

Divorce and Separation

What impact do they have on your Will?

When involved in a divorce or separation one question that you may ask yourself is "What happens to my assets should I die during the process?"

3 Things to consider, who will be your:

Beneficiaries

Guardian(s)

Executor(s) / Trustee(s)

Divorce

The most important fact to remember is that until your Decree Absolute is issued you are still legally married.

Your family solicitor will explain the different stages of the divorce process to you but, from an inheritance point of view, if you die before your Decree Absolute is issued, the terms of your Will remain valid. Therefore if mentioned, your spouse remains a beneficiary and if you do not have a Will, then your spouse will be entitled to some, if not all, of your estate.

Separation

When separating from a cohabitee there is no legal equivalent to a Decree Absolute and therefore a Will remains valid unless you take active steps to change it.

You can take control of the situation by putting in place a Will setting out your wishes.

We appreciate that you may feel that your wishes will change once the divorce or separation process has been finalised and so we suggest a free general chat over the phone with one of our Private Client team to discuss interim options to protect those that you want to benefit after your death.

You may for example want to make the following amendments

- Removing your spouse as your main beneficiary and replacing them with your children or others that you want to benefit.
- Changing the appointment of Guardians for your minor children
- Altering the appointment of Executors and Trustees to avoid your spouse or former cohabitee being in control of the assets in your estate.

In addition, you may also want to consider changing the way that you own property with your spouse or former cohabitee. Where you own assets jointly (referred to as joint Tenants for property) those assets will pass automatically to them on your death, regardless of the terms of your Will. This may result in your assets ultimately passing to their new partner rather than down to your children or chosen Beneficiaries but this can be amended and is something we can assist with.

If you haven't updated your Will to reflect the fact you've divorced, your estate might be divided up differently to how you intend. This could jeopardise any inheritance you've planned for the rest of your family and mean that new partners or dependants aren't provided for.



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