



February 2015 newsletter

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Are DIY Wills better than no Will at all?

Sometimes they can be - if the circumstances of the person making the Will are very simple. Often they think that their circumstances are simple when, in fact, they aren't.

Problems arise when the person making a DIY Will doesn't realise how the law works and so makes assumptions without knowing the consequences. Some of these problematic areas include:



1. What's actually in their estate and can be gifted in their Will and what isn't;
2. Assumptions that their children will inherit on 2nd death;
3. Consequences for Inheritance Tax (IHT); and
4. The signing and witnessing of the Will.

Jointly held assets, such as a property (owned as joint tenants) or a bank account will pass between the co-owners automatically under the law of survivorship and not under the terms of a Will. If you, therefore, add a clause in your Will that leaves a jointly held asset to someone other than the co-owner, it is never going to work.

- **Case Study 1:** Alan is going through a divorce wants to make a DIY Will leaving everything to his children instead of his soon-to-be-divorced spouse, not realising that his home (his biggest asset) would be excluded.
- **Case Study 2:** John is going through a divorce. He has two sons, Jack and Joe. He has already given Jack considerable sums of money over the last five years. He makes a DIY Will and leaves the home to Joe and his remaining cash to Jack. The home would be excluded as it is jointly owned so Joe inherits nothing.

Other excluded assets would be policies held in trust such as life insurance and death benefits from your pension and employer. A common assumption is that these would be included in the estate and can therefore be mentioned/gifts in the Will.

- **Case Study 3:** Mary's husband and father to her children have separated. She makes a DIY Will leaving her home, her death benefits from her pension and employer and her £8,000 ISA and joint bank account to her children. Her children actually only inherit the ISA as the home and bank account are jointly owned and the death benefits from her pension and employer are not dealt with through her Will as they are outside her estate.

People who have children from a previous relationship often just make a Will leaving everything to a new partner and then on the partner's death to their children, not realising that on their death this will only ever guarantee that the partner will inherit, but that their children may see none of their inheritance. (There are regular stories in the press where children from a first marriage inherit nothing with everything passing to their step- or half-siblings).

- **Case Study 4:** Paul and Jane are married. They each have children from previous relationships but none together. Paul gets on well with Jane's children but Jane has concerns regarding the lifestyle of Paul's

children). They agree to make DIY Wills leaving everything to each other then equally between all their children. Paul dies first leaving everything to Jane. Jane then changes her Will to leave everything to her own children.

Importantly, does a person making their Will understand the IHT implications of how they left their estate? If your lack of knowledge means that your beneficiaries pay more IHT than they needed to – will they be happy you did a DIY Will?

- **Case Study 5:** Phil and Sue are happily married with two children. Their home is their main asset worth approximately £1M – they think it is owned jointly but in fact it was set up as tenants in common when they made tax-efficient Wills in 2005. They have some cash in a few bank accounts which they have said that they don't need to inherit from the other. They want to simplify their Wills so they make DIY Wills leaving everything to their children. The half share of the house passes to the children and, because its value exceeds the tax-free threshold it is taxed.

Although some DIY Will packs come with guidance and instructions, quite often there's too much information so the important stuff isn't read properly. One of the most important facts that get overlooked relates to the signing and witnessing of the Will.

- **Case Study 6:** Harry and Sally are married with a son, Jamie. Jamie and his wife, Katie, have no children yet but are planning to have children in the near future. Harry and Sally are going on holiday soon so make simple DIY Wills leaving everything to each other then Jamie then to his future children. They read somewhere that Jamie cannot be a witness so they ask Katie and a friend to witness their signatures. Harry and Sally are tragically killed in a car accident on holiday. Jamie cannot inherit as Katie was a witness to the Wills.

A Will is one of the most valuable documents you will ever own if it's done properly. It's important to get it right and if there are any problems, it's important that your beneficiaries have some recourse of action. If you have done the Will yourself – where can they go? If a professional does your Will, and gets it wrong, then they will have insurance which your beneficiaries can claim on.

A Cornerstone Wills Estate Planner will understand many aspects of the law in this context and be able to advise on Inheritance Tax planning to ensure that your Will is a valid, legal, tax-efficient document that your beneficiaries will be grateful you were considerate enough to do.

If you have read the above and feel some of the items may apply to you, your family, friends or colleagues please [contact us](#) for help and advice.

Testimonials

I know I speak on both of our behalves, we would like to thank you for all your hard work with mums estate. You have been extremely helpful and supportive throughout the process. *The Baldwins, Berkshire*

I would just like to say thank you for everything you have done in conducting my fathers estate for ourselves. It has been greatly appreciated and has saved us a lot of time.

The Entwistles, Berkshire

Thank you for all your help in getting our wills etc all in place. It was a job that had been on our to-do list for ages and it is great to have it done! *S. Ferguson London*

As someone who spent a long time thinking about a will service I was delighted to finally take the plunge with Cornerstone. They gave me a personal and professional service which was both efficient and speedy. I would recommend them without hesitation. *B. London (SE)*

Having procrastinated for many years on writing a Will, Cornerstone Wills made the



whole experience very easy and I can put a tick in the box. Thank you. *The Greens, Surrey*

I found the service most helpful and friendly and would be happy to recommend them. *Mrs Litman, Surrey*

Thank you

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

**Heather, Helen, Adrian, Nicholas,
Patrick, Amelia, Michel, Chris and Ben**



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