



Wise Words

the latest financial news from Aaron Tawny


*Seasons Greetings
from all at Aaron Tawny*

Power of Attorney (POA) – doing the right thing

A client's loss of mental capacity can have a devastating impact on the financial plans which have been put in place. A Power of Attorney can ensure that where those plans need to be adapted, they have flexibility when it's needed most.

Data from the Office of the Public Guardian (OPG) shows that the number of 'lasting powers of attorney' registered last year increased by 20% on 2021, at just under 850,000. This shows that the importance of putting a Power of Attorney in place is beginning to be understood. However, it is equally important to understand what restrictions there are on what an attorney can do.

The key principle overarching all duties performed by an attorney under a Lasting Power of Attorney (LPA), or Continuing Power of Attorney (CPA) in Scotland, is that they should act in the best interests of the donor, and no one else.

A photograph of a person pushing a stroller in a park at sunset. The person is seen from the side, walking away from the camera. The stroller is red and black. The background shows a grassy field, trees, and a bright sunset sky with long shadows.

*The onset of ill-health
can drastically change
retirement income needs.
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Photo by Dominik Lange on Unsplash

Gifting

Generally, an attorney cannot make any meaningful gifts to save the donor Inheritance Tax (IHT) – the donor being the person giving authority to the attorney to act on their behalf. These are not normally viewed as being in the donor's best interests – after all they could reduce the resources available for the donor's future needs, such as long-term care.

Of course, the donor can still make gifts themselves if they still have full capacity. If providing for family members and/or saving IHT is important to them, they should consider making gifts while they are able.

Once mental capacity has been lost, such gifts will no longer be possible in England and Wales without application to the Court of Protection

(COP). There will be time and cost associated to this, with no guarantee that authority will be granted. It's unlikely that this can be avoided by including powers in the Power of Attorney document itself. Such instructions could result in an application being rejected by the Office of the Public Guardian (OPG).

In Scotland the rules are a little different.

Gifts that are allowed

The gifts an attorney can make without application to the Court of Protection (COP) are limited to occasions such as birthdays and Christmas, or to charities the donor may have previously supported. The value of those gifts must be reasonable based upon the individual's circumstances. So again, it may not be reasonable to make gifts even under these circumstances if, as a result, the future financial needs of the donor may be compromised.

Attorneys should also be mindful that any gifts that are made, even with Court of Protection (COP) approval, could still be regarded as a 'deprivation of assets', and therefore included in the local authority assessment for any contributions towards the cost of care should they need to go into a care home full time or require care at home.

Investing

A Power of Attorney is important to ensure that the donor's investments can continue to be managed flexibly in the donor's best interests. It is essential that the donor should continue to have a choice of investment wrappers such as ISAs, investment bonds and OEICs. Any investment must be owned by the donor, but the attorney can sign on their behalf.

In the absence of an attorney, investments can't be changed or new wrappers opened which may not be good news, particularly if the donor's loss of capacity dictates a different investment strategy to meet future needs.

While an attorney generally cannot delegate decision making to someone else, they can seek professional help from a financial adviser, solicitor, accountant etc. to help with their decision making.

Discretionary Fund Manager (DFM)

It's not unusual for an individual to employ the services of a Discretionary Fund Manager (DFM)

Continued Overleaf

to manage their investments. This is effectively a delegation of decision making. There has been uncertainty over whether an attorney can continue with this contract once the donor client has lost capacity, and indeed whether they can choose to delegate investment powers by choosing a new Discretionary Fund Manager (DFM). The original guidance from the Office of the Public Guardian (OPG) was that this could only be done if there was an express provision in the Power of Attorney.

It is now understood that an attorney may instruct a discretionary investment manager to continue, or engage the services of a new Discretionary Fund Manager (DFM), without express wording in the Power Of Attorney. This was confirmed verbally to the Society for Trusts and Estate Practitioners (STEP) by the Office of the Public Guardian (OPG) last year.

However, Office of the Public Guardian (OPG) guidance currently states that 'where you already have investments that are managed on your behalf by an investment professional (known as discretionary investment management) or would like to allow your attorneys to use any scheme involving discretionary investment management, you should consider taking legal advice on whether it is necessary to make specific provision for this in your LPA'. This appears to be a 'belt and braces' approach in case a DFM may refuse to act without a specific provision. But on the basis that a DFM is happy to act in principle, there should not be an issue.

AIM shares

Investment can be made in unquoted shares or portfolios, but only if it's something the donor may have done themselves, and the risk is acceptable given the donor's other investments, present circumstances and future needs.

Attorneys may think that there is also an Inheritance Tax (IHT) planning opportunity given that qualifying AIM shares qualify for business relief once held for two years. However, investing substantial amounts in this way to save IHT could come under scrutiny from either the Office of the Public Guardian (OPG) or the beneficiaries of the donor's estate, particularly if there is a fall in value of those shares.

Financial planning and meeting income needs

The onset of ill-health can drastically change retirement income needs. For some, as they become less active they may need less income to live on. At the other end of the scale, it

could require additional expenditure to make adaptations to the family home or even the need to enter residential care.

Having an attorney in place allows greater choice over how the donor's needs can be met tax efficiently from savings which may typically include pensions, ISAs, OEICs and bonds. For example, if the donor was taking a regular withdrawal from their flexible pension, but also had savings in a bond, it may be possible to stop the pension payments, potentially freeing up £18,570 of allowances. These could then be used to take bond gains without an immediate tax charge.

If the individual also had savings in OEICs or unit trusts, additional funds could be released such that gains fall within the donor's annual Capital Gains Tax exempt amount. If still further funds are needed, then the attorney might look towards any ISA savings, or even any available tax free cash from the donor's pension.

The absence of a registered Power of Attorney when needed can mean that there is little flexibility when it comes to meeting the donor's income requirements. It may not be possible to start, stop or vary pension withdrawals from a flexible pension. It may also mean that other lifetime savings are not accessible. As a result, a client may not be able to make the most of their tax allowances and end up paying more tax than necessary. In turn, this could mean that savings don't last as long as they might otherwise. With restrictions on gifting, it could also preserve a larger estate for their families.

Summary

Where clients are in good health, it's important to act sooner rather than later to safeguard their futures. This could mean ensuring their pension provides all the flexibilities necessary to make the most of tax allowances in the future, and making gifts to save Inheritance Tax if that is what they desire and can afford it.

Registering a Lasting Power of Attorney or Continuing Power of Attorney ensures that the attorneys can have the freedom to act in the donor's best interests once capacity has been lost – choosing appropriate investments and providing income and capital when needed in a tax efficient way.

While it's perhaps human nature to leave these decisions for another day, acting sooner may save time, money and perhaps a lot of stress in the long run.

As we say goodbye to one UK pension allowance, two new ones replace it

The pensions Lifetime Allowance and resulting tax charges was abolished under the UK's 2023 Spring Budget. However, life is never simple with UK pensions and new tax-free limits are set to replace it.

The March Budget only reduced the Lifetime Allowance charge to nil from April 6, 2023. HM Revenue and Customs (HMRC) has now published its draft legislation to fully abolish it, and this legislation also sets out how lump sums will be treated from April 2024.

With effect from April 6, 2024, two new allowances will test lump sums and lump sum death benefits against a limit.

This will add new levels of complexity to an ever-changing regime. A reform made by one government could also be overturned by a future one. With a UK general election due before too long, there is uncertainty over how this will develop.

This is draft legislation, with the final version due before Christmas. The details may change before it is finalised but, given the short time frame before implementation, it is worth seeking clarification on how the proposed rules could impact your planning, in case you wish to take action.

Lump Sum Allowance (LSA)

The Lump Sum Allowance will apply to payments made during your lifetime. The £268,275 (25% of the old Lifetime Allowance of £1,073,100) limit will apply to:

- Pension commencement lump sums (PCLS)
- Uncrystallised funds pension lump sums
- Trivial commutation lump sums
- Winding-up lump sums (but not transfers to QROPS)

Under current rules, you can take 25% of your pension fund – the Pension Commencement Lump Sum (PCLS) – tax free.

Under the new rules, you will need to have sufficient lump sum allowance for it all to be tax free.

Lump Sum and Death Benefit Allowance (LSDBA)

This allowance applies to lump sums paid on death and is £1,073,100 (the same as the old Lifetime Allowance).

Under current rules, if you die before age 75, subject to meeting the designated to drawdown rules, your beneficiaries do not pay tax on the death benefits they receive.

From April 2024, the age of death is no longer relevant. In all cases, lump sum death benefits paid from uncrystallised or crystallised benefits will only be tax-free if below the deceased's remaining Lump Sum and Death Benefits Allowance – £1,073,100 for those with no protections minus any Lump Sum Allowance already used.

Taxation if you breach the limits

When a lump sum is paid above the limits, the excess is taxed at the recipient's marginal rate of income tax.

For lifetime payments, you pay the tax, while for benefits paid on/after death, each beneficiary will be taxed.

No planned inflation increases

The draft legislation contains no mechanism for increasing these allowances.

It is therefore likely that, over time, the 'today spending value' of the tax-free proportion of your pension fund will be eroded by inflation and investment growth.

Lifetime Allowance protection

The above limits apply to those without Lifetime Allowance protection.

If you have taken out protection, this is carried over. Your new Lump Sum Allowance and Lump Sum and Death Benefit Allowance will be based on your protected Lifetime Allowance.

Pension income

The new rules do not have any impact on pension income; you will continue to be taxed as you are now.

If you transfer your UK pension out of the UK into a QROPS, at the time of transfer there are no UK income tax considerations.

As we say goodbye to one UK pension allowance...continued

Looking ahead

The new rules are not set in stone and could be changed or be overturned by a future government.

When the Lifetime Allowance abolition was proposed in March, the Labour Party were quick to pledge to reinstate it, describing the move as "a Tory tax cut for the rich".

With the polls looking encouraging for the Labour Party and the elections having to be held by January 2025, it may not be long before the UK has a new government. There may be limited opportunity to transfer your pension out of the UK and avoid any future Lifetime Allowance charges.

All in all, this is a good time to consider how you may use your pension benefits in future and how any balance will be passed onto your family. Can you take steps now to protect or improve your pensions? If you plan to enjoy your retirement years in Portugal, should you leave your pension in the UK?

Pensions are highly personal. Your decisions should be based on your circumstances, objectives, risk tolerance and tax implications in the UK and abroad. Taking the wrong approach could have unwelcome consequences, so take specialist cross-border advice covering both pensions and taxation.



Average mortgage rates have fallen for the first time in months

Both two and five-year fixed-rate deals have dropped according to data from the financial information company Moneyfacts.

- *The average rate on a two-year fixed deal is now 6.49%, with a five-year rate at 5.99%.*
- *The majority of UK mortgage holders are on fixed-rate deals, and with more than 400,000 people expected to move off existing fixed deals in the coming months it is seen as some welcome positive news.*

Fixed mortgage rates had been consistently rising since the early part of this year, when the rate of inflation fell by less than expected. Not since mid-June had the average five-year rate fallen and not since late May had

there been a drop in the two-year average rate.

Behind the decrease is the surprise drop in the rate of inflation, which led to lower interest rate forecasts, and it is now expected that the Bank of England will need to perform fewer base interest rate hikes to bring inflation to its 2% target.

Prior to the inflation announcement, the Bank's base interest rate had been expected by some to exceed 6% - but is now estimated to peak at 5.75%.

For the latest deals from all the major lenders, please contact us.

Mortgage guarantee scheme with 5% deposit extended

The mortgage guarantee scheme allows would-be property buyers access to 95% loan to value (LTV) mortgages - meaning you need a 5% deposit - on properties worth up to £600,000

The mortgage guarantee scheme, which allows first-time buyers to take out a mortgage with a 5% deposit, has been extended again.

Following the Autumn Statement, the mortgage guarantee scheme sees first-time buyers take out a mortgage with a 5% deposit - the Government then promises to cover some costs if your lender loses money.

The scheme was launched in April 2021 to increase the number of 5% deposit deals on the market, following the coronavirus pandemic. It was extended for 12 months last year and was due to end this year in December 2023. It will now run until June 2025.

The bigger your deposit - the more you can reduce your interest rate - the less your monthly repayments and fees will be.

The obvious perk of the mortgage guarantee scheme is that it allows first-time buyers to purchase a property with a smaller deposit - but it has been previously criticised for having more expensive rates compared to higher deposit home loans.

The mortgage guarantee scheme allows would-be property buyers access to 95% loan to value (LTV) mortgages - meaning you need a 5% deposit - on properties worth up to £600,000. You must have a deposit equivalent to between 5% and 9%.

The Government then provides the guarantee for the mortgage to reduce the risk for the lender - for example, if the owner falls behind on payments and the property is repossessed, but the sale price does not cover the outstanding mortgage amount.

The Government guarantees the portion of the mortgage over 80% - so, with a 95% mortgage, the remaining 15%.



The bigger your deposit - the more you can reduce your interest rate - the less your monthly repayments and fees will be.

- *It is also worth noting that you*
- *still need to pass all the regular*
- *affordability checks and the property*
- *you're buying can't be a new build.*
- *The property must also be your main*
- *residential home.*

If you would like more information or to discuss this scheme, please contact us.

Joint Borrower Sole Proprietor (JBSP) Mortgages

Joint Borrower Sole Proprietor (JBSP) mortgages can offer a family solution to affordability.

Who can support a Joint Borrower Sole Proprietor arrangement (JBSP)?

- For owner occupier arrangements, family members who can provide support include parents, grandparents, siblings and aunts / uncles
- For a Buy to Let arrangement, a spouse or parent can support
- For a reverse JBSP, adult children can also support their parents.

Benefits of Joint Borrower Sole Proprietor (JBSP)

- Up to four incomes can be used for affordability – one or two borrowers (who will own and occupy the property) can be supported by up to two other family members
- Supporting family members will not be liable for stamp duty on a second home – they will be listed on the mortgage but will not own the property.

Generous age limits apply

For Joint Borrower Sole Proprietor arrangements generous age limits can apply for the main (occupying) borrowers.

- Owner occupier JBSP arrangement:
 - Repayment mortgages, up to a maximum age of 95 at the end of term
 - Interest Only up to a maximum age of 89 when the loan commences
 - Up to 80% LTV.
- For a Buy to Let mortgage arrangement
 - Maximum age of 89 when the loan commences
 - Up to 70% LTV.
- If any of the loan is on an Interest Only basis, the mortgage must finish before either the expected retirement age of the eldest supporting (non-occupying) borrower or by age 70, whichever is sooner.

To discuss how you can help a family member get a mortgage, please contact us.



Family members who can provide support include parents, grandparents, siblings and aunts / uncles...

New Green Savings Bonds Issue at a new lower rate of 3.95% gross

A new Issue of Green Savings Bonds has recently been released paying 3.95% gross/AER fixed-rate over a three-year term. The Bonds are used alongside gilts to raise funds for green projects as part of the UK Government Green Financing Framework.

Launched in 2021, Green Savings Bonds enable savers to help fund green Government projects across the UK. Green Savings Bonds are separate to NS&I's Net Financing target set by HM Treasury each year.

The minimum investment in Green Savings Bonds is £100, with a maximum limit of £100,000 per person for each Issue. Investors need to be aged 16 or over to purchase the Bonds. The full amount deposited will be held for three years and cannot be withdrawn during this time.



<i>Product</i>	<i>Issue 6 – available from 14 November 2023</i>	<i>Issue 5 – available to 13 November 2023</i>
<i>Green Savings Bonds (3-year fixed term)</i>	<i>3.95% gross/AER (-1.75%)</i>	<i>5.70% gross/AER</i>

The amount of annual funding required through Green Savings Bonds is agreed between HM Treasury and NS&I, alongside gilts issued by the Debt Management Office (DMO), as part of the Government's Green Financing Framework.



There are changes afoot within the Aaron Tawny team

We are delighted to welcome Colin Hopewell, a vastly experienced IFA, to the team.

Colin, who joined us in October, has over 40 years of financial services experience having joined the industry straight from school. Initially specialising in the world of pensions, Colin has over the last 25 years or so developed into an all-round adviser in both the individual and corporate advice areas. He will be well known to many as he has previously advised local clients and businesses for a former Kettering based firm and is resident here too.

Away from the office Colin enjoys the great outdoors with walking and taking in the wildlife, in particular. He is also a keen volunteer in Wicksteed Park, where he helps maintain the gardens.

Leaving the team is Sam Butler who has a corporate working background and has decided that her future career path lies here and has chosen to return to this environment. We wish Sam all the best for her future.

Cornwall - living the dream

Brian Juffkins on a better work life balance.

Have you had one of those conversations, probably while you are on holiday and more relaxed. Away from the everyday stresses of life. If you could live anywhere where would it be?

We have always loved Cornwall and the answer for us used to be St Ives. But then it got busier, the dogs aren't allowed on the beach, St Ives began to lose its appeal.

A few years later probably about 2017 we had that same conversation, if you could live anywhere where would it be? This time the answer was Portscatho.

We had first visited Portscatho about 15 years ago when we holidayed with our two teenage daughters Zara and Lucy in a flat above an art gallery, yards from the beach and harbour. It is near St Mawes on the south coast of Cornwall and opposite Falmouth, across the stretch of water called Carrick Roads. We had visited a few more times in between and when we had a motorhome we stayed in the delightful Treloan Fields yards from the village and adjoining the coast. Portscatho ticked all the boxes; by the sea, a sense of community, not overly touristy, and in Cornwall.

But how serious were we? Jackie, my wife, asked can we afford a house there? Being a financial adviser I said that anything is possible and as long as we rent it out when we aren't using it then it could work. The plan was starting to form. The rightmove alerts were turned on!

After lots of alerts, and a few viewings we found Tremorva a 3 bedroom semi in 2019. 5 minutes walk from the coast, a view of the sea from the garden, on the south west coast path, and

overlooking allotments. It was ideal to rent out as a holiday home when we were not using it and big enough for us to make a permanent home when we wanted to move to Cornwall full time.

I was working from home sometimes and we tried to get to Cornwall once a month for a week or so. Sometimes as a holiday and sometimes "working from holiday home". Then came Covid. While we weren't allowed to visit Cornwall which was sad, there were other positives such as people becoming more used to working from home, zoom, and better technology.

We were close to finishing our "project house" in Orlingbury after 7 years, and in 2022 made the decision that we would spend more time in Portscatho and that the summer of 2023 would be the last year we would rent out Tremorva as a holiday home. So in September 2023 we moved to Portscatho as our main home.

The house in Orlingbury is still on the market so if you know anyone that wants a grade 2 listed stone and recently rethatched 4 bedroom cottage please let me know.

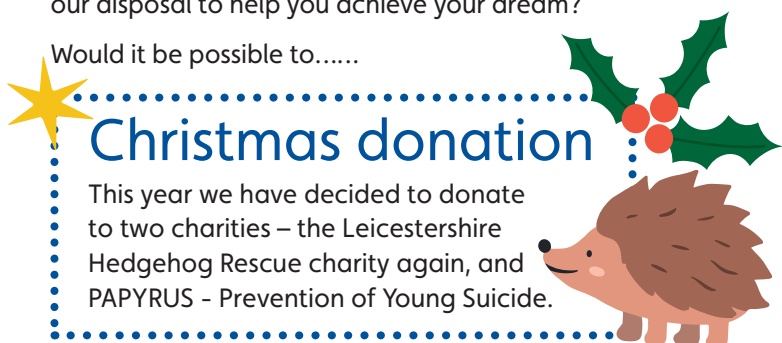
I haven't retired, just working from Portscatho for the majority of time but making sure I am back in Northants for a week or so every month to see clients face to face.

We ask the question "what are your aims and objectives?" as part of our meetings. Do you have a dream, an idea, a hope, that we can help you with. Can we use our experience and the tools at our disposal to help you achieve your dream?

Would it be possible to.....

Christmas donation

This year we have decided to donate to two charities – the Leicestershire Hedgehog Rescue charity again, and PAPYRUS - Prevention of Young Suicide.



KEEPING IT LITE

Dave had long heard of the stories of an amazing family tradition.

It seems that his father, grandfather and great-grandfather had all been able to walk on water on their 18th birthday.

On that special day they'd each walked across the lake to the pub on the far side for their first legal drink.

So when Dave's 18th birthday came around, he and his pal Mick took a boat out to the middle of the lake, Dave stepped out of the boat and nearly drowned!

Mick just barely managed to pull him to safety.

Furious and confused, Dave went to see his grandmother.

"Grandma" he asked, "It is my 18th birthday so why can't I walk across the lake like my father, his father and his father before him?"

Granny looked deeply into Dave's troubled blue eyes and said "Because your father, your grandfather and your great-grandfather were all born in December when the lake is frozen and you were born in August, you fool!"



We hope you find this a useful and informative read. With our constant strive for excellence in customer service we always appreciate your feedback, whether good or bad.



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