there have put
generous provision.

783 00:40:16:03 00:40:18:17
Let's have a look, then,
we'll go back to the slides.

784 00:40:18:19 00:40:20:12
In this case...

785 00:40:22:08 00:40:24:00
..they eventually accepted that

786 00:40:24:02 00:40:27:13
the children were entitled to
some reasonable financial provision

787 00:40:27:15 00:40:29:24
and that should be
by way of a lump sum.

788 00:40:30:01 00:40:32:07

But how on earth do you work it out?

789 00:40:32:09 00:40:35:07
To work it out,
they tried to figure out

790 00:40:35:09 00:40:39:02
how much it costs
to raise two children to age 18.

791 00:40:39:04 00:40:41:07
A lot of you will be very interested
in this here

792 00:40:41:09 00:40:43:08
and think,
"This is absolutely ridiculous

793 00:40:43:10 00:40:45:17
because I've got a five year old
and a seven year old

794 00:40:45:19 00:40:47:23
and I think they're probably
costing me this already."

795 00:40:48:00 00:40:50:18
However, let's go through
how they worked it out.

796 00:40:50:20 00:40:53:23
The housing requirement,
they required a four-bedroom house.

797 00:40:54:00 00:40:57:04
That worked out at just over
£4,000 a month for eight years.

798 00:40:57:06 00:40:58:20
You might do the maths and think,

799 00:40:58:22 00:41:00:24
"You said 18 years,
why is it eight years?"

800 00:41:01:01 00:41:05:08
After eight years, they had to
downsize to a three-bedroom house,

801 00:41:05:10 00:41:07:18
which would cost
around £3,000 a month.

802 00:41:07:20 00:41:10:16
The reason that they had
a four-bed house for eight years

803 00:41:10:18 00:41:15:04

is they were allowed to benefit from
a live-in au pair.

804 00:41:15:06 00:41:19:00

That was £234,000
for a live-in au pair.

805 00:41:20:03 00:41:22:08

Schooling costs, they tried to argue

806 00:41:22:10 00:41:23:23

that the kids should be
privately educated

807 00:41:24:00 00:41:25:16

and that was thrown out by the court,

808 00:41:25:18 00:41:28:02

they were not allowed to include
schooling costs.

809 00:41:28:04 00:41:34:19

Other costs amounted to a grand total
of just under £1 million.

810 00:41:34:21 00:41:37:18

However, what was then argued is,
"Hold on a minute.

811 00:41:37:20 00:41:41:12

Bianca still has the children,
she's still responsible for them,

812 00:41:41:14 00:41:42:23

50-50, you could argue.

813 00:41:43:00 00:41:47:09

Her contribution has to be taken into
consideration here."

814 00:41:47:11 00:41:51:06

If you then add in
the mother's contribution,

815 00:41:51:08 00:41:53:04

which was just over half a million,

816 00:41:53:06 00:42:00:01

the contribution from Ubbi's estate
as a lump sum was £386,290.

817 00:42:00:03 00:42:04:20

That doesn't seem that generous to me
of a £3.3 million estate,

818 00:42:04:22 00:42:06:19

however, that's 10%.

819 00:42:06:21 00:42:11:23
Remember the figures around about
what people are entitled to claim.

820 00:42:12:00 00:42:13:24
This seems to be a common occurrence.

821 00:42:14:01 00:42:18:14
That is what, if you've got a case of
trying to get part of the will,

822 00:42:18:16 00:42:22:07
that's a similar number
that we start to see happen.

823 00:42:22:09 00:42:24:17
What about cohabittees, then?

824 00:42:24:19 00:42:27:02
Here we have D and C.

825 00:42:27:04 00:42:31:11
They were very elderly, obviously,
when he passed away.

826 00:42:31:13 00:42:32:17
They were both in very poor health.

827 00:42:32:19 00:42:34:14
He had an estate of 1.5 million.

828 00:42:34:16 00:42:38:03
C had children
from a previous relationship

829 00:42:38:05 00:42:40:21
and they had tenants that were
sitting in a cottage

830 00:42:40:23 00:42:42:17
which they were hoping to move into
at some point

831 00:42:42:19 00:42:44:01
when their health improved.

832 00:42:44:03 00:42:46:14
In his will he had
a statement of reason

833 00:42:46:16 00:42:49:18
saying, "I make no provision
for my partner,

834 00:42:49:20 00:42:53:21
I have no contact with her children
and I do not trust them."

835 00:42:53:23 00:42:56:08

What do we think,
if we bring the poll back up,

836 00:42:56:10 00:43:02:01

what do we think that the court
awarded C in this case?

837 00:43:03:06 00:43:09:19

Whilst that's on, C was 79
and D was in his 90s when he died.

838 00:43:09:21 00:43:12:18

They had cohabited
for around 42 years

839 00:43:12:20 00:43:16:05

and they were cohabiting
at the time D died.

840 00:43:16:07 00:43:19:08

C had about four children
from previous relationships,

841 00:43:19:10 00:43:21:17

but D had no relationship with them.

842 00:43:21:19 00:43:27:16

C had contributed to D's fortune
in terms of working on the farm,

843 00:43:27:18 00:43:29:24

they had a caravan site business
as well.

844 00:43:30:01 00:43:33:22

D had actually made a living will
during his lifetime

845 00:43:33:24 00:43:36:19

and the last one was
in December 2016,

846 00:43:36:21 00:43:40:03

very close to
when he actually passed away.

847 00:43:40:05 00:43:45:16

He left his whole estate to E and F,
the tenants on his land.

848 00:43:45:18 00:43:47:14

Just seeing the numbers go up.

849 00:43:47:16 00:43:50:17

A little bit more even here,
no provision,

850 00:43:50:19 00:43:53:06
limited provision,
generous provision.

851 00:43:53:08 00:43:55:11
We go back to the slides.

852 00:43:55:13 00:43:59:12
We'll have a look at what
actually happened in this case.

853 00:43:59:14 00:44:02:12
The tenants, hallelujah, 1.5 million,

854 00:44:02:14 00:44:04:03
that'll be a nice little bonus for them.

855 00:44:04:05 00:44:05:23
Let's see what the court said.

856 00:44:06:00 00:44:10:10
Effectively, what the court said
in this example is actually,

857 00:44:10:12 00:44:13:14
C did have her own money
and her own savings,

858 00:44:13:16 00:44:15:14
very, very limited, right enough,

859 00:44:15:16 00:44:19:23
but D did not want his assets to
fall in the hands of C's children

860 00:44:20:00 00:44:23:14
and D knew that C was very ill also

861 00:44:23:16 00:44:25:24
and probably didn't have long
left to live

862 00:44:26:01 00:44:29:07
and if he passed his assets to her,
they would then go to her children.

863 00:44:29:09 00:44:30:12
He did not want that.

864 00:44:30:14 00:44:33:18
The court said that
was not a sufficient reason

865 00:44:33:20 00:44:36:15
for not leaving C
without financial provision.

866 00:44:36:17 00:44:40:05

Therefore, what they then agreed
is that the house,

867 00:44:40:07 00:44:45:06
the cottage would
be transferred to C

868 00:44:45:08 00:44:48:17
and her children
could move into that house

869 00:44:48:19 00:44:52:12
because they were needed
to provide care for C.

870 00:44:52:14 00:44:57:22
In that case, when they work it out,
she got about 27%,

871 00:44:57:24 00:45:00:13
so you could say
that was generous provision

872 00:45:00:15 00:45:01:23
in that example.

873 00:45:02:00 00:45:04:24
Again, that would be on a
case-by-case basis, I would imagine.

874 00:45:06:00 00:45:09:11
What he could've done here, with the
help of a financial adviser perhaps,

875 00:45:09:13 00:45:15:01
is perhaps left that house in a trust
with C's life rent

876 00:45:15:03 00:45:17:00
so that then the children
couldn't have got it.

877 00:45:17:02 00:45:18:20
That would've prevented that
from happening,

878 00:45:18:22 00:45:22:17
but it would've meant he provided
financial provision until her death.

879 00:45:22:19 00:45:24:18
A bit of planning could, perhaps,

880 00:45:24:20 00:45:27:19
have saved themselves
a lot of money in that case.

881 00:45:27:21 00:45:29:11

OK, spouses.

882 00:45:29:13 00:45:31:21
This is the case of Michael and Mary.

883 00:45:31:23 00:45:34:04
He had a £29 million estate.

884 00:45:34:06 00:45:37:23
I'll divulge his estate
in just a second.

885 00:45:38:00 00:45:42:20
In his will, he left no provision
for Mary, his wife,

886 00:45:42:22 00:45:48:20
and what he did instead is he left
his £29 million estate in trust

887 00:45:48:22 00:45:51:15
for three beneficiaries, Mary,
family members

888 00:45:51:17 00:45:54:01
and some sort of
charitable foundation.

889 00:45:54:03 00:45:56:16
If we go back to the polling
in this example,

890 00:45:56:18 00:46:00:09
what do you think
the courts awarded Mary?

891 00:46:03:08 00:46:05:11
Whilst we wait for that to come up,

892 00:46:05:13 00:46:07:21
I'll give you a little bit more
information about the case.

893 00:46:07:23 00:46:12:07
Michael Cowan, he began his
relationship with Mary in 1991.

894 00:46:12:09 00:46:14:08
They didn't marry for a long time.

895 00:46:14:10 00:46:17:21
In February 2016, he actually
developed a brain tumour

896 00:46:17:23 00:46:20:02
and he married Mary a month later.

897 00:46:20:04 00:46:21:15

Now, we see that happening
quite a lot,

898 00:46:21:17 00:46:23:01
many celebrity couples have done it

899 00:46:23:03 00:46:24:18
when they know
they're on their death beds.

900 00:46:24:20 00:46:26:24
They get married,
they benefit from spousal exemptions.

901 00:46:27:01 00:46:28:24
You would think
that's why they've done it.

902 00:46:29:01 00:46:32:16
Then he drafted his will
in March 2016.

903 00:46:34:00 00:46:36:01
He got married
and then drafted his will.

904 00:46:36:03 00:46:39:17
He then died in the April.
So, February, brain tumour,

905 00:46:39:19 00:46:43:19
March, married Mary,
March, wrote will, died in the April.

906 00:46:43:21 00:46:47:07
And, as we said, he made
no charitable contribution.

907 00:46:47:09 00:46:51:13
Here, wow, nearly 50% say
no provision,

908 00:46:51:15 00:46:54:09
generous provision
and limited provision.

909 00:46:54:11 00:46:59:23
Now, this is a little bit of
a U-turn of a case with this one.

910 00:47:00:00 00:47:06:24
The reason I say that is the court case
got diverted to another issue.

911 00:47:07:01 00:47:11:00
Basically, Michael Cowan,
just in case you're interested,

912 00:47:11:02 00:47:12:12
he invented the bin liner.

913 00:47:12:14 00:47:16:05
So, all your bin liners in your bins,
that's the man that invented them

914 00:47:16:07 00:47:18:24
and that's where he made
his £29 million fortune.

915 00:47:19:01 00:47:23:16
He felt that Mary should be spared
the burden of administering,

916 00:47:23:18 00:47:26:20
investing and deploying
such a large sum of money.

917 00:47:26:22 00:47:30:12
His letter of wishes
and his statement of reasons

918 00:47:30:14 00:47:33:18
said that's why he did it, but
she was to be the main beneficiary

919 00:47:33:20 00:47:37:02
and her requests for capital
were to be considered generously.

920 00:47:37:04 00:47:41:01
When they decided on
what would happen in this case,

921 00:47:41:03 00:47:42:11
that was the evidence.

922 00:47:42:13 00:47:45:09
The trustees had never said no
to Mary,

923 00:47:45:11 00:47:47:05
they'd given her everything
that she'd wanted.

924 00:47:47:07 00:47:52:02
Actually, the court said, in this
example, this was actually OK to do.

925 00:47:52:04 00:47:57:09
If you unwound this case, it would
suggest forced spousal heirship.

926 00:47:57:11 00:48:01:14
The trustees appear to have taken
into account the letter of wishes.

927 00:48:01:16 00:48:04:06
Where this case slightly went AWOL

928 00:48:04:08 00:48:07:03
is that the court, they were out

929 00:48:07:05 00:48:09:10
with the time limits
of appealing for this.

930 00:48:09:12 00:48:11:24
You've got a court claim
under the act,

931 00:48:12:01 00:48:15:02
it must be within six months
of grant of probate

932 00:48:15:04 00:48:16:12
and they were outside
that six months.

933 00:48:16:14 00:48:18:23
That is what the court spent
the majority of the time arguing,

934 00:48:19:00 00:48:19:21
not the actual point

935 00:48:19:23 00:48:23:11
that poor Mary had been left
with no money from the will.

936 00:48:23:13 00:48:26:06
So, what are the key financial points
about all this?

937 00:48:26:08 00:48:27:17
Why are we talking about this?

938 00:48:27:19 00:48:30:16
Statement of reasons
are really important.

939 00:48:30:18 00:48:31:21
When you come across clients

940 00:48:31:23 00:48:34:04
who maybe have
difficult family situations

941 00:48:34:06 00:48:36:14
and they maybe need
a more bespoke solution,

942 00:48:36:16 00:48:40:13
that statement of reasons as to why
you're doing something will be key.

943 00:48:41:09 00:48:44:08
Consider token gifts
rather than no provision at all.

944 00:48:44:10 00:48:45:22
We've seen in the examples that

945 00:48:45:24 00:48:51:02
if you do the token gift
around about between 10 and 13%,

946 00:48:51:04 00:48:55:04
not telling you that that is going to
ensure that nothing happens,

947 00:48:55:06 00:48:57:15
but it's better than no provision.

948 00:48:57:17 00:49:01:13
Remember that adult children can
still claim, we've seen that happen.

949 00:49:01:15 00:49:03:09
But all cases are going to be
fact sensitive,

950 00:49:03:11 00:49:05:15
so you need to work with
your professional connections

951 00:49:05:17 00:49:06:17
around about this.

952 00:49:06:19 00:49:09:03
This next point, I should've
bolded this and underlined it.

953 00:49:09:05 00:49:11:23
The best preparation for tomorrow
is planning today.

954 00:49:12:00 00:49:15:11
This is all around about planning,
having that really difficult,

955 00:49:15:13 00:49:18:23
awkward conversation with clients
around about their family situations.

956 00:49:19:00 00:49:20:14
They might not be willing to
talk to you about it,

957 00:49:20:16 00:49:22:14
but it's imperative that
you know everything.

958 00:49:22:16 00:49:25:15
Talk to Pru about the use of
Trust wrappers.

959 00:49:25:17 00:49:29:02
That case with the cohabitees
and putting trusts in place,

960 00:49:29:04 00:49:30:08
that's a prime example of

961 00:49:30:10 00:49:32:22
how we could perhaps have
tried to prevent that one.

962 00:49:32:24 00:49:35:21
Remember, when you're dealing with
these types of cases,

963 00:49:35:23 00:49:38:05
the chances are
you've got a vulnerable client.

964 00:49:38:07 00:49:39:23
Remember all the rules
and regulations

965 00:49:40:00 00:49:42:01
around about dealing with
vulnerable clients.

966 00:49:42:03 00:49:45:18
Finally, how do you use
this information?

967 00:49:45:20 00:49:47:13
It's not to say we want you all

968 00:49:47:15 00:49:51:07
to become professional will drafters
of contentious wills,

969 00:49:51:09 00:49:54:14
it's around about working together
with your professional connections,

970 00:49:54:16 00:49:55:23
having a little understanding

971 00:49:56:00 00:49:58:08
of some of the difficulties
that they're going through

972 00:49:58:10 00:50:03:08
will just help work in harmony,
it's a wider, deeper financial planning,

973 00:50:03:10 00:50:05:22

it's an area that you cannot google.

974 00:50:05:24 00:50:10:07
Good old Google can't really help you
in these circumstances,

975 00:50:10:09 00:50:12:14
you really need to seek advice.

976 00:50:12:16 00:50:14:23
I think having
a little bit of knowledge here,

977 00:50:15:00 00:50:18:19
articulating the value that you bring
to your professional connections,

978 00:50:18:21 00:50:20:17
especially getting you involved,

979 00:50:20:19 00:50:23:05
that optimises the benefits of
working together.

980 00:50:25:00 00:50:27:14
What I've done is just put
some support for you

981 00:50:27:16 00:50:29:16
up on this slide,
where we can help.

982 00:50:29:18 00:50:31:22
We've got our
intergenerational planning hub,

983 00:50:31:24 00:50:34:15
we've got an amazing technical team

984 00:50:34:17 00:50:37:14
that are here to help you
with these types of cases.

985 00:50:37:16 00:50:39:08
We get involved with
lots of these issues,

986 00:50:39:10 00:50:41:08
we can help you along the way.

987 00:50:41:10 00:50:43:21
We've got the estate planning guide.

988 00:50:43:23 00:50:45:13
I have, just for information,

989 00:50:45:15 00:50:48:18
put a list of all the cases

that we spoke about this morning,

990 00:50:48:20 00:50:51:06
should you want to look at them
in more detail.

991 00:50:51:08 00:50:53:10
And with that,
I'll pass back to Mark,

992 00:50:53:12 00:50:56:09
but thank you very much
for your time this morning.

993 00:50:56:11 00:51:00:05
Thank you for that,
a lot covered in 45 minutes.

994 00:51:00:07 00:51:02:15
I wrote some things down,
some key bits for me.

995 00:51:02:17 00:51:05:00
Lawyers have seen a huge increase
in demand for wills

996 00:51:05:02 00:51:07:08
and powers of attorney,
so it's a big opportunity.

997 00:51:07:10 00:51:11:22
Families are complex, we shouldn't
assume anything about a family.

998 00:51:11:24 00:51:14:18
It would be good for us to become
good family mentors,

999 00:51:14:20 00:51:18:02
to become the trusted friend
of the families.

1000 00:51:18:04 00:51:21:06
Don't be afraid to ask
the difficult questions

1001 00:51:21:08 00:51:23:22
or wait for the complex answers.

1002 00:51:23:24 00:51:26:02
And lawyers don't build
long-term relationships,

1003 00:51:26:04 00:51:28:17
they need the help of us,
the adviser,

1004 00:51:28:19 00:51:32:15

to keep that relationship going
a little bit more transactional.

1005 00:51:35:05 00:51:37:22

Next steps.

This is the third of seven

1006 00:51:37:24 00:51:39:17

in our Managing Future Risks seminars.

1007 00:51:39:19 00:51:42:03

If you haven't yet signed up
for any of the others,

1008 00:51:42:05 00:51:43:18

there's a link

in the upcoming sessions

1009 00:51:43:20 00:51:45:23

on the left-hand side of your screen.

1010 00:51:46:00 00:51:50:01

Please complete the CPD feedback,
you can find this on the left panel.

1011 00:51:50:03 00:51:51:06

Once we've got your feedback,

1012 00:51:51:08 00:51:53:21

our events team will be sending you
an email early next week

1013 00:51:53:23 00:51:56:01

which will have

the embedded CPD certificate,

1014 00:51:56:03 00:51:59:02

so please make sure

you save the email for your records.

1015 00:51:59:04 00:52:02:10

This email will also have a link to
a copy of the slides from today

1016 00:52:02:12 00:52:05:04

and recordings of this session

can also be accessed

1017 00:52:05:06 00:52:07:17

by visiting

the Pru Adviser Seminar webpage.

1018 00:52:07:19 00:52:10:13

All it leaves me to do now is

thank you for attending this morning

1019 00:52:10:15 00:52:12:20

and thanks to Cat

for a brilliant session.