Pemberley Wills
& Estate Planning

What is a Deed of Variation?

Helping you achieve a better outcome for all.

We know that, despite good intentions, not everybody gets around to making a will or keeps their will up to date.

Out-of-date wills or dying intestate (with no will) can cause significant upset and financial problems. Whilst it is always better to have the right planning in place, in some circumstances, it is possible to change the distribution of a person's estate by making a deed of variation.

A deed of variation enables beneficiaries to redirect their inheritance to others. The gift is "written back" into the will of the person who has died, so it is as if the gift to the new beneficiaries came directly from the deceased.

When can a Deed of Variation be used?

- A deed of variation must take place within two years of death
- Beneficiaries must agree to the change, be over 18 and have mental capacity
- It can apply to the whole estate or just part of it

PEMBERLEY WILLS & ESTATE PLANNING

Talk to us about what matters to you.

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■ **CALL TODAY**
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■ **EMAIL**
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Book a Home Visit /
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www.pemberleywills.co.uk

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What is a Deed of Variation?

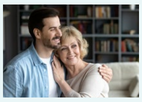
Why is a Deed of Variation useful?

Tax Efficiency
Joe is a wealthy businessman. His father, Ken, died, leaving him a house and savings worth £300,000. Joe doesn't need the money and would prefer his son Tom to inherit instead. What are his options?

Option A	Option B
Joe inherits from Ken	**Joe completes a deed of variation to redirect his inheritance to Tom**
If Joe dies now, his inheritance will be part of his taxable estate.	The inheritance is part of Tom's estate as if Joe never owned it.
If Joe makes a gift to Tom, Joe needs to live seven years from the date of the gift for it to be ignored for Inheritance Tax purposes. If Joe dies within seven years, his executors will need to consider the value of the gift when calculating the inheritance tax due on Joe's estate.	The effect of the deed of variation means that Ken is viewed as having made the gift to Tom. It does not affect the value of Joe's estate or any other gifts he chooses to make.
If Joe gives the property to Tom, Capital Gains Tax may arise if the asset increases in value between Ken dying (probate value) and when Tom receives it.	Tom inherits the property at probate value, so it is only when Tom sells or gives away the property that Capital Gains Tax may be due.

A deed of variation (option B) is the most tax-efficient option in this case.

Achieving a Fairer Outcome
Before her death, Sarah often said she wished to update her will to include her stepson, but she didn't do so. Sarah's biological children wanted to be fair and avoid the risk of a legal dispute, so they used a deed of variation to ensure their stepbrother received what Sarah wanted him to have.



Intestacy
Bob died without a will, leaving a high-value estate that had to be divided between his wife and their two adult children under the rules of intestacy. The size of the estate meant that inheritance tax was due on Bob's children's share. The family put a deed of variation in place to use the spouse exemption more effectively, give more to his wife and legitimately avoid paying inheritance tax on Bob's death. It also meant assets of importance to the family didn't have to be sold to pay inheritance tax.

When shouldn't you use a Deed of Variation?
It is essential to get professional advice when considering a deed of variation and to consider whether any deliberate deprivation challenges may be made. The timing of inheritance and the circumstances of the individual beneficiary are vital.

If a beneficiary is going through a **divorce** or **bankruptcy** or receives **means-tested benefits** or it is reasonably foreseeable that they will need **long-term care**, a deed of variation to divert their inheritance could be considered deliberate deprivation and may be vulnerable to challenge.

It is for this reason that it is so essential wills are made and kept up to date. The person making the will can consider the circumstances of their chosen beneficiaries and decide how best to provide for them. There will not be a risk of deliberate deprivation challenges if the person making the will decides who benefits from their estate rather than a beneficiary choosing to redirect their inheritance.

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