



Newsletter June 2014

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Will Humour

*Jokes! Jokes! Jokes!*

A guy walks into a bar. He recently found out that his elderly father will be passing away in a few years and leaving him a very large inheritance. Using this new information as leverage in the dating market, he decides it's time to find someone to settle down with.

So the guy looks around the room and locks eyes with this stunning young woman. He figures she's probably out of his league, but walks up to her with his new boost of confidence and says, "I may not look like much now, but in a few years my father will pass away and I will have millions. Would you be interested in going to dinner sometime?" She's interested, and gets his name and number.

A week later, she became his stepmother.

Enduring Power of Attorney (EPA) vs Lasting Power of Attorney (LPA)

We are being asked to draw up and register Lasting Powers of Attorney for more clients than ever before, as recent media coverage has drawn people's attention to the importance of having such documents in place before they are needed. This year 10% of our clients are now asking for LPAs, compared with 5% last year. We are often asked by our clients and associates (especially those who already have EPAs) "what's the difference between an EPA and an LPA?"

We have summarised the key differences below but they are explored in greater details on our [website](#).

1. The Enduring Power of Attorney (EPA) can no longer be made as it was replaced by the Lasting Power of Attorney (LPA) on 1st October 2007, although those EPAs made prior to 01/10/2007 are still valid (so long as all pages are correctly signed and witnessed and dated before this date).
2. There is only one type of EPA dealing with just your finances whereas there are two types of LPA: one dealing with your finances and another dealing with your health and welfare.
3. Under an EPA, if all your attorneys are unable to act then the document fails and you have no one to act for you (an application will now have to be made to the Court of Protection). Whereas, under an LPA, you can appoint replacement attorneys to cover this scenario.
4. Under an EPA your attorneys only have a common law duty to act in your best interests, under an LPA they have a statutory (legal) duty to act in your best interests.
5. When registering an EPA you must inform your relatives – and you have no choice in who they can and cannot be. This could be someone from whom you are estranged. When registering an LPA you make the decision as to who is informed of the registration.

For further information on Lasting Powers of Attorney, please refer to our [website](#) and view the following two youtube videos.

[this link](#) is to a BBC One Show article narrated by Dominic Littlewood (re Heather Bateman).

[this link](#) shows Social Services taking Betty Figg from her family

Where there's no will, there's a hellish legacy

Why are the British so careless about protecting the people they love? We should all be forced to write wills.

One of my friends left his wife nine years ago. It was an acrimonious parting, and she moved abroad to live with another man. Contact between the couple practically ceased. My friend met a woman he was gloriously happy with, had children, and started a thrillingly new stage of his life.

This year he died, suddenly and unexpectedly. The grief over his death has been appallingly hard for his partner to deal with. What has made it even worse is the financial chaos my friend left behind.

In the decade since splitting up, he had never got around to divorcing his wife or rewriting his will. He had always meant to. He had filed divorce papers but never completed them: he had seen a solicitor about updating the will just a month before his death, but had found the £300 cost off-putting and decided to deal with it some other



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time.

The property he owned and the inheritances he was about to receive would have been enough to make up for the loss of his salary for perhaps a dozen years, while his children grew up. Instead everything he possessed, from his clothes to his watch to his bank accounts, now belongs to a woman he no longer cared for and who was equally indifferent to him. She is in line for a glorious windfall, but his partner doesn't have enough money coming in to pay the bills.

Nothing that his family were relying on is theirs any more. Even the small amount of life insurance, paid for by his existing partner on the assumption that she and the children would need it in the event of his death, has gone to his wife. His partner's only option is to appoint lawyers and start an expensive and uncertain appeal against the will, arguing that she and the children were dependants deserving support.

My friend would have been horrified if he had understood that he was creating this nightmarish situation. He simply never stopped to think about the consequences. He knew he ought to have an up-to-date will, but he couldn't take it seriously, just as most of us don't.

Britons are astoundingly casual about making wills. Almost two thirds of adults and almost a third of over-65s don't have one at all, while more than a tenth of those who do say it needs rewriting. In 2010, 60 per cent of those who died left no will, a proportion that HMRC says has remained stubbornly constant over a number of years.

Secretly many of us appear to believe that we aren't going to die, or at least not until we're ancient and have plenty of warning of it, and that meanwhile it would be morbid and unseemly to think about it. When the National Consumer Council surveyed more than 2,500 people about their reasons for not writing wills seven years ago, four in ten said they had never got around to it, three in ten had never thought about it and one in ten refused to think about dying. One in six said they were too young to consider it; among the over- 65s, in a display of amazing chutzpah, that response rose to almost a fifth.

In a random sample of six of my friends, all house-owning professionals with children, five had no wills. All of them — even the two unmarried couples — assumed that they didn't need one, that their desires were perfectly obvious, and that some sensible person would sort everything out fairly if a catastrophe happened. "It's not my kind of thing," said a designer. A radio producer thought "it's sort of dramatic — seems a bit self-important". None had made plans for the children to have guardians. "I won't die at the same time as my husband," a teacher assured me.

Not one understood the consequences of intestacy. They all assumed that if their partner died, everything would pass to them. Married couples had no idea that if their partner's estate was worth more than £250,000, they would lose control over half the remainder because it would be kept in trust for the children until they turned 18. The two unmarried couples believed they were protected by being common-law husbands and wives. They didn't realise that there is no such status in English law, and that although their children would inherit, without a will they themselves would get nothing at all. A childless single man didn't realise that half his wealth would go to the father who abandoned him as a baby.

This ignorance of the rules causes terrible distress. People can be left embittered, impoverished or even homeless. It's an indication of a broken system. Britons couple an absolute belief in the right to leave their money as they please with a profound reluctance to get on with making that decision.

The state leaves people to make a will or not as they please, but that laissez-faire approach is indefensible when lives can be so damaged as a result. That's particularly true at a time when family structures are so fluid and the old assumptions about who is loved and who needs support can't be counted on.

Our governments insist that everyone wear seatbelts, save for pensions and stop smoking in public. It is much more important that people be made think responsibly about inheritance. It should be socially unacceptable to avoid it. Perhaps it should be compulsory to produce a will when we buy a house, register a birth or get married, with financial penalties if we don't. Refusing to think about others, averting our eyes from our own mortality isn't cool. It is, as my bereaved friend bitterly observes, supremely

selfish. The one person it doesn't affect is the person who dies, but it can leave everyone else's spirit tangled in hell

Article from: *Jenni Russell of the Times newspaper*

Published at 12:01AM, August 13 2014

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## Changes to Intestacy & Chattels

The Inheritance and Trustees' Power Bill has received Royal Assent and will come into force on 1st October 2014. Whilst this doesn't sound terribly exciting, it does contain at least two measures which might be seen as improving the rules for how an estate is distributed if somebody dies without a Will ("intestate").



Under current rules if, for example a husband dies without a Will in place leaving no children, the surviving wife would receive the first £450,000 of the estate. She would also receive half of the remainder and personal effects; with the other half passing to member of the husband's family in a strict pecking order (parents first, then siblings and nieces and nephews). If there are no parents, siblings, nieces or nephews alive, only then does the entire estate pass to the surviving spouse. The same rule applies to civil partners.

Under the new Bill, where there are no children the entire estate would pass to the surviving wife, which seems a rather more sensible approach.

The other change simplifies the situation where a spouse dies and the couple do have children. Currently, if for example the husband dies first, the surviving wife received the first £250,000 of the estate, personal belongings and a life interest (i.e. the right to income) in half the remainder. Under the new arrangements the surviving spouse would receive half of the remainder absolutely instead of just the life interest. The remaining assets are held for the deceased's children.

While the above changes are welcome, they are still limited so it is important to guard against complacency. Dying intestate still often causes enormous expense and delays and assets passing to children could trigger a charge to inheritance tax. You should also consider what would happen if you and your spouse or partner both died together. You may also need to make a Will to appoint Guardians for children under 18 and to protect their assets. Very importantly, unmarried couples are not covered by the new rules and still receive nothing from their partner's estate if they die intestate.

The Inheritance and Trustees' Power Bill also brings a new more modern definition of personal chattels which covers all tangible movable property except for property:

Currently defined as;

- Consisting of money or securities for money
- Used at the death or an intestate solely or mainly for business purposes
- Held at the death of the intestate solely as an investment

The new amended definition defines personal chattels as; Tangible movable property other than such property which consists of money or securities for money, or property used at the death of the intestate solely or mainly for business purposes, or was held at the death of the intestate as an investment.

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## Our Office Move

As most of you will know we have recently moved office. Just in case we have missed letting anyone know our new address and contact numbers are shown below:-

Address:

Basepoint Business Centre

377-399 London Road

Camberley

GU15 3HL

Telephone Number:- 01276 415835 / 836 / 837

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## Testimonials

**A very friendly and Professional service.**

*Mr &*

*Mrs Chautard, London*

**Very satisfied with all the help your consultant gave me.**

*Mr Burns, Bedfordshire*

**Many thanks for all of your help with this, you've been absolutely fantastic, its odd to say that making a will could be a pleasure, but this whole process really has been. Thank you so very much.** *Ms Guinane, London*



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## Thank You

**We would like to thank the following clients for referring new clients to us and in recognition have received a £10 Marks & Spencer voucher.**

*Patricia, George & Claudia, Brett, Ben , Simon,  
Hakan, Simon & Jo, Andrew & Jane*

*Cornerstone  
Wills  
Thanks  
You*



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### Cornerstone Wills

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