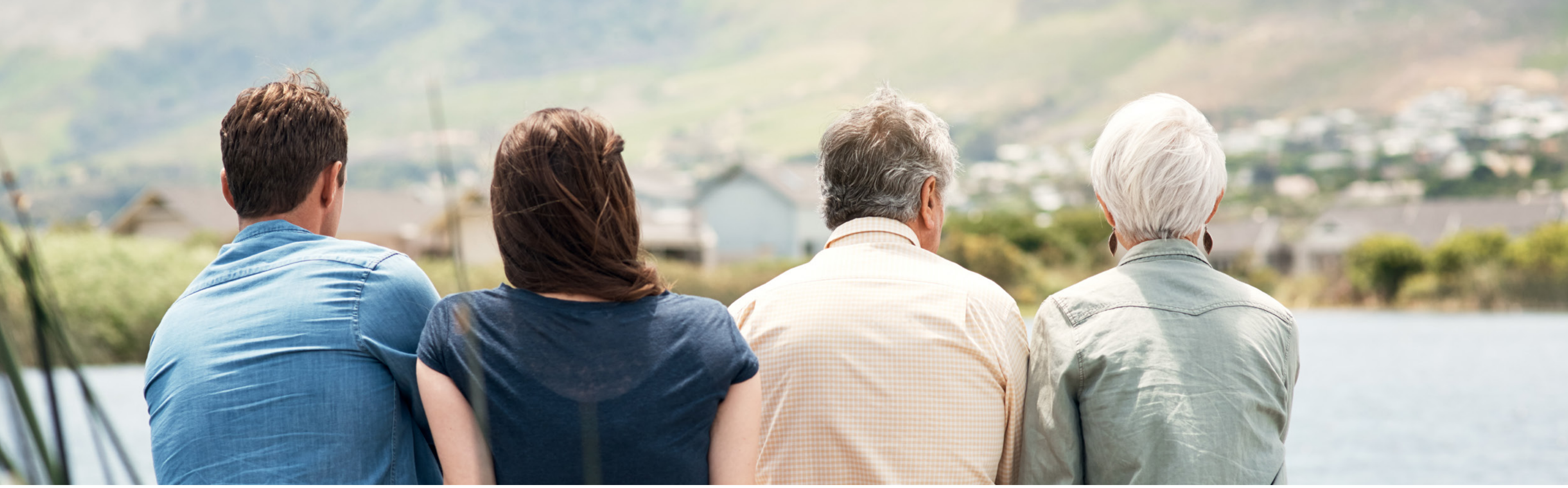

MOMENTS THAT MATTER

FINANCIALLY SPEAKING

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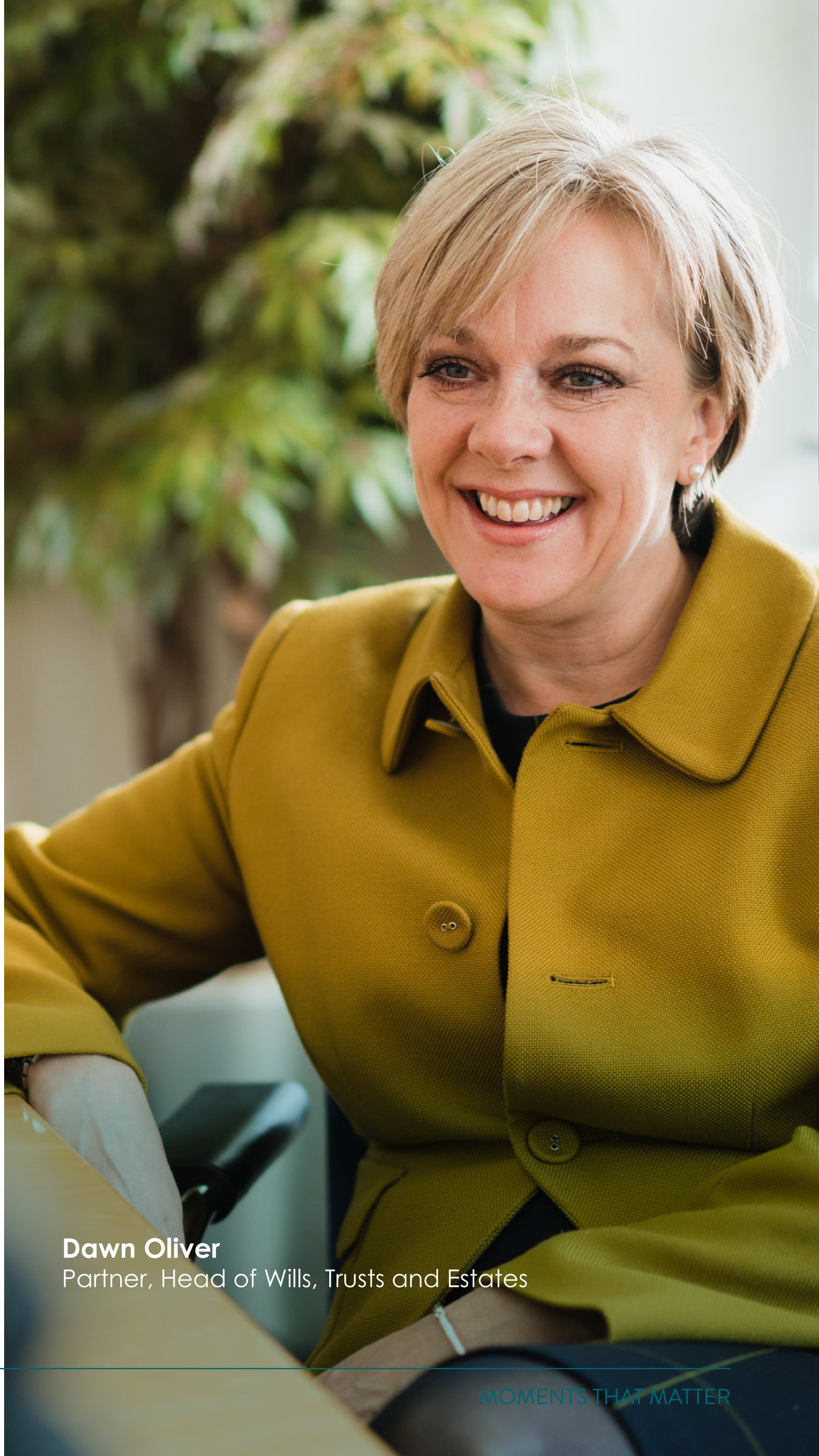
FINANCIALLY SPEAKING

In Moments that Matter so far we have focused on how entering into proper legal arrangements enables you to protect your family and your loved ones during the 'moments that matter' in life.

Here we turn our attention to financial moments that matter. In increasingly uncertain political and economic times, more and more clients are turning to us for advice about how to protect their estates for the benefit of the wider family and also in the event of a relationship breakdown.

Read on to find out some of the top tips that our team of lawyers have for making sure that you can do the same.



Dawn Oliver
Partner, Head of Wills, Trusts and Estates

Mark Hartley
Partner, Wills, Trusts and Estates

With a little help from your grandparents…

The average annual cost of private school fees in 2018 in England and Wales was assessed by the Independent Schools Council to be £13,830 for day pupils and more than double that for boarders. It's not surprising that many parents who feel that a private education is the only option for their children are turning to their own parents for help in meeting those costs.

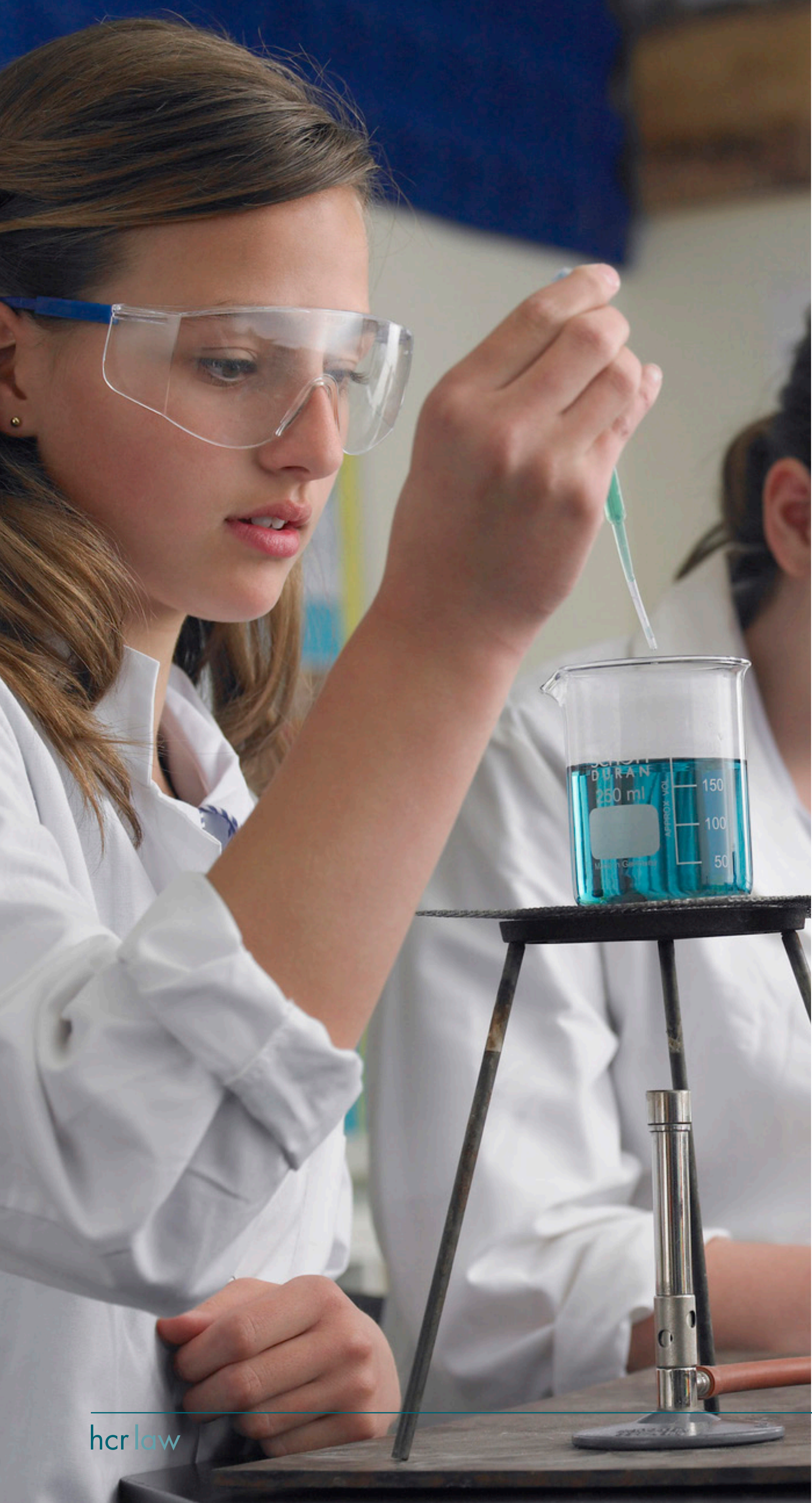
There are a number of financial considerations in terms of estate planning, however, that need to be considered. Private school fees paid by parents for the education of their own children are generally exempt from any inheritance tax consequences, but the same does not apply to provision made to fees paid by grandparents. These will be regarded as a gift to their grandchild for tax purposes even if made directly to the grandchild's school. Careful consideration needs to be given therefore as to how grandparents who are paying their grandchildren's school fees can do so in a tax efficient way.

It is well known, of course, that gifts made to individuals are not immediately liable to an inheritance tax charge but they may become liable retrospectively if the person making the gift dies within seven years.

There are exceptions to this, where the gift falls within certain exemptions. These include the annual gift exemption of £3,000 which everyone can give away each year without a further risk of any inheritance tax liabilities. The exemption can be carried forward one year if previously unused.

This means that two grandparents using their exemptions for the first time can gift £12,000 between them initially and £6,000 in each subsequent year. A further useful exemption for grandparents relates to surplus income. If income exceeds outgoings, then regular gifts can be made out of that surplus without any charge to inheritance tax. This can be a useful exemption for well-off grandparents with significant 'old style' final salary pensions. It's very important, however, to keep an accurate record of the gifts made and the calculations showing the surplus income. These have to be produced to HMRC after grandparents have died and increasingly HMRC are applying the rules more strictly to ensure that the relief is not abused.

What happens, however, if grandparents do not have surplus income to "pay as you go" on a yearly basis? As in all areas of life, it can pay to plan early and to start putting aside funds as soon as grandchildren are born. This may involve regular gifts to the parents within the exemptions already mentioned or a larger lump sum given in the hope of surviving for seven years. This does pose a risk if parents divorce in the meantime or are perhaps tempted to dip in to the funds for other needs such as moving house or expensive holidays.



A better approach may be to create a trust for the grandchildren concerned. There are different types of trust that can be set up, some more complicated than others. The tax treatment of various types of trusts can also be complicated and it's important to take proper financial advice about the investment of the money in the meantime so that best use can be made of the children's own income and Capital Gains Tax allowances, taking the pressure off the financial performance of the investments. In all cases when setting up a trust, it's extremely important to take proper legal and financial advice. Getting it wrong can be costly.

Finally, once the school has been identified, it is worth considering approaching them to make a lump sum payment directly to the school to cover several years' fees in advance. This can allow for discounts to be negotiated with the school although recently, in times of low interest rates, these have been less than attractive.

However, for grandparents with concerns about their own inheritance tax liability which will eventually be charged on their estates, and also a desire to help with their grandchildren's education costs, there is a clear opportunity to address both issues together and we are increasingly advising clients who are keen to help the next generation sooner rather than later.

Key moment actions

- Consider gifting as a tax efficient way to support your loved ones
- Keep records of income, outgoings and gift amounts as HMRC may need to see these later
- Consider setting up a trust – but get proper legal and financial advice before you go ahead.

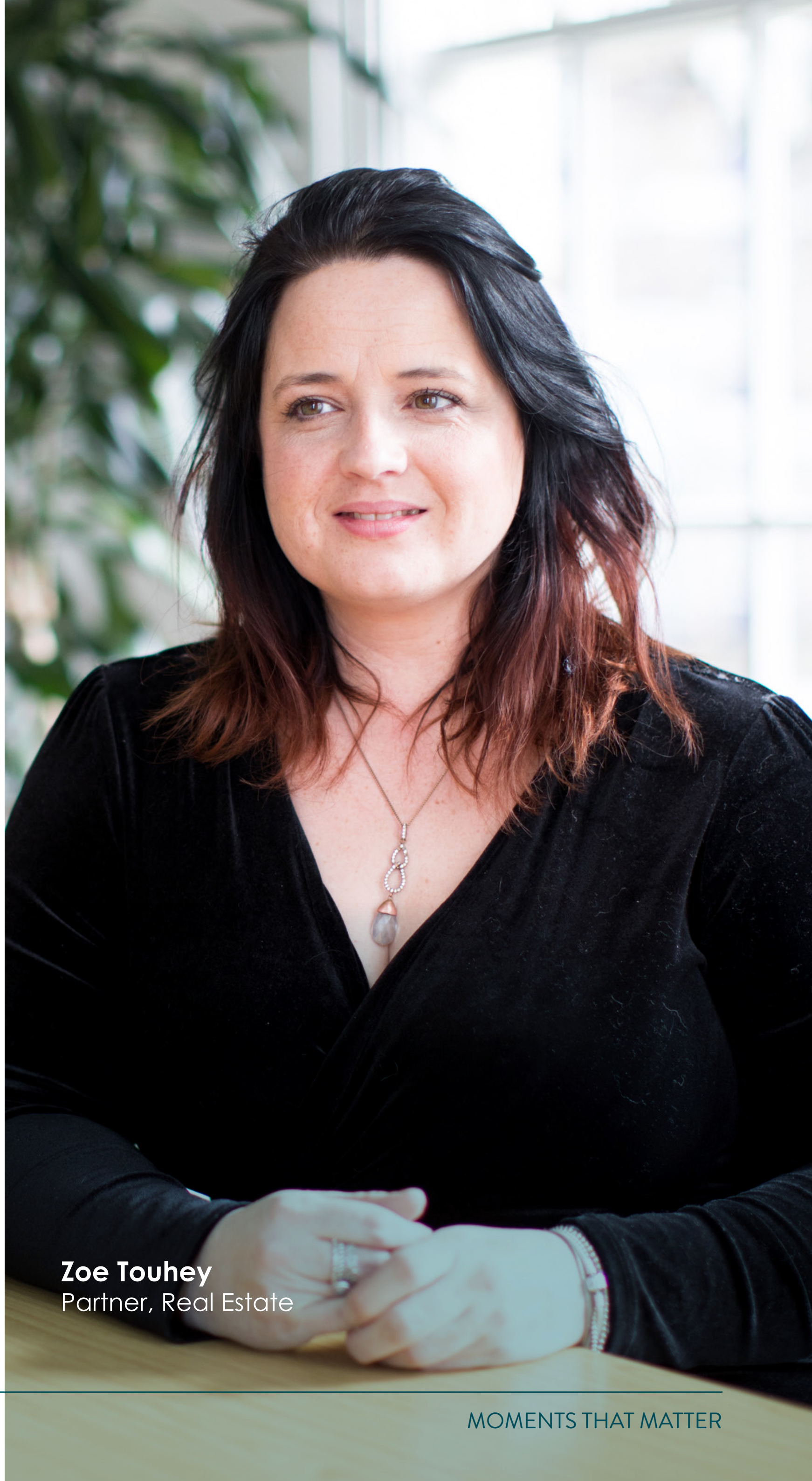
Is your home a pot of gold?

For most of us, our home is our biggest asset and as property prices have increased over the last 20 years, many people look to release much needed equity from their homes in order to help and support their own families. When it comes to paying for education, this can be an obvious 'pot to raid' but there has been a lot of bad press over the years about equity release schemes and it's important to know the options available to you before going ahead.

Most of us are familiar with traditional mortgages but as we get older, meeting the affordability criteria laid down by banks and building societies becomes more difficult. Many people wish to release equity from their homes but are not able to make the repayments during their lifetime so it's important to understand the way equity release schemes work before you commit.

The first thing you need to ensure is that any arrangement you enter into is regulated by the Equity Release Council. There are a number of schemes available including those which are only repayable on your death. Some are repayable on the sale of your property, where providers may allow you to port the mortgage to a new property if you move or go into long term residential care. Some schemes allow you to make interest payments only, or interest and capital payments, and there are still others which buy your property from you and provide you with a lease back to live in the property for as long as you are able to.

Most equity release schemes provide you with a lump sum payment although recently some schemes have allowed monthly drawdowns thus creating a pension/annuity type arrangement. It's important to look for a



Zoe Touhey
Partner, Real Estate

'no negative equity release' guarantee with any scheme that you enter into. This means that the amount that you owe can never be more than the value of your property so you don't leave a headache for your family on your death. In the past this has not always been the case and has contributed to a significant mis-selling scandal in the late 80's/early 90's before the schemes were properly regulated.

In all cases, the equity release mortgage will be secured against your property in the same way as a traditional mortgage and you will need a solicitor to deal with the legal paperwork in relation to this.

Your equity release provider will appoint their own solicitors to investigate the title to your property and deal with the security required. Your solicitor will guide you through the process and advise you on a number of consequences of the equity release mortgage, such as potentially affecting any means tested benefits that you may be entitled to and also making sure that you understand exactly the type of scheme that you are entering into. Your solicitor will also help you to explain the terms of the equity release to your family so that they are aware of the consequences of the arrangement and there are no nasty surprises when you die.

Once all the paperwork has been completed, then the monies are released to you as a traditional mortgage and you can help your family with the moments that matter to them.

Key moment actions

- Ensure that any arrangement you enter into is regulated by the Equity Release Council
- Look for a 'no negative equity release' guarantee
- Appoint a solicitor to guide you through the equity release process.

The Cinderella asset

In the wake of the rising state pension age and the rarity these days of good final salary pension schemes, there is an increasing awareness of the importance of ensuring that a sensible private pension is started early enough for a comfortable retirement.

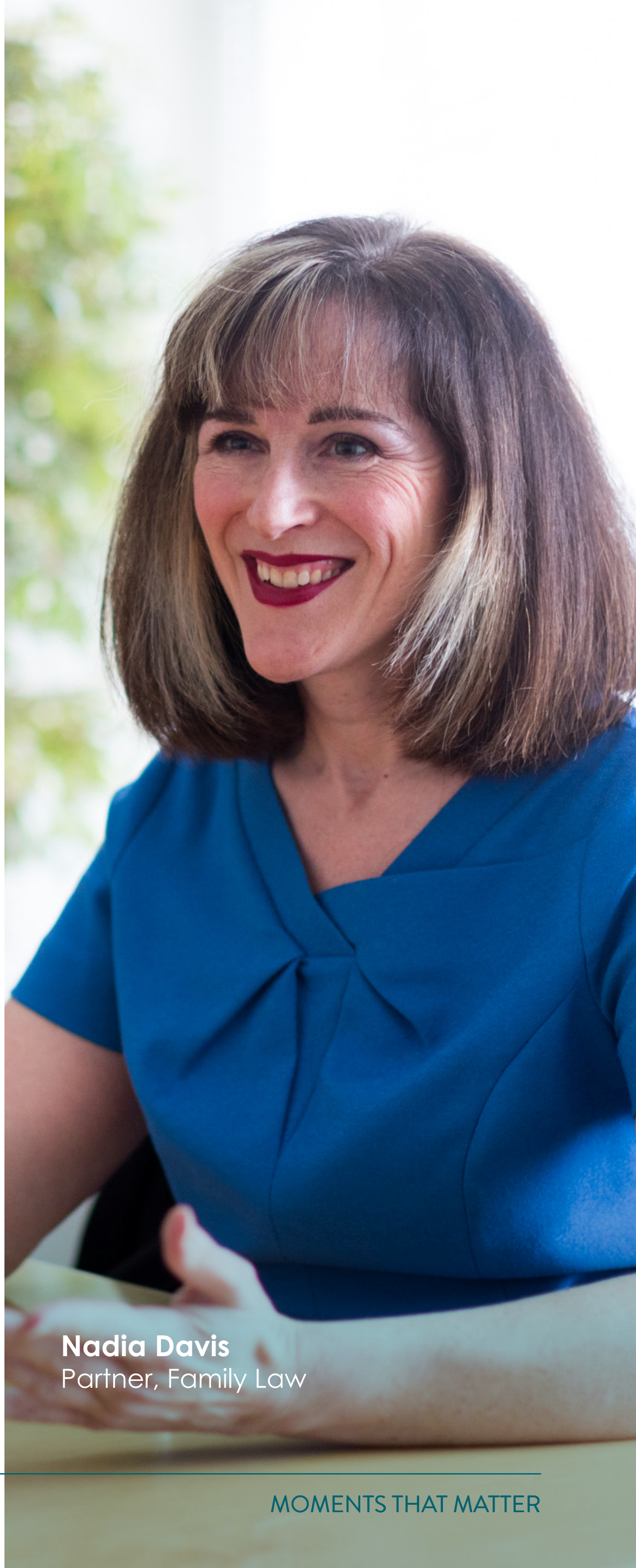
Sadly this means that in many households, pension schemes become the focus during a breakdown in the marriage, as they are often the most valuable asset after the family home. Particularly for women, however, the distress and uncertainty which follows the breakdown of a marriage means that often the focus will be on securing money to meet immediate needs such as housing and day to day living expenses. The thought of pensions falls well down the list of priorities when negotiating the terms of a financial settlement post-divorce.

But this can be a disastrous decision and, in the worst case scenarios, causes serious hardship in retirement. Most people do not appreciate that, with current annuity rates, a pension pot of £100,000 will mean only a very modest pension income of £5,000 per annum at the age of 67. Frankly this is far less than is needed to maintain a reasonably good standard of living, even when taken together with the state pension entitlement.

In December 2000, legislation was introduced to ensure that pension assets can be shared by an order of the matrimonial court within divorce proceedings. The legislation recognised the fact that in many marriages there was unequal provision for retirement, due to one party having stayed at home to look after the children. This ensured that overall pension provision could be fairly shared between husbands and wives following a divorce. This was ground breaking at the time as it meant that pension assets could be transferred from one party to the other which was then unaffected by the death or remarriage of the transferring spouse.

Fast forward to 2019 and the court commonly makes pension sharing orders to achieve a settlement which is fair and reasonable to both parties. The sharing of the pension reflects the equal contribution which both have made during the course of the marriage.

It's vital therefore that with any form of divorce proceedings, the pension assets belonging to either party are properly valued. Professional advice must be obtained to ensure that a fair



Nadia Davis
Partner, Family Law

outcome is achieved. Pensions and their legislation are constantly evolving and at best can be described as unnecessarily complicated.

Pension sharing orders can open the door to a clean break between the parties and offer the reassurance of long term needs into retirement being met for those who have not worked and contributed to a pension scheme during the course of the marriage. There is however only one opportunity to get it right and once the final order is made, there is no going back, however bleak the future might look.

The importance of clear and sensible advice on pension provision during the course of financial negotiations can never be underestimated.

Key moment actions

- Ensure your pension is properly valued during divorce proceedings
- Ask your lawyer to consider applying for a pension sharing order.

Sarah Woodall
Partner (Barrister), Head of Tax

Taxing times for those planning ahead

There have been a number of consultations recently by HMRC about changes to various taxes, particularly those that apply on death. As the saying goes: "In this world, nothing can be said to be certain except death and taxes", and it's clear in the case of challenging economic and political times that those who have worked hard to build up even modest estates, are facing potentially increasing tax bills when they die.

We are expecting there to be an increase in probate court costs sometime this autumn which could see the cost of obtaining a Grant of Probate on death rise to as much as £20,000 for the largest estates. This is in addition to any inheritance tax charges that are payable.

Further we have recently seen several consultations proposing changes to the taxation of Discretionary Trusts and individual tax free allowances for inheritance tax (known as the nil rate band). This could severely limit the opportunity to tax plan and reduce inheritance tax bills during an individual's lifetime, the impact of which should not be underestimated by those with relatively modest estates.

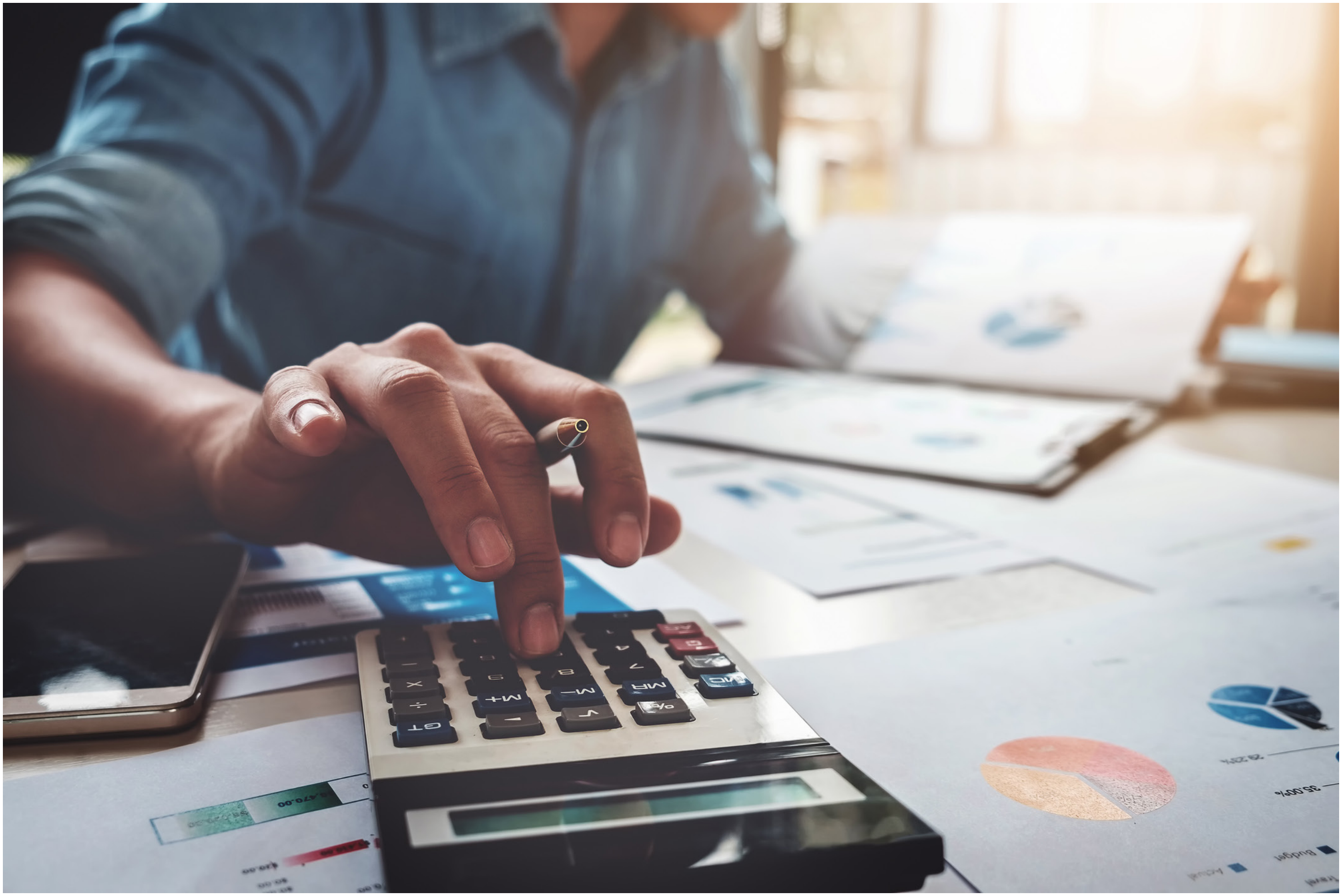
Further proposed changes to gifting allowances and time limits could mean that even those seeking to take advantage of making smaller annual gifts, which would ordinarily have been exempted from inheritance tax, could be affected.

There has never been a better time to take advice on minimising your own inheritance tax exposure.

All of the solicitors in our team are experienced in assisting clients to organise their affairs so as to minimise inheritance tax and future proof their estates against changes in legislation where possible. Supported by Sarah Woodall, a practising barrister who worked for HMRC for many years we are able to provide you with the very best advice in a cost effective manner.

Key moment actions

- Take advice on how to minimise your inheritance tax exposure
- Take advice on your future plans in relation to taxation changes.



YOUR JOURNEY

A PASSION FOR PEOPLE

Beginning a relationship

Living together

Owning your home

Protecting you at work

Getting married

Becoming parents

Writing your will

Leaving a relationship

Planning for your future

Looking after your family

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Talk to us

If you would like to know more about our services or how we could support you, please call us for an informal, no-obligation chat.

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