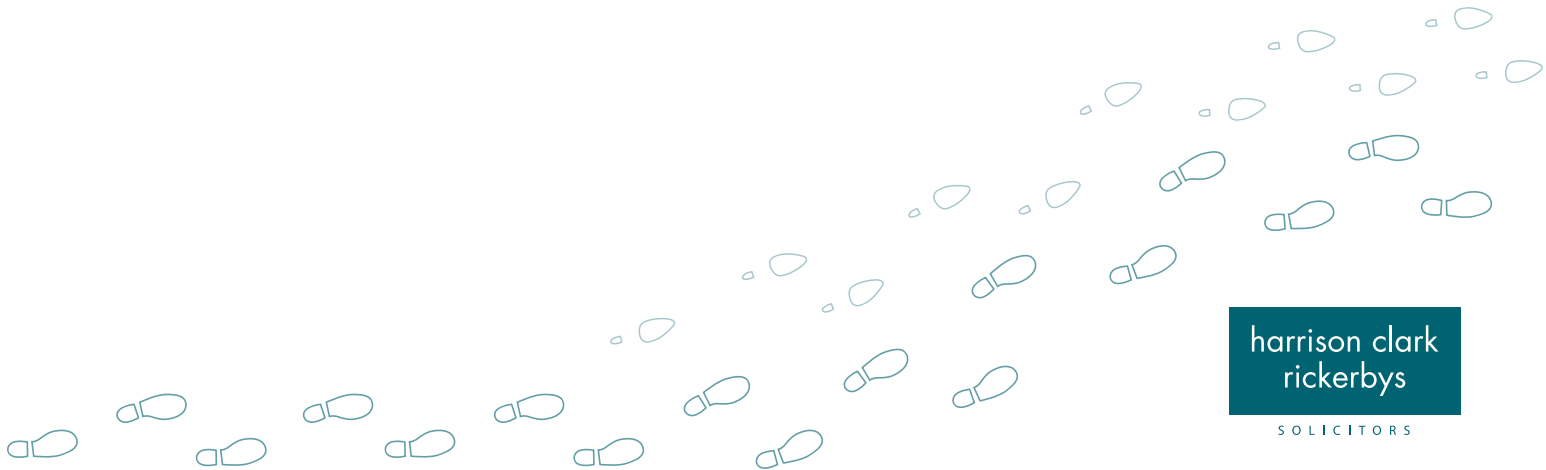




MOMENTS THAT MATTER

YOUR WILL, YOUR WAY



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YOUR WILL, YOUR WAY

Nothing is as certain in life as death and taxes. In this edition of Moments that Matter, we look at the issue of making a will. We all need to do it. Most of us haven't, and those of us that have, think we have got it covered. But have we? For those who are not sure, read on.



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All change – is your will ready?



Why do I need to think about my will when I am getting married or divorced?

Marriage and divorce both have a significant effect on any existing will, a fact often overlooked in the excitement of the former and the trauma of the latter.

Getting married, or entering into a civil partnership, automatically revokes any existing will unless you made that will in contemplation of that marriage. That's not just a general clause speculating on any future marriage, but a specific one confirming your intentions towards a particular person.

So updating your will before the big day is very important – if you don't do so, and you die without a valid will, there could be serious consequences. For instance, if you have married for a second time and have children from your previous relationship, dying without a will can leave both children and your spouse equally exposed. This can lead to expensive and protracted litigation between the parties - in short, nobody wins.

Equally, after the breakdown of a relationship, it's vital that you review your wishes contained in your will straight away. Often there can be a long period of separation before either party feels ready to take formal steps to end the marriage and during that time there may be uncertainty about who would, and should, inherit in the event of an unexpected death.



To protect those who you really want to inherit by updating your will should be top of the 'to do' list and often involves a sensible discussion between the separating parties, even if the only way to achieve agreement is through solicitors.

Once the marriage or civil partnership has been formally ended by the granting of a decree absolute or a dissolution order, then, surprisingly, your former spouse/partner is simply treated as though they had died on the date the relationship legally ended. Although this might raise a wry smile, it's potentially disastrous if proper provision has not been made for the appointment of guardians for young children, or of trustees to look after money left in trust for them while they are minors.

So, if you know anyone going through a separation, make sure they know all about how that might impact on their loved ones – you could help them to avoid considerable difficulty.

Key moment actions

Be sure to seek legal advice about your will if you're getting married or ending a relationship.

Laura Upshall

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Tenants, owners – or both?

Picture this... Janet and John skip excitedly into their solicitor's office one day to begin the process of buying their first house. From the other side of the desk comes the immortal question, hallowed in legal circles: "Do you want to own the property as joint tenants or tenants in common?"

"We just want to own it," they reply – and then a great deal of explanation needs to follow.

If you have already been asked what may seem like a silly question, you will know that all is not as it seems – the decision you are being asked to make is one with very real consequences.

In simple terms, the legal title to the property will always be in the names of the legal owners i.e. Janet and John. But the beneficial ownership, i.e. who is entitled to the proceeds of sale (the actual monetary value), can be held in one of two ways.

If you opt to hold the beneficial interest as tenants in common, which is often the case for unmarried couples or friends, you own identifiable shares in the property. These can be equal or unequal shares. The title to the property will make reference to this, but it will not state the shares, as the actual split between the parties is a private arrangement. This arrangement is usually set out in a deed of trust to record the agreement between the parties. Your solicitor can arrange this as part of the conveyancing process, although there will almost always be a separate charge for this.



If you opt to hold the beneficial interest as joint tenants, which is often the case for a husband and wife or civil partners, then you own the whole property together regardless of how you paid for it, and there is never any need to have a separate document explaining that.

BUT there is an even more important distinction, and that is what happens to the property when one of the owners dies.

In the case of joint tenants, the property automatically passes to the surviving owner, regardless of whether you want it to. In the case of divorcing couples, this is often not the case, and you might be advised at the beginning of separation to ensure your wishes are reflected via a formal legal document called a 'notice of severance'.

The effect of severing the joint tenancy is that the property is then owned as tenants in common; each owner's share will pass to whomever they specify in their will, or be governed by the intestacy rules if they die without making a will.

In short, there are two questions you may want to ask yourselves:-

- **Should we record that the property is owned in unequal shares?**
- **Who do we each wish to give our share to when we die?**

Once done Janet and John can look forward to moving-in day.

Time to celebrate

Lawyers are usually around to deal with problems, but we can also help you celebrate.



What occasions could be happier than the marriage of your son or daughter or the birth of a grandchild? These are moments in your life journey that will be a reason for celebration, but often a time for reflection too.

How can you help? Aside from the obvious babysitting and practical support, we are often asked to suggest ways in which you can structure financial help to minimise your own tax position.

Starting with the basics, a financial gift to the bride and groom can go a long way to helping with the cost of a wedding, and a gift made on the occasion of a marriage is free of inheritance tax, provided it does not exceed £5,000 to a child and £2,500 to a grandchild.

Gifts out of excess income to children struggling to meet childcare costs, mortgage payments and school fees are also free of inheritance tax, provided you can prove it really is income you do not need yourself to maintain your lifestyle, and you keep proper records of your own expenditure.

But what about helping your children to buy a home? Statistics do support the notion that 'the bank of mum and dad' is not just a myth, and if you can afford to help them, frankly, why not?

There are lots of ways to do this of course. Some good, some not so good. Protecting a gift to children or even grandchildren to help with a property purchase can be a legal minefield and we can help you navigate the law to reduce risk and taxation, ensuring that your gift provides a happy moment for everyone concerned.

Key moment actions

A gift made on the occasion of a marriage is free of inheritance tax, provided it does not exceed £5,000 to a child and £2,500 to a grandchild. We can help you consider if this is a good option for you and your loved ones.

Nerys Thomas

Solicitor, Wills, Trusts and Estates

wills at work

Amanda Reade
Solicitor, Wills at Work

Making a will at work



You know you need to make a will - but how?

Have you ever thought that your employer might help, or even better, are you an employer who wants to help your employees protect their loved ones?

Wills at Work is a unique service that we offer which provides a will writing service for employees.

It can be part of a financial wellbeing programme or a stand-alone benefit; it is designed to complement your pension and life assurance provision, to ensure your employees have covered everything necessary when planning for the future.

Trusted by some of the UK's largest employers, it has made a significant difference to helping their employees plan for the future and for the unexpected.

If you want to learn more, give us a call and we would be delighted to welcome you and your employees into the Wills at Work family.

And finally...

At Harrison Clark Rickerbys, we have a team of experts able to advise on the unique circumstances that farmers face. Whether its diversification, succession planning, rural payments, Brexit or something unique to you, we are here to help.

Give us a call at any time – we are happy to help you, and you may find that we can offer a wider range of help than you expect.

YOUR JOURNEY

Beginning a
relationship



Owning your home



Getting married



Writing your will



Planning for your
future



A PASSION FOR PEOPLE

Living together



Protecting you at
work



Becoming parents



Leaving a
relationship



Looking after your
family



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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